



# Code of the City of Bethel

COUNTY OF ANOKA

STATE OF MINNESOTA

Updated Through January 1, 2025

## **PREFACE**

The City of Bethel has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the City, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the City. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the City Council ordered the following codification of the City's legislation.

### **Contents of Code**

The various chapters of the Code contain all currently effective legislation of a general and permanent nature enacted by the City Council of the City of Bethel, including revisions or amendments to existing legislation deemed necessary by the City Council in the course of the codification.

### **Division of Code**

The Code is divided into parts. Part I, Administrative Legislation, contains all City legislation of an administrative nature, namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other City legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

### **Table of Contents and Grouping of Legislation**

The Table of Contents details the arrangement of material alphabetically by chapter as a means of identifying specific areas of legislation. Wherever two or more items of legislation have been combined by the editor into a single chapter, the use of article designations has preserved the identity of the individual enactments, and the titles of the articles are listed beneath the chapter title in order to facilitate location of the individual enactments.

### **Reserved Chapters**

Unassigned chapter numbers do not appear in the Table of Contents but are available for assignment to new enactments. In this manner, new subject matter can be included alphabetically.

## BETHEL CODE

### **Pagination**

A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral "1." Thus, Chapter 6 would begin on page 6:1. By use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

### **Numbering of Sections**

A chapter-related section-numbering system is employed in which the section number indicates the number of the chapter and the location of the section within that chapter. Thus, the first section of Chapter 30 would be § 30-1, while the sixth section of Chapter 57 would be § 57-6.

### **Scheme**

The scheme is the list of section titles that precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the scheme titles are repeated as section headings in the text.

### **Acknowledgment**

The assistance of the City officials is gratefully acknowledged by the editor. The codification of the legislation of the City of Bethel reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code that this publication will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."

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# **PART I**

## **ADMINISTRATIVE LEGISLATION**

# Chapter 1

## GENERAL PROVISIONS

### ARTICLE I Construction and Penalties

§ 1-3. Public hearings.

§ 1-4. Violations and penalties.

§ 1-5. Violations and penalties.

§ 1-1. Definitions.

§ 1-2. Adoption of statutory rules of construction.

### ARTICLE II Adoption of Code

**[HISTORY: Adopted by the City Council of the City of Bethel as indicated in article histories. Amendments noted where applicable.]**

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### ARTICLE I Construction and Penalties

**[Adopted 3-2-1989 by Ord. No. 89-508 as §§ 100.02, 100.03, 100.05 and 100.06 of the 1989 City Code]**

§ 1-1. Definitions.

Unless the context clearly indicates otherwise, the following words and phrases have the meaning given them in this section:

CITY — The City of Bethel.

CLERK — The City Clerk.

COUNCIL — The City Council.

PERSON — Any natural individual, firm, partnership, association, or corporation. As applied to partnerships or associations, the term includes the partners or members; as applied to corporations, the term includes the officers, agents, or employees.

STATE — The State of Minnesota.

TREASURER — The City Clerk.

§ 1-2. Adoption of statutory rules of construction.

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



**§ 1-3. Public hearings.**

- A. General. Unless otherwise provided in this Code or by law, every public hearing required by law, ordinance, or resolution to be held on any legislative or administrative matter shall be conducted in accordance with this section.
- B. Notice. Every hearing shall be preceded by 10 days' mailed notice to all persons entitled thereto by law, ordinance, or regulation, unless only published notice is required. The notice shall state the time, place, and purpose of the hearing. Failure to give the notice or defects in it shall not invalidate the proceedings if a good faith effort has been made to comply with this subsection.
- C. Conduct of hearing. At the hearing, each party in interest shall have an opportunity to be heard and to present such evidence as is relevant to the proceeding. The Council may adopt rules governing the conduct of the hearings, records to be made, and such other matters as it deems necessary.
- D. Record. Upon the disposition of any matter after hearing, the Council shall have prepared a written summary of its findings and decisions and enter the summary in the official Council minutes.

**§ 1-4. Violations and penalties.**

- A. Petty offenses. Whenever an act or omission is declared by this Code to be a petty offense or a petty misdemeanor, any person violating the provision shall, upon conviction, be subject to a fine of not more than \$300.<sup>1</sup>
- B. General misdemeanors. In any other case, unless another penalty is expressly provided for in this Code, any person violating any provision of this Code, or any rule or regulation adopted in pursuance thereof, or any other provision of any code adopted in this Code by reference, including any provision declaring an act or omission to be a misdemeanor, shall, upon conviction, be subject to a fine of not more than \$1,000 or imprisonment for a term not to exceed 90 days, or both, plus, in either case, the cost of prosecution.<sup>2</sup>
- C. Separate violations. Unless otherwise provided, each act of violation and every day on which a violation occurs or continues constitutes a separate offense.
- D. Application to City personnel. The failure of any officer or employee of the City to perform any official duty imposed by this Code shall not subject the officer or employee to the penalty imposed for violation unless a penalty is specifically provided for such failure.

**§ 1-5. Administrative Citations.**

- A. **Purpose.** The City Council seeks to offer an alternative method of enforcement for City Code violations rather than relying solely on the criminal court system and/or abatement procedures. In order to provide more flexibility in addressing City Code violations on an individualized basis that will be more efficient and effective, the City Council finds that an alternative enforcement process is necessary. Therefore, to protect the health, safety, and welfare of the citizens, it is the City Council's intent to create a process for the use and imposition of administrative civil penalties that will provide the public and the City with a more effective alternative method of addressing City Code violations.
- B. **Alternative Methods of Enforcement.** A violation of the City Code is a misdemeanor pursuant to City Code Section § 1-4; however, this Section seeks to gain compliance with the City Code prior to the commencement of any formal civil or criminal court action. The Administrative Civil Penalties proceedings are in addition to any other legal or equitable remedy available to the City for City Code violations. An administrative citation may be issued in conjunction with, or in lieu of, prosecution or abatement for any violation of any provision of this Code and is subject to the administrative hearing process described herein.
- C. **General Provisions.**
- (1) **Administrative Offenses.** Any violation of the City Code, and any violation of the terms and/or conditions of any license, permit, or other approval issued pursuant to the City Code, is an administrative offense that may be subject to an administrative citation and administrative fines.
  - (2) **Continuing Violations.** Each day a violation exists constitutes a separate and distinct offense for which a separate penalty can be imposed. The city may exercise discretion in imposing an administrative fine for more than one day of a continuing offense.
  - (3) **Schedule of Fines.** The city council shall adopt by ordinance, as part of the fee schedule, a schedule of administrative fines for offenses for which an administrative citation is issued. A current fee schedule shall be kept on file at city hall.
  - (4) **No Limitation on Remedies.** Nothing herein is intended or shall require the city to utilize the administrative citation process or otherwise pursue the remedies outlined in this section. The city retains the right to pursue any and all other remedies authorized by law to enforce the City Code or penalize violations of city ordinances, including, but not limited to, issuance of a stop work order, abatement, criminal prosecution, and/or application for civil penalties or injunctive relief.
  - (5) **Code Compliance Officer.** The Code Compliance Officer shall be any person so appointed to carry out such duties so assigned by the City Council including but not limited to the Building Official, Zoning Administrator, Public Works Director, City Clerk, Animal Control Officer, Fire Chief, and any member of the Sheriff's Department.

## D. Procedure.

- (1) **Administrative Notice.** A Code Compliance Officer may issue, either in person or by United States first class mail to the last known legal address an Administrative Notice, when appropriate, to the owner of property upon which a Code Offense is being committed. The Administrative Notice shall identify the Code Offense, the location upon which the Code Offense is alleged to have occurred or is occurring, and the corrective action for the Code Offense. The Administrative Notice may also state that the alleged violator has, at the discretion of the Code Compliance Officer, no more than thirty (30) days to correct or abate the Code Offense. Immediate compliance may be required upon the existence of a public health or safety condition. If the Code Offense is not corrected or abated, as outlined in the Administrative Notice, within the prescribed time or any extension thereto, the Code Compliance Officer may issue a citation.
- (2) **Administrative Extension.** If the alleged violator and/or owner of property upon which a Code Offense is being committed is unable to correct or abate the Code Offense within the prescribed time, that person may request in writing an extension of no more than thirty (30) additional days from the Code Compliance Officer. Any extension granted by the Code Compliance Officer shall be in writing and shall specifically state the date of expiration, which shall be determined at the discretion of the Code Compliance Officer.
- (3) **Exceptions to Administrative Notice.** For violations of any of the following sections, the City shall not be required to issues an Administrative Notice or compliance letter and may proceed directly to an administrative citation:
  - (a) **Repeat Offenders.** If the same owner or person commits a subsequent violation within 12 months after an administrative notice or citation has been issued for the same or similar offense, no compliance letter or administrative notice shall be required for the new violation.
  - (b) **License Violations.** For any license violations, including not having a license, no compliance letter or administrative notice shall be required.
  - (c) **Noise Violations.** For any violation of the City's Noise Ordinance Section 177-5-S no administrative notice shall be required.
  - (d) **Parking Violations.** For any violation of the City's Parking Ordinance Section 177-5-R no administrative notice shall be required.
  - (e) **Open Burning.** For any violation of the City's Open Burning Ordinance Section 177-5-O no administrative notice shall be required.

- (4) Citation. Upon an owner's failure to correct the violation specified in the administrative notice within the time frame established in the administrative notice or any extension thereof granted by the Code Compliance Officer, or for any offense for which an administrative notice is not required, an administrative citation may be granted to the owner. If the owner receives no response or continued noncompliance following issuance of the Administrative Notice or Code Compliance letter, the Code Compliance Officer may issue a citation. The citation shall be given to the person responsible for the violation and/or to the owner of the property upon which the alleged violation has occurred, either by personal service or by United States first class mail. Said citation shall state the nature of the Code Offense, the time and date said alleged Code Offense occurred, the civil penalty applicable to that Code Offense as set forth in a schedule of civil penalties which shall be adopted by Resolution of the City Council from time to time, and the manner for paying the civil penalty or requesting a hearing before a Hearing Officer to contest the citation.
- (5) Responding to a Citation. Once a citation is issued, the alleged violator and/or the owner of the property upon which the alleged violation has occurred shall, within fourteen (14) days of the time of issuance of the citation, either pay the civil penalty set forth in the citation or request a hearing in writing according to the procedure set forth in Section 1-5-E. The civil penalty may be paid either in person at City Hall, or by United States first class mail, postage prepaid and postmarked within said prescribed fourteen (14) days. Payment of the civil penalty shall be deemed to be an admission of the Code Offense.
- (6) Payment of Penalty.
- (a) Payment of a Penalty and Correction of Violation. If the owner pays the administrative civil penalty and corrects the City Code violation, no further action will be taken against the owner or the owner's real property for that same violation.
- (b) Payment of Penalty without Correction of Violation. If the owner pays the administrative civil penalty but fails to correct the City Code violation, the City may issue subsequent administrative citations, initiate criminal proceedings, or initiate any other proceeding or remedies available in order to enforce correction of the City Code violation.
- (c) No Payment of Penalty and No Correction of Violation. If the owner fails to pay the administrative civil penalty but fails to correct the City Code violation, the City may do any of the following, or any combination thereof:
1. Assess the administrative civil penalty against the property pursuant to Minnesota Statutes Chapter 429.
  2. Issue a subsequent administrative citation, thereby commencing a new administrative penalties process.
  3. Initiate criminal proceedings.
  4. Initiate any other enforcement action authorized by law.

## E. Appeal &amp; Hearing.

- (1) Requesting a Hearing. Any person receiving an administrative citation may contest the alleged violation and the amount of the administrative civil penalty. In order to contest any part of the administrative citation, the owner or individual contesting the citation must notify the City Clerk in writing within ten (10) calendar days after the citation is mailed or otherwise delivered. The written request shall state the name of the individual, indicate whether they are contesting the alleged violation, the amount of the penalty, or both and must also specify the reason and facts upon which the individual is contesting the citation.
- (2) Council Hearing. The City Council shall preside over the hearing and make any judgment as authorized by this Ordinance.
- (3) Conduct at Hearing. The City Council shall conduct a hearing to determine if a violation has occurred. The Council shall consider the record and any additional evidence presented at the hearing and accepted into the record by the hearing officer before making a determination. The Council shall receive and give weight to evidence, including hearsay evidence that possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs. The Code Compliance Officer will have the burden of proving the existence of a violation and the reasonableness of any required corrective action by a preponderance of the evidence.
- (4) Authority of City Council. The City Council has the authority to do any of the following, or a combination thereof:
  - (a) Make a finding that a violation has occurred;
  - (b) Reduce, stay, or waive a scheduled administrative civil penalty either unconditionally or upon compliance with reasonable conditions;
  - (c) Require compliance with the City Code within a specified timeframe;
  - (d) Make a finding that no violation has occurred and dismiss the administrative citation.
- (5) Owner/Individual Found in Violation. If the violation is sustained by the City Council, the violator shall pay the penalty imposed plus an additional Administrative Hearing Fee as prescribed by the City's Fee Schedule to cover the cost of the hearing within ten (10) days of the date of the decision.
- (6) Failure to Appear. Failure to appear at the hearing shall result in a default judgment against the party who fails to appear. If the owner fails to appear, the administrative citation shall be sustained.

## F. Judicial Review. The City Council's decision is final without any further right of administrative appeal. Further appeal shall be to the Minnesota Court of Appeals under the Minnesota Rules of Civil Procedure.

G. Violation a Misdemeanor. The following are misdemeanors, punishable in accordance with state law:

- (1) Failure to pay an administrative fine imposed by administrative citation within fourteen (14) days after it has been imposed unless the matter is appealed to the City as provided herein.
- (2) Failure to pay an administrative fine within ten (10) days after it has been imposed by the City Council after an appeal hearing, or such other time as may be established by the Council. If the final determination in the administrative penalty process is a finding that no violation occurred, then the City may not prosecute a criminal violation in district court based on the same set of facts. This does not preclude the City from pursuing a criminal prosecution for a violation for the same provision based on a different set of facts. A different date of violation will constitute a different set of facts.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

ARTICLE II  
**Adoption of Code**

**[An ordinance adopting the Code of the City of Bethel and making certain substantive changes to existing ordinances of the City will be proposed before the City Council. Upon final adoption, it will be included here as Article II of this chapter.]**

# Chapter 9

## COUNCIL

### ARTICLE I Rules of Procedure

- § 9-1. Meetings.
- § 9-2. Presiding officer.
- § 9-3. Minutes.
- § 9-4. Order of business.
- § 9-5. Quorum and voting.

- § 9-6. Ordinances, resolutions, motions, petitions and communications.
- § 9-7. Suspension or amendment of rules.

### ARTICLE II Salaries

- § 9-8. Salaries and compensation.

**[HISTORY: Adopted by the City Council of the City of Bethel as indicated in article histories. Amendments noted where applicable.]**

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### ARTICLE I Rules of Procedure

**[Adopted 3-2-1989 by Ord. No. 89-508 as §§ 201.01 to 201.06 and 201.08 of the 1989 City Code]**

#### § 9-1. Meetings.

- A. Regular meetings. Regular City Council meetings are to be held monthly. The schedule of meetings is to be determined by the City Council and made available in the Clerk's office at City Hall. **[Amended 7-25-2013 by Ord. No. 2013-001]**
- B. Special meetings. The Mayor or any two members of the Council may call a special meeting of the Council upon at least 24 hours' written notice to each member of the Council. This notice shall be delivered personally to each member or shall be left at his usual place of residence with some responsible person. Similar notice shall be given to the City Clerk, and a copy shall be posted on the bulletin board at the City Hall and at the post office.
- C. Initial meeting. At the first regular Council meeting in January of each year the Council shall:
  - (1) Designate the depositories of City funds.
  - (2) Designate the official newspaper.
  - (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 qualified.



- (4) Appoint such officers and employees and such members of boards, commissions, and committees as necessary.
- D. Public meetings. All Council meetings, including special and adjourned meetings and meetings of Council committees, shall be open to the public.

### **§ 9-2. Presiding officer.**

- A. Who presides. 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 Clerk shall call the meeting to order and shall preside until the Council members present at the meeting choose one of their number to act temporarily as presiding officer.
- B. Procedure. The presiding officer shall preserve order, enforce the rules of procedure herein prescribed, and determine, without debate, subject to the final decision of the Council on appeal, all questions of procedure and order. Except as otherwise provided by statute or by these rules, the proceedings of the Council shall be conducted in accordance with Robert's Rules of Order, Revised.
- C. Appeal procedure. Any member may appeal to the Council from 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 his 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 exclusive of the presiding officer.
- D. Rights of presiding officer. The presiding officer may make motions, second motions, or speak on any question, except that on demand of any Council member he shall vacate the Chair and designate a Council member to preside temporarily.

### **§ 9-3. Minutes.**

- A. Who keeps. Minutes of each Council meeting shall be kept by the Clerk or, in his/her absence, by the Deputy Clerk. In the absence of both, the presiding officer shall appoint a secretary pro tem. Ordinances, resolutions, and claims need not be recorded in full in the minutes if they appear in other permanent records of the Clerk and can be accurately identified from the description given in the minutes.
- B. Approval. The minutes of each meeting shall be reduced to a typewritten or printed form and shall be signed by the Clerk. A copy of the minutes from the prior meeting shall be distributed along with the agenda to the Mayor and Council members before the next regular meeting, at which time the Mayor or presiding officer shall call for any additions or corrections to such minutes. If there are no additions or corrections, the minutes shall stand approved. If there are additions or corrections, the Council shall vote on such additions or corrections pursuant to § 9-5C of this chapter. Copies of the minutes shall also be made available to the press and the public.

**§ 9-4. Order of business.**

- A. Order established. Each meeting of the Council shall convene at the time and place appointed therefor. Council business shall be conducted in the following order:
- (1) Call to order.
  - (2) Roll call.
  - (3) Approval of minutes.
  - (4) Public hearing.
  - (5) Petitions, requests and communications.
  - (6) Ordinances and resolutions.
  - (7) Reports of officers, boards and committees.
  - (8) Unfinished business.
  - (9) New business.
  - (10) Miscellaneous.
  - (11) Adjournment.
- B. Varying order. The order of business may be varied by the presiding officer, but all public hearings shall be held at the time specified in the notice of hearing.
- C. Agenda. The Clerk shall prepare an agenda of business for each regular Council meeting and file a copy in his/her office not later than two days before the meeting. The agenda shall be prepared in accordance with the order of business, and copies thereof shall be delivered to each Council member and to the Mayor as far in advance of the meeting as time for preparation will permit. No item of business shall be considered unless it appears on the agenda for the meeting or is approved for addition to the agenda by a unanimous vote of the Council members present.

**§ 9-5. Quorum and voting.**

- A. Quorum. At all Council meetings a majority of all the Council members elected shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time.<sup>1</sup>
- B. Voting. The votes of the members on any question may be taken in any manner which signifies the intention of the individual members, and the votes of the members on any action taken shall be recorded in the minutes. The vote of each member shall be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute. If any member is present but does not vote, the minutes, as to his name, shall be marked "Present - Not Voting."

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- C. Votes required. A majority vote of all members of the Council shall be necessary for approval of any ordinance unless a larger number is required by statute. Except as otherwise provided by statute, a majority vote of a quorum shall prevail in all other cases.

**§ 9-6. Ordinances, resolutions, motions, petitions and communications.**

- A. Readings. Every ordinance and resolution shall be presented in writing. Every ordinance shall receive two readings before the Council prior to final adoption but shall not be read twice at the same meeting unless the rules are suspended for that purpose. An ordinance or resolution need not be read in full unless a member of the Council requests such a reading.
- B. Signing and publication proof. Every ordinance and resolution passed by the Council shall be signed by the Mayor, attested by the Clerk, and filed by him in the ordinance or resolution book. Proof of publication of every ordinance shall be attached and filed with the ordinance.
- C. Repeals and amendments. Every ordinance or resolution repealing a previous ordinance or resolution or a section or subsection thereof shall give the number, if any, and the title of the ordinance or code number of the ordinance or resolution to be repealed in whole or in part. Each ordinance or resolution amending an existing ordinance or resolution or part thereof shall set forth in full each amended section or subsection as it will read with the amendment.
- D. Motions, petitions and communications. Every motion shall be stated in full before it is submitted to a vote by the presiding officer and shall be recorded in the minutes. Every petition or other communication addressed to the Council shall be in writing and shall be read in full upon presentation to the Council unless the Council dispenses with the reading. Each petition or other communication shall be recorded in the minutes by title and filed with the minutes in the office of the Clerk.

**§ 9-7. Suspension or amendment of rules.**

These rules may be suspended only by a two-thirds vote of the members present and voting.

ARTICLE II

**Salaries**

**[Adopted 10-15-1992 (§ 201.09 of the 1989 City Code)]**

**§ 9-8. Salaries and compensation. <sup>2</sup>**

The Mayor and Council members shall receive such compensation as is fixed by the Council in accordance with state statutes, which require passage of an ordinance for this purpose. Any increases in such compensation shall not become effective until after the next municipal election. Other officers and employees shall receive such salaries or wages as may be fixed by the council.

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

## Chapter 17

### FIRE DEPARTMENT

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|------------------------------------|--|
| § 17-1. Fire Department continued. | § 17-9. Loss of membership.            |
| § 17-2. Appointment.               | § 17-10. Compensation.                 |
| § 17-3. Fire Marshal.              | § 17-11. Minimum pay.                  |
| § 17-4. Duties of Chief.           | § 17-12. Present members.              |
| § 17-5. Record of fires.           | § 17-13. Relief association.           |
| § 17-6. Practice drills.           | § 17-14. False alarms; failure to obey |
| § 17-7. Assistant Chief.           | Fire Chief; interference with          |
| § 17-8. Firefighters.              | Fire Department.                       |

[HISTORY: Adopted by the City Council of the City of Bethel 3-2-1989 by Ord. No. 89-508 as Ch. II, Part 3, of the 1989 City Code. Amendments noted where applicable.]

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#### § 17-1. Fire Department continued.

There is hereby continued in this City a Volunteer Fire Department consisting of a Chief, an Assistant Chief, a Fire Marshal, and not fewer than 10 nor more than 30 firefighters.

#### § 17-2. Appointment.

The Chief, the Assistant Chief, the Fire Marshal, and the firefighters shall be appointed by the Council. In making such appointments, the Council shall take into consideration recommendations of the members of the Department. Each officer and every other member of the Department except a probationary firefighter shall serve during good behavior and may be removed by the Council only for cause after a public hearing.

#### § 17-3. Fire Marshal.

The office of Fire Marshal may be held by the Chief or by the Assistant Chief, if the Council by resolution approves it. The Fire Marshal shall be charged with the enforcement of all ordinances aimed at fire prevention. He shall have full authority to inspect all premises and to cause the removal or abatement of all fire hazards.

#### § 17-4. Duties of Chief.

The Chief shall have control of all the fire-fighting apparatus and shall be solely responsible for its care and condition. He shall make a semiannual report to the Council at its meetings in March and September on the condition of the equipment and needs of the Fire Department. He may submit additional reports and recommendations at any meeting of the Council, and he shall report each suspension by him of a member of the Fire Department at the first meeting of the Council following the suspension. He 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 his discharge or retention.

**§ 17-5. Record of fires.**

The Chief shall keep in convenient form a complete record of all fires. Such a record shall include the time of the alarm, location of fire, cause of fire (if known), type of building, name of owner and tenant, purpose for which occupied, value of building and contents, members of the Department responding to the alarm, and such other information as he may deem advisable or as may be required from time to time by the Council or State Insurance Department.

**§ 17-6. Practice drills.**

The Chief shall, when the weather permits, hold a monthly practice drill of at least one hour duration for the Fire Department and shall give or arrange for instruction to the firefighters in approved methods of firefighting and fire protection.

**§ 17-7. Assistant Chief.**

In the absence or disability of the Chief, the Assistant Chief shall perform all the functions and exercise all of the authority of the Chief.

**§ 17-8. Firefighters.**

The Assistant Chief and firefighters shall be able-bodied and not less than 18 years of age. They shall become members of the Fire Department only after a six-month probationary period. The Council may require that each candidate, before he may become a probationary firefighter, must satisfy certain minimum requirements of height, weight, education and any other qualifications which may be specified by the Council and that he must pass satisfactorily a mental and physical examination.

**§ 17-9. Loss of membership.**

Absence of any firefighter from three consecutive drills or calls unless excused by the Chief shall be cause for removal from the Department.

**§ 17-10. Compensation. <sup>1</sup>**

The members and officers of the Fire Department shall receive compensation as set by the Council. The Chief shall certify and submit a monthly report showing in detail the hours served by each member of the Department and the compensation to which he is entitled therefor during the month. No payment of any compensation to firefighters may be ordered until such report is filed.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**§ 17-11. Minimum pay.**

In computing compensation for fires and practice drills, one hour shall be considered as the minimum to be paid to any firefighter or officer.

**§ 17-12. Present members.**

No person who is a member of the Fire Department at the time of the adoption of this chapter shall be required to serve a probationary period before becoming a firefighter.

**§ 17-13. Relief association.**

The members and officers of the Fire Department may organize themselves into a firefighters' relief association in accordance with the law.

**§ 17-14. False alarms; failure to obey Fire Chief; interference with Fire Department.**

No person shall give or make, or cause to be given or made, a fire alarm without probable cause, or neglect or refuse to obey any reasonable order of the Fire Chief at a fire, or interfere with the Fire Department in the discharge of its duties.

**Chapter 25**  
**LOCAL IMPROVEMENT POLICY**

**§ 25-1. Statute adopted.**

**[HISTORY: Adopted by the City Council of the City of Bethel 3-2-1989 by Ord. No. 89-508 as Ch. III, Part 3, of the 1989 City Code. Amendments noted where applicable.]**

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**§ 25-1. Statute adopted. <sup>1</sup>**

The provisions of Minnesota Statutes Chapter 429 are hereby adopted by reference and made a part hereof as if fully set forth herein.

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1. Editor's Note: Original § 303.01, Cutoff date for petitions, which immediately preceded this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**Chapter 35**  
**PERSONNEL POLICIES**

ARTICLE I  
**Workers' Compensation**

**§ 35-1. Coverage.**

**[HISTORY: Adopted by the City Council of the City of Bethel as indicated in article histories. Amendments noted where applicable.]**

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ARTICLE I  
**Workers' Compensation**  
**[Adopted 3-2-1989 by Ord. No. 89-508 as Ch. II, Part 6, of the 1989 City Code]**

**§ 35-1. Coverage.<sup>1</sup>**

Pursuant to Minnesota Statutes § 176.011, Subdivision 9(6), elected officials and members of the Planning Commission are hereby included in the coverage of the Workers' Compensation Act.<sup>2</sup>

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

2. Editor's Note: See Minnesota Statutes § 176.001 et seq.



## Chapter 41

### PLANNING COMMISSION

§ 41-1. Establishment.

§ 41-2. Membership.

§ 41-3. Terms of office; vacancies; oath of office; compensation.

§ 41-4. Officers.

§ 41-5. Meetings, records and reports; expenditures.

§ 41-6. Powers and duties; comprehensive plan.

§ 41-7. Public hearing on zoning ordinances.

[HISTORY: Adopted by the City Council of the City of Bethel 3-2-1989 by Ord. No. 89-508 as Ch. II, Part 4, of the 1989 City Code. Amendments noted where applicable.]

#### GENERAL REFERENCES

Subdivision regulations — See Ch. 225.

Zoning — See Ch. 255.

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#### § 41-1. Establishment.

A City Planning Commission for the City of Bethel is hereby established. The Commission shall be the City planning agency authorized by Minnesota Statutes § 462.354, Subdivision 1.

#### § 41-2. Membership. <sup>1</sup>

The City Planning Commission shall consist of five members. The City Building Official and the City Attorney shall be members ex officio, 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 by the Council.

#### § 41-3. Terms of office; vacancies; oath of office; compensation. <sup>2</sup>

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. Their successors shall be appointed for terms of three years. Both original and successive appointees shall hold their offices until their successors are appointed and qualified. The terms of ex officio members shall correspond to their respective official tenures. Vacancies during the term shall be filled by the Council for the unexpired portion of the term. Every appointed member shall, before entering upon the discharge of his duties, take an oath that he will faithfully discharge the duties of his office. Compensation, if any, shall be set by resolution of the City Council.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**§ 41-4. Officers.**

The Commission shall elect a Chairman from among its appointed members for a term of one year, and the Commission may create and fill such other offices as it may determine. The City Clerk shall act as secretary of the Planning Commission, but he shall not be a member.

**§ 41-5. Meetings, records and reports; expenditures.**

The Commission shall hold at least one regular meeting each month. 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 February 15 of each year, the Commission shall submit to the City Council a report of its work during the preceding calendar year. Expenditures of the Commission shall be within amounts appropriated for the purpose by the City Council.

**§ 41-6. Powers and duties; comprehensive plan.**

The Planning Commission shall have the powers and duties given planning agencies generally by law. The Commission shall also exercise the duties conferred upon it by this chapter and by the Council. After the Commission has prepared and adopted a comprehensive plan, the Commission shall periodically, but at least once every five years, review the comprehensive plan and any ordinances and any capital improvement program the Council has adopted to implement the plan. After such review it shall, to the extent it deems necessary, revise the comprehensive plan and recommend it to the Council in accordance with law. Similarly, after such review, it shall recommend to the Council any amendments it deems desirable to the capital improvement program and any ordinance implementing the plan.

**§ 41-7. Public hearing on zoning ordinances.**

No zoning ordinance or amendment shall be adopted by the Council until a public hearing has been held thereon by the Planning Commission upon notice as provided in Minnesota Statutes § 462.357, Subdivision 3.<sup>3</sup>

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3. Editor's Note: Original § 204.06, Plats; approval, which immediately followed this section, was repealed 9-26-1989. See Ch. 225, Subdivision Regulations.

## Chapter 50

### FEE SCHEDULE

#### § 50-1. Fee Schedule.

[HISTORY: Adopted by the City Council of the City of Bethel as indicated in article histories. Amendments noted where applicable.]

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#### § 50-1. Fee Schedule.<sup>1</sup>

ANIMAL PERMIT -----	\$10.00
BALLPARK LEAGUE USE FEE (weekly one season)-----	\$200.00
(weekend tournament) -----	\$100.00
BINGO LICENSE -----	\$5.00
BUSINESS LICENSE -----	\$40.00 / year
BUILDING PERMIT FEES (Fees are set forth as defined in the Minnesota Building Code)	
*80% plan check fees, 80% sewer fee	
*80% permit fee, 100% deck fee	
CONDITIONAL USE PERMIT APPLICATION -----	\$100.00
CIGARETTE MACHINE FEE / License fee 12 / year-----	\$12.00
DOG & CAT LICENSE FEE -----	\$5.00 / \$10.00
FENCE PERMIT -----	\$15.00
HALL RENTAL * Non-resident (no alcohol)-----	\$150.00
(deposit \$100.00)	
*Non-resident (With alcohol) -----	\$200.00
(deposit \$100.00)	
*Resident (no alcohol) -----	\$50.00
(deposit \$25.00)	
*Resident (with alcohol) -----	\$100.00
(deposit \$50.00)	

1. Editor's Note: Amended on June 20, 2019 (See Ord. 2019-007).

DANCE LICENSE -----	\$5.00
IMPOUNDING FEES -----	Actual Cost
LIQUOR LICENSE: (annual)	
*On-sale -----	\$3,788.00
*Off-sale -----	\$100.00
*On-sale (Sunday) -----	\$100.00
*On-sale (non-intoxicating)-----	\$100.00
*Off-sale (non-intoxicating) -----	\$100.00
*On-sale (non-intoxicating, Temporary)-----	\$10.00
TAPROOM -----	\$300.00
BREWERY TAPROOM ON-OFF SALE -----	\$400.00
PUBLIC DANCE -----	\$25.00
REFUSE COLLECTORS:      *\$25.00 first vehicle	
*\$15.00 each additional vehicle	
SEWER LICENSE      *on-site septic -----	\$50.00
*Site inspection for certification -----	\$50.00
STREET EXCAVATION PERMIT -----	\$50.00
VARIANCE PETITION / EASEMENT VACATION-----	\$150.00
SPECIAL MEETING (COUNCIL TIME AND OFFICE SUPPORT)-----	\$200.00
REZONING (PLANNING & ZONING) -----	\$100.00
PLAT APPLICATION -----	\$100.00
SUBDIVISION / LOT SPLIT / SPECIAL USE PERMIT-----	\$150.00
STREET DEDICATION -----	\$25.00
ORDINANCE AMENDMENT -----	\$200.00
*Includes Attorney fees, publishing, council time, & office support.	
CONNECTION TO CITY SEWER -----	\$2700.00
RE-ISSUE OF LOST CHECKS -----	\$10.00
NSF CHECKS -----	\$25.00

ASSESSMENTS -----	\$5.00
PROFESSIONAL CONSULTING SERVICES -----	Wage x \$2.75
PHOTO COPIES *one side \$0.20 / page	
FAX MACHINE *first page -----	\$2.00
*long distance -----	\$4.00
*each additional page -----	\$1.00
TABLES (RESIDENTS ONLY)-----	(each) \$5.00
CHAIRS (RESIDENTS ONLY) (DEPOSIT EQUAL TO THE RENT) -----	(each) \$0.25
PRINTED PUBLICATION (COST PLUS) -----	\$10.00
BUILDING PERMIT REROOF, SIDING, WATER HEATER,	
WINDOWS – SAME SIZE -----	50.00 + state surcharge
OTHERS -----	Calculation based on value
SPECIAL EVENT PERMIT -----	\$35.00 for event
FOOD TRUCK VENDOR PERMIT -----	We accept permit from MN Dept. of Health. No local/city permit
FIRE CALLS -----	No charge
ADMINISTRATIVE PENALTIES –	
First Violation -----	\$100.00
Second Violation -----	\$250.00
Third Violation -----	\$500.00
Fourth and Subsequent Violation(s)-----	\$1,000.00
Appeal Hearing Fee -----	\$75.00
WATER -----	\$8.00 per 1,000 gal.
WATER ACCESS TO CONNECT -----	\$25.00
ANY OTHER COST TO PROCESS REQUEST NOT LISTED-----	\$10.00

## **PART II**

# **GENERAL LEGISLATION**

## Chapter 55

### ADULT ENTERTAINMENT

#### ARTICLE I General Provisions

- § 55-1. Purpose and intent.
- § 55-2. First Amendment rights.
- § 55-3. Definitions.
- § 55-4. Severability.

#### ARTICLE II Location and Operation

- § 55-5. Compliance required.
- § 55-6. Construal of provisions.
- § 55-7. Nonconforming uses.
- § 55-8. Location.
- § 55-9. Zoning districts; conditional use permit required.
- § 55-10. Hours of operation.
- § 55-11. Operational standards.

- § 55-12. Signs.
- § 55-13. Accessory adult uses.

#### ARTICLE III Licensing

- § 55-14. License required.
- § 55-15. Violation.
- § 55-16. Application and site plan.
- § 55-17. Qualifications.
- § 55-18. Application information.
- § 55-19. Issuance or denial of license.
- § 55-20. Fees.
- § 55-21. Inspections.
- § 55-22. Expiration of license.
- § 55-23. Suspension of license.
- § 55-24. Revocation of license.
- § 55-25. Transfer of license.

[HISTORY: Adopted by the City Council of the City of Bethel 5-10-1992 (Ch. V, Part 12, of the 1989 City Code). Amendments noted where applicable.]

#### GENERAL REFERENCES

Liquor and beer — See Ch. 164.  
Nuisances and offenses — See Ch. 177.

Zoning — See Ch. 255.

#### ARTICLE I General Provisions

##### § 55-1. Purpose and intent.

It is the purpose of this chapter to regulate adult entertainment uses in order to promote the health, safety, morals and general welfare of the citizens of the City of Bethel (City) and to establish reasonable and uniform regulations to:

- A. Prevent additional criminal activity within the City.
- B. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood.

- C. Locate sexually oriented business away from residential areas, schools, churches, parks and playgrounds.
- D. Prevent concentration of adult entertainment uses within certain areas of the City.

### **§ 55-2. First Amendment rights.**

The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment to the United States Constitution or to deny access by distributors and exhibitors of sexually oriented entertainment to their intended market.

### **§ 55-3. Definitions.**

As used in this chapter, the following words and terms shall have the meanings stated as follows:

**ADULT BODY PAINTING STUDIO** — An establishment or business which provides the service of applying paint or other substances, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical areas (as hereinafter defined).

**ADULT BOOKSTORE** — A business engaging in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, or audiotapes, if such shop is not open to the public generally but only one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas (as both terms are hereinafter defined).<sup>1</sup>

**ADULT CABARET** — An establishment which provides dancing or other live entertainment, if such establishment excludes minors by reason of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction, or description of specified sexual activities or specified anatomical areas (as both terms are hereinafter defined).

**ADULT COMPANIONSHIP ESTABLISHMENT** — An establishment which excludes minors by reason of age or which provides the service of engaging in or listening to conversation, talk, or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas (as both terms are hereinafter defined).

**ADULT ENTERTAINMENT USES** — Adult bookstores, adult motion-picture theaters, adult mini motion-picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult modeling studios, adult hotels or motels, adult body painting studios and other adult establishments, as herein defined.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).



ADULT ESTABLISHMENT — Adult bookstores, adult motion-picture theaters, adult mini motion-picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult modeling studios, adult hotels or motels, adult body painting studios and other adult establishments, as herein defined, or any other business engaged in any of the following activities which utilizes any of the following business procedures or practices:

- A. Any business which is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage therein either by law or by the operators of such business; or
- B. Any other business which offers its patrons services or entertainment characterized by an emphasis on subject matter depicting, exposing, describing, discussing or relating to specified sexual activities or specified anatomical areas (as both terms are hereinafter defined).

ADULT HOTEL OR MOTEL — A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on subject matter depicting, describing or relating to specified sexual activities or specified anatomical areas (as both terms are hereinafter defined).

ADULT MASSAGE PARLOR OR HEALTH CLUB — An establishment which restricts minors by reason of age and which provides the services of a massage, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas (as both terms are hereinafter defined).

ADULT MINI MOTION-PICTURE THEATER — A business premises within an enclosed building with a capacity for fewer than 50 persons used for presenting visual media material if such business as a prevailing practice excludes minors by reason of age or if such material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas (as both terms are hereinafter defined) for observation by patrons therein.

ADULT MODELING STUDIO — An establishment which has as its major business the providing to customers of figure models who engage in specified sexual activities or who display specified anatomical areas (as those terms are hereinafter defined) while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers, with the intent of providing sexual stimulation or sexual gratification to such customers.

ADULT MOTION-PICTURE ARCADE — Any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrical or mechanically controlled or operated still- or motion-picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas (as both terms are hereinafter defined).

ADULT MOTION-PICTURE THEATER — A business premises within an enclosed building with a capacity for 50 or more persons used for presenting visual media material if

such business as a prevailing practice excludes minors by reason of age or if such material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas (as both terms are hereinafter defined) for observation by patrons therein.

**ADULT NOVELTY BUSINESS** — A business which has a principal activity relating to the sale of devices which simulate human genitals or devices which are designed for sexual stimulation.

**ADULT SAUNA** — A sauna which excludes minors by reason of age or which provides a steam bath or heated bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas (as both terms are hereinafter defined).

**ADULT USE, ACCESSORY** — A use, business, or establishment having 10% or less of its stock-in-trade or floor area allocated to or 20% or less of its gross receipts derived from movie rentals, magazine sales, or sales of other merchandise in which there is an emphasis on specified sexual activities or specified anatomical areas (as both terms are hereinafter defined).

**CHURCH** — A building or structure, or group of buildings or structures, which by design and construction is primarily intended for the conducting of organized religious services and associated accessory uses.

**SCHOOL** — A public school as defined in Minnesota Statutes § 120A.05 or a nonpublic school or a nonsectarian nonpublic school as defined in Minnesota Statutes § 123B.41.<sup>2</sup>

**SPECIFIED ANATOMICAL AREAS** — The following:

- A. Less than completely or opaquely covered human genitals, pubic region, buttock(s), anus, or female breast(s) below a point immediately above the top of the areola; and
- B. Human male genitals in a discernibly turgid state, even if completely or opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES** — The following:

- A. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, or zooerasty;
- B. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;
- C. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

3. Fondling or touching of nude human genitals, pubic region, buttock(s), or female breast(s);
4. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint of any such persons; or
5. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being.

**§ 55-4. Severability.**

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

**ARTICLE II  
Location and Operation**

**§ 55-5. Compliance required.**

No building or structure shall be erected, converted, enlarged, reconstructed or altered for use nor shall any land within the City be used for any purpose which violates the provisions of this chapter.

**§ 55-6. Construal of provisions.**

No adult establishment shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the premises which such activity or conduct is prohibited by the Bethel Code, the laws of the State of Minnesota, or the laws of the United States of America. Nothing in this chapter shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.

**§ 55-7. Nonconforming uses.<sup>3</sup>**

Adult entertainment uses existing at the time of adoption of this chapter which do not conform to the requirements, restrictions and prohibitions of this chapter shall be classified as legal nonconforming uses.

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3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**§ 55-8. Location.**

During the term of this chapter, no adult entertainment use shall be located within 500 feet of any residential zoning district boundary or site used for residential purposes or within 1,000 feet of any church, school, or any youth facility. In addition, no adult entertainment use shall be located within 1,000 feet of any other adult entertainment use. For the purposes of this chapter, the distance shall be determined by horizontal measurement from the nearest existing residential district boundary or site used for residential purposes, church site, school site, youth facility site, or other adult entertainment use site to the nearest point of the structure housing the proposed new adult entertainment use.

**§ 55-9. Zoning districts; conditional use permit required.**

Adult entertainment uses will be allowed in the Industrial District and the General Business District, upon application and issuance of a conditional use permit. Adult entertainment uses will need to comply with all conditional use permit standards and site plan requirements prior to operation. Adult uses in the General Business District may only be permitted when fronting on a Country Road.<sup>4</sup>

**§ 55-10. Hours of operation.**

An adult entertainment use shall be limited to 8:00 a.m. to 12:00 p.m. for its hours of operation. A differing time schedule may be approved by the City, if it can be satisfactorily demonstrated by the operator to the City that extended operational hours:

- A. Will not adversely impact or affect uses or activities within 1,000 feet.
- B. Will not result in increased policing and related service calls.
- C. Are critical to the operation of the business.

**§ 55-11. Operational standards.**

The operation of an adult entertainment use shall comply with the following operational standards:

- A. An establishment operating as an adult entertainment use shall prevent off-site viewing of its merchandise which, if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617 or other applicable federal or state statutes or local ordinances.
- B. All entrances to the business, with the exception of emergency fire exits which are not usable by patrons to enter the business, shall be visible from a public right-of-way.
- C. The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing, including but not limited to books, magazines, photographs, videotapes, or any other material.

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4. Editor's Note: See Ch. 255, Zoning.

- D. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

**§ 55-12. Signs.** <sup>5</sup>

Signs for adult entertainment uses shall not contain representational depictions of an adult nature or graphic descriptions of the adult theme of the operation.

**§ 55-13. Accessory adult uses.** <sup>6</sup>

- A. Accessory adult entertainment uses shall comply with the following regulations. The use shall:
- (1) Comprise no more than 10% of the floor area of the establishment in which it is located.
  - (2) Comprise no more than 20% of the gross receipts of the entire business operation.
  - (3) Not involve or include any activity except the sale or rental of merchandise.
  - (4) Restrict from and prohibit access to minors by the physical separation of such items from areas of general public access:
    - (a) Movie rental. Display areas shall be restricted from general view and shall be located within a separate room, the access to which is in clear view and under the control of the persons responsible for the operation of the business.
    - (b) Magazines. Publications classified or qualifying as adult uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.
    - (c) Other uses. Accessory adult uses not specifically cited shall comply with the intent of this section, subject to the approval of the City Council.
- B. Accessory adult uses shall be prohibited from both internal and external advertising and signing of adult materials and products.
- C. Accessory adult uses shall be exempt from the licensing and conditional use permit requirements.

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5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

ARTICLE III  
**Licensing**

**§ 55-14. License required.**

All establishments, including any business operating at the time this chapter becomes effective, operating or intending to operate an adult entertainment use shall apply for and obtain a license from the City of Bethel.

**§ 55-15. Violation.**

A person is in violation of the City Code if he/she operates an adult entertainment use without a valid license issued by the City.

**§ 55-16. Application and site plan.**

An application for a license must be made on a form provided by the City. The application must be accompanied by a site plan that is in compliance with City Code requirements. The site plan shall show the configuration of the premises, including a statement of total floor space occupied by the business.

**§ 55-17. Qualifications.**

The applicant must be qualified according to the provisions of this chapter, and the premises must be inspected and found to be in compliance with all City regulations.

**§ 55-18. Application information.**

- A. Applications for license shall be made only on the forms provided by the City. Four complete copies of the application shall be furnished to the office of the City Clerk containing the address and legal description of the property to be used; the names, addresses, and phone numbers of the owner, lessee, if any, and the operator or manager; the names, addresses, and phone numbers of two persons who shall be residents of the State of Minnesota and who may be called upon to attest to the applicant's, manager's, or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information as to the time, place, and nature of such crime or offense, including the disposition thereof; and the names and addresses of all creditors of the applicant, owner, lessee, or manager insofar as and regarding credit which has been extended for the purposes of constructing, equipping, maintaining, operating, or furnishing or acquiring the premises, personal effects, equipment, or anything incident to the establishment, maintenance and operation of the business.
- B. If the application is made on behalf of a corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application accurate and complete business records showing the names and addresses of all individuals having an interest in the business, including partners, officers, owners, and

creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and, in the case of a corporation, the names and addresses of all officers, general managers, and members of the board of directors as well as any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment, including the purchase or acquisition of any items of personal property for use in said operation.

- C. All applicants shall furnish to the City, along with their applications, complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a lease, deed, contract for deed, mortgage deed, mortgage credit arrangement, loan agreement, security agreement, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition, or maintenance of the enterprise.

**§ 55-19. Issuance or denial of license.**

- A. The Sheriff's Office shall recommend approval of the issuance of a license by the City to an applicant within 45 days after receipt of an application unless it finds one or more of the following to be true:<sup>7</sup>
- (1) An applicant is under 18 years of age.
  - (2) An applicant or an applicant's spouse is overdue in his/her payment to the City, county, or state of taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to an adult entertainment use.
  - (3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
  - (4) An applicant or an applicant's spouse has been convicted of a violation of a provision of this chapter, other than the offense of operating an adult entertainment use without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
  - (5) An applicant is residing with a person who has been denied a license by the City to operate an adult entertainment use with the preceding 12 months or residing with a person whose license to operate an adult entertainment use has been revoked within the preceding 12 months.
  - (6) The premises to be used by the adult entertainment use has not been approved by all City departments as being in compliance with applicable laws and ordinances; such inspections shall be completed within 30 days from the date the application was submitted, provided that the application contains all of the information

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7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

required by this chapter. If the application is deficient, the inspections shall be completed within 30 days from the date the deficiency has been corrected.

- (7) The license fee required by this chapter has not been paid.
  - (8) An applicant has been employed in an adult entertainment use in a managerial capacity within the preceding 12 months and had demonstrated that he/she is unable to operate or manage an adult entertainment use premises in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
  - (9) An applicant or an applicant's spouse has been convicted of a crime involving any of the following offenses: any sex crimes as defined by Minnesota Statutes §§ 609.293 through 609.352, inclusive, or as defined by any ordinance or statute in conformity therewith, or any obscenity crime as defined by Minnesota Statutes §§ 617.23 through 617.299, inclusive, or as defined by any ordinance or statute in conformity therewith, for which less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four-month period.
- B. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.
  - C. An applicant who has been convicted or whose spouse has been convicted of an offense listed in Subsection A(9) of this section may qualify for an adult entertainment use license only when the time period required by Subsection A(9) has elapsed.
  - D. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the adult entertainment use. The license shall be posted in a conspicuous place at or near the entrance to the adult entertainment use so that it may be easily read at any time.
  - E. The City Council shall act to approve or disapprove the license application within 120 days from the date the application was submitted, provided that the application contains all of the information required by this chapter. If the application is deficient, the Council shall act on the application within 120 days from the date that the deficiency has been corrected.
  - F. Within 90 days after the decision by the Council, the applicant may appeal to the District Court by serving a notice upon the Mayor or City Clerk of the City.



**§ 55-20. Fees.**

An initial investigation fee of shall be charged at the time the application is filed; no part of this fee shall be refundable. If after review of the application the license is approved, the license holder shall pay for the initial license and a yearly license fee each time the license is renewed. The fees as required herein shall be as set from time to time by resolution of the City Council.

**§ 55-21. Inspections.**

- A. An applicant or licensee shall permit representatives of the Sheriff's Office, Planning Commission, Fire Department, and Building Official to inspect the premises of an adult entertainment use for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.<sup>8</sup>
- B. A person who operates an adult entertainment use or his/her agent or employee commits an offense if he/she refuses to permit a lawful inspection of the premises by a representative of the Sheriff's Office at any time it is occupied or open for business.
- C. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

**§ 55-22. Expiration of license.**

- A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in this chapter. Application for renewal should be made at least 60 days before the expiration date, and when made less than 60 days before the expiration date, the expiration of the license will not be affected.
- B. When the City denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the denial became final.

**§ 55-23. Suspension of license.**

- A. The City may suspend a license for a period not to exceed 90 days if it determines that a licensee or an employee of a licensee has:
  - (1) Violated or is not in compliance with any provision of this chapter.
  - (2) Engaged in excessive use of alcoholic beverages while on the adult entertainment use premises.
  - (3) Refused to allow an inspection of the adult entertainment use premises as authorized by this chapter.

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8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (4) Knowingly permitted any type of gambling by any person on the adult entertainment use premises.
  - (5) Demonstrated inability to operate or manage an adult entertainment use in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
- B. A suspension by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally or by leaving the same at the licensed business premises with the persons in charge thereof.

**§ 55-24. Revocation of license. <sup>9</sup>**

- A. The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- B. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an adult entertainment use license for one year from the date revocation became effective. If subsequent to revocation the City finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.
- C. A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally or by leaving the same at the licensed premises with the person in charge thereof.

**§ 55-25. Transfer of license.**

A licensee shall not transfer this license to another, nor shall a licensee operate an adult entertainment use under the authority of a license at any place other than the address designated in the application.

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9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

## Chapter 60

### ALARM SYSTEMS

#### § 60-1. Definitions.

#### § 60-3. False alarms.

#### § 60-2. Alarm businesses to be licensed.

#### § 60-4. Violations and penalties.

**[HISTORY: Adopted by the City Council of the City of Bethel at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]**

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#### § 60-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**ALARM SYSTEM** — An assembly of equipment and devices, a single device such as a solid state unit which plugs directly into a one-hundred-ten-volt AC line or a group of such devices at a single location arranged to signal the presence of a hazard requiring urgent attention and to which law enforcement, fire or health personnel are expected to respond.

**CALENDAR YEAR** — The period January 1 through December 31 of each year.

**FALSE ALARM** — The activation of an alarm system through mechanical or electrical failure, malfunction, improper installation, or the negligence of the owner or lessee of an alarm system or his or her employees or agents. "False alarm" does not include conditions that are beyond the control of the alarm user, such as utility line mishaps, tornadoes/wind storms, thunderstorms, or earthquakes.

#### § 60-2. Alarm businesses to be licensed.

All alarm businesses shall be licensed by the State Board of Electricity.

#### § 60-3. False alarms.

- A. Report by county required. The County Sheriff's office shall file a written report of each false alarm incident with the City Clerk.
- B. First and second alarms; notice to alarm user. Upon receipt of the first and second false alarm reports at an address, the City Clerk shall, by mail, attempt to notify the alarm user of the provisions of this chapter. A notice of each false alarm will be left with the alarm user by the County Sheriff's Deputy after each occurrence.
- C. Three or more alarms; fee required. Upon receipt of a third false alarm report or more at an address in one calendar year, the City Clerk shall notify the alarm user by certified mail that a fee shall be paid within 30 calendar days after receipt of the notice. The fee amount shall be as set forth by resolution. If the fee is not collected within 90 days after notification, the fee shall be certified to the property taxes for the upcoming year.

- D. Determination of occurrence of false alarm. The alarm user may submit a written response within 30 days of receipt of notice to the City Clerk to explain the cause of the alarm activation. If the City Clerk determines the alarm was caused by conditions beyond the control of the alarm user, the alarm will not be counted as a false alarm at that address. The decision of the City Clerk may be appealed in writing to the City Council.

**§ 60-4. Violations and penalties.**

Any person who willfully violates any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in § 1-4 of this Code.

## Chapter 64

### ANIMALS

#### ARTICLE I Dogs and Cats

- § 64-1. Definitions.
- § 64-2. License required; restriction on number of animals.
- § 64-3. License issuance; term; renewal.
- § 64-4. Kennels.
- § 64-5. Anti-rabies regulation.
- § 64-6. Impoundment.
- § 64-7. Animal control.
- § 64-8. Extra precaution for dangerous animals.

#### § 64-9. Violations and penalties.

#### ARTICLE II Other Animals and Fowl

- § 64-10. Definitions.
- § 64-11. Keeping of certain animals restricted.
- § 64-12. Keeping of certain animals prohibited.
- § 64-13. Impoundment of animals.
- § 64-14. Other terms and restrictions.

**[HISTORY: Adopted by the City Council of the City of Bethel 8-15-2002 by Ord. No. 02-02 (Ch. V, Parts 4 and 5, of the 1989 City Code). Amendments noted where applicable.]**

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#### ARTICLE I Dogs and Cats

##### § 64-1. Definitions.

As used in this article, the following terms shall have the meanings indicated:

ANIMAL — Dog or cat, both male and female, of any breed of dogs or cats.

CITY — The City of Bethel.

DANGEROUS ANIMAL — An animal which has caused damage to property or injury to a person, or an animal which, by its actions, exhibits a propensity for causing imminent danger.

OWN — To have a property interest in, be the custodian of, or to harbor, feed, board, keep, or possess.

OWNER — A person who owns a dog or cat hereby regulated.

##### § 64-2. License required; restriction on number of animals.

- A. It is unlawful for any animal, three months of age or more, to be kept without securing an animal license from the City or animal control agent contracted by the City.

- B. The City shall keep a record of all licenses issued and shall issue a metal tag for each license. Tags shall not be transferable.
- C. The owner shall permanently affix the license tag to the collar of the animal in such a manner it may be easily seen.
- D. The number of animals permitted shall not exceed two dogs, over the age of three months of age, per owner, dwelling or unit.<sup>1</sup>
- E. A multiple animal license may be obtained to allow one additional dog.<sup>2</sup>
- F. The fee for a multiple animal license shall be set by the Council by resolution. An owner must submit an application to the City for a multiple animal license.<sup>3</sup>
- G. Any application for an animal license may be denied for any of the following reasons:
  - (1) Fraud, misrepresentation, or an incorrect statement contained in the application.
  - (2) Conviction of any crime or misdemeanor pertaining to the keeping or care of animals.
  - (3) Failure to submit to or pass an annual inspection of the premises to ensure the health, safety, and welfare of the animals under the owner's care as well as the public in general.

**§ 64-3. License issuance; term; renewal.**

- A. All animal licenses shall be issued only upon presentation of a certificate issued by a veterinarian, licensed to practice veterinary medicine in the State of Minnesota, certifying that the animal to be licensed has been vaccinated with anti-rabies and all other required vaccines within the past 24 months and the type of vaccination used.
- B. Licenses shall expire on May 31, and renewed licenses shall run from June 1 for 12 months. Application for license renewal, accompanied by all required veterinarian's certificates, shall be made at least 30 days prior to expiration of the license.
- C. All animal and multiple animal licenses will be administratively approved. The application process shall be as follows:
  - (1) Requests for licenses shall be filed with the City Clerk on an official application form provided by the City. All fees established by City resolution shall accompany such applications.
  - (2) Multiple animal license applications shall be approved or denied within 30 days from the date of their official and complete submission unless a time waiver is granted by the applicant.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (3) In the event of denial of a multiple animal license, a grievance process is established within the City. An appeal shall be reviewed by the City Council. Applicants whose application is denied will be advised of the entire appeal process available to them at the time of denial and the reason for denial.
- D. Unless the applicant(s) has/have not met one or more of the previous listed criteria, the multiple animal license shall be granted.
- E. All fees for animal licenses, kennel special use permits, and impounding, maintenance, euthanizing, and disposal of an animal, including penalties for late application, shall be the sole responsibility of the owner or custodian of that animal. These fees shall be determined by the City Council. Such fees shall be set and may be amended by City resolution and uniformly enforced.<sup>4</sup>

#### § 64-4. Kennels.

- A. A special use permit issued by the City for a kennel is required for any person, firm, corporation, or family unit within the City owning or having under his or its control, for boarding or keeping on his or its property, or the purposes of breeding, sport or sale, more than two animals.<sup>5</sup>
- B. No special use permit shall be issued for a kennel for the first time until the application is approved by the City Council. Further renewal will not require approval of the City Council unless there is a change to the existing kennel.<sup>6</sup>
- C. The rules contained in Minnesota Statutes § 347.35 are hereby adopted by reference and made a part hereof as if fully set forth herein. In addition, the Council may make such rules as deemed appropriate for qualification of any premises to be permitted as an animal kennel.<sup>7</sup>
- D. No special use permit shall be issued for a kennel without a minimum of 2 1/2 acres of contiguous real estate and until the proposed facility has been inspected and meets the standards of this section.<sup>8</sup>
- E. Kennels must have proper individual fence enclosures with housing.<sup>9</sup>
- F. Housing must protect the animal from the elements and be structurally sound with ample heat, light, and ventilation.
- G. Any kennel within the City may be inspected from time to time by any City employee, agent appointed by the City Council, or by any law enforcement officer.

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4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**§ 64-5. Anti-rabies regulation.**

- A. No person shall keep any dog or cat over three months of age within the City limits which has not been vaccinated with anti-rabies vaccine.<sup>10</sup>
- B. Every animal which bites a person shall be promptly reported to the Sheriff and shall thereupon be securely quarantined at the direction of the Sheriff for a period of 14 days and shall not be released from such quarantine except by written permission of the City.
- C. It is the duty of every physician, or other practitioner, to report to the Sheriff the names and addresses of persons treated for bites inflicted by an animal within the City.
- D. During quarantine the animal shall be securely confined and kept from contact with any other animals.
- E. In the discretion of the Sheriff, such quarantine may be on the premises of the owner; if, however, quarantine requires other confinement then the owner shall surrender the animal for the quarantine period to the City-designated animal shelter or the animal shall be placed at a veterinary hospital of the owner's choice.
- F. Whenever the prevalence of rabies renders such action necessary to protect the public health and safety of the City, as required by Minnesota Statutes, the City Council shall issue a proclamation ordering every person owning or keeping an animal to securely confine the animal. Unrestrained animals during the time fixed by proclamation shall be subject to impoundment and subject to the penalty hereinafter provided.
- G. When an animal under quarantine, suspected or diagnosed as being rabid by a licensed veterinarian, dies or is killed, the City shall immediately send the head of such animal, and rabies data report, to the State Health Department for pathological examination and shall notify all persons concerned of the results of such examination.
- H. All costs of quarantine or testing of an animal shall be the sole responsibility of the owner or custodian of the animal.

**§ 64-6. Impoundment.**

- A. Any animal found in the City running at large, or otherwise in violation of this article, may be impounded and placed in the animal shelter, with an accurate record of the time of such placement kept on each animal.
- B. For the purposes of enforcement of this section, any law enforcement officer or person whose duty is animal control may use a so-called tranquilizer gun or other instrument for the purpose of immobilizing and catching an animal.
- C. It is lawful for any person to seize and impound an animal found running at large, and within two hours of such seizure the person must notify the Sheriff's Office of said animal. It shall be the duty of the Sheriff's Office to place said animal in the City animal shelter. If the name of the owner of such animal so seized is known to the person who

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<sup>10</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).



first takes it into custody, the person shall inform the Sheriff's Office of the name of the owner and address if known.

- D. Upon the impounding of any animal, the owner, if known, shall be notified by the most expedient means, or if the owner is unknown, written notice shall be posted for five days at the City Hall, describing the animal by breed, sex, approximate age, and other distinguishing traits and the location and date at which the animal was seized. Impoundment records shall be preserved for at least six months.
- E. If unclaimed within the time stated in the notice, the animal impounded may be sold to anyone desiring or shall be humanely destroyed and the carcass disposed of, unless it is requested by a licensed educational or scientific institution under authority of Minnesota Statutes § 35.71; provided, however, that a statement by the owner does not exist which specifies that the animal should not be used for research or shall not be made available to any such institution.
- F. Animals shall be released to their owner, after the payment of the fines, impounding fee, maintenance, and any immunization fee, with up-to-date license fees paid to the City.<sup>11</sup>
- G. The animal control agent and shelter shall be determined by City Council resolution.

**§ 64-7. Animal control.**

- A. It is unlawful for the owner of any dog or cat to permit such animal to run at large off the property of its owner without being under restraint.
- B. For the purposes of this section, "under restraint" means the animal is controlled by a leash or is obedient to commands and is kept under control of the person in charge of the animal.
- C. All animals shall be caged, kenneled, fenced, or leashed while unattended on the owner's property.
- D. It is unlawful to allow to suffer or permit an animal to defecate upon public property or the private property of another without immediately removing the excrement and disposing of it in a sanitary manner. An owner shall not permit animal excrement to accumulate for a period in excess of seven days without removal or to have an unsanitary condition in a manner resulting in objectionable odors.
- E. The owner or custodian of any animal shall prevent it from committing within the City any act which constitutes a nuisance. It is a nuisance for any animal to habitually or frequently bark or meow or cry at night, to frequent school grounds, parks, or other public areas, to chase vehicles, to molest or annoy any person away from the property of its owner or custodian, or to damage, defile, or destroy public or private property. Failure of the owner or custodian of any animal to prevent it from committing such a nuisance is a violation of this article.

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11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- F. Except for controlled breeding purposes, every female in heat shall be kept confined in a building or secure enclosure or in a veterinary hospital or boarding kennel, in such a manner that such female animal cannot come in contact with other animals.
- G. It is unlawful for the owner of any animal to interfere with any law enforcement officer or other City employee or animal control agent in the performance of his duty to enforce this section.
- H. Violation of any section of this article shall be considered a separate offense, and conviction of violating more than one section or subsection shall be construed to have been a separate act of conduct for each section violated and not having arisen out of the same behavioral incident.

**§ 64-8. Extra precaution for dangerous animals.**

- A. It is unlawful to have within the City any animal that is known to be dangerous or an animal being labeled dangerous by its actions without the owner using extra precaution to protect the public.
- B. Such an animal must be kept in a confined, secure, locked enclosure or building, away from the public. Running at large or running free in a fenced yard is not acceptable, and the enclosure shall be inspected by the City.
- C. Any violation of the rules established herein in this article may result in the revocation of the license and removal of the animal from the City by its owner.

**§ 64-9. Violations and penalties.**

- A. The City may revoke or suspend or refuse to renew the license of any person, firm, corporation, or family for violation of the rules issued pursuant to or established in this article. Upon a written complaint made to the City by any person alleging any violation of this article, the City shall cause an investigation before acting upon matters related to said complaint.
- B. The City may conduct an inspection of any premises to ensure the health, safety, and welfare of the animal under the applicant's care as well as the public in general. The inspector shall ensure the animals are receiving proper food, water, exercise, and overall care by using Minnesota Statutes § 346.39 as a guideline.
- C. The rules regarding suspension and revocation contained in § 160-11 of this Code shall apply to this section.

ARTICLE II  
**Other Animals and Fowl**

**§ 64-10. Definitions.**

As used in this article, the following terms shall have the meanings indicated:

ANIMAL — The common domesticated farm animals. Dogs and cats are covered under Article I of this chapter and are not included in the definition of "animal" for the purposes of this article.<sup>12</sup>

CITY — The City of Bethel.

OWNER — Any person who harbors, feeds, boards, possesses, keeps, or has custody of an animal, bird, or fowl.

**§ 64-11. Keeping of certain animals restricted.**

- A. It is unlawful for any person to keep, stable, board, or harbor horses, colts, ponies, mules, goats, sheep, llamas, cattle, pigs, and other farm-type animals, mink, chickens, ducks, pigeons, geese, and other fowl or birds, whether owned or not, unless the person has a minimum contiguous real estate of three acres or more, of which a half acre thereof shall be considered as being used for residence, lawns, etc., and shall be excluded, and obtains a permit from the City. Fence enclosures for animals or fowl shall be at least 75 feet from any part of a residential structure or well used for water for human consumption.<sup>13</sup>
- B. In addition to the minimum area requirement, there shall be a limit of one animal or 10 fowl per acre of land that is available for pasture.
- C. Enclosures shall be of sturdy wood, metal, or electric fence, must be able to keep the animal or fowl confined, and shall be at least three feet inside the property lines unless fences on the line are agreed to in writing by the adjoining property owner or owners.
- D. An animal shelter must be constructed by the property owner and inspected by the City with an area of at least 100 square feet which is enclosed by a roof to shelter an animal or fowl from the weather.<sup>14</sup>
- E. It is unlawful for any person to keep any animal in any structure infested by rodents, vermin, flies, or insects. Every structure and yard in which animals or fowl are kept shall be maintained in a clean and sanitary condition.
- F. All animal or fowl manure and other waste shall not be allowed to accumulate for a period in excess of seven days to ensure that no objectionable odors exist. The owner shall not allow his premises to become unsightly or harbor rodents, vermin, flies, or insects.
- G. It is unlawful for any owner to suffer or permit an animal to defecate upon public property, or on private property of another, without immediately removing the excrement and disposing of it in a sanitary manner.
- H. It is unlawful for any person to treat an animal in a cruel or inhumane manner.

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12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

13. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

14. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- I. No person shall keep any animal in the City in a manner as to constitute a nuisance or disturbance by reason of barking, howling, fighting, or other noise or in such a way to permit the animal or fowl to annoy, injure, or endanger any person or property.
- J. It is unlawful for any person to allow any animal or fowl under his control to run at large.

**§ 64-12. Keeping of certain animals prohibited.**

- A. The following animals are prohibited from being stored, owned, raised, or kept within the City:<sup>15</sup>
  - (1) Any skunk, descended or otherwise.
  - (2) Any large cat of the family Felidae, such as lions, tigers, jaguars, leopards, cougars, or ocelots, except commonly accepted domesticated house cats.
  - (3) Any member of the family Canidae, such as wolves, coyotes, dingos, foxes, and jackals, except domesticated dogs.
  - (4) Any poisonous snake such as a rattle snake, coral snake, water moccasin, or cobra.
  - (5) Any other animal not specifically listed above but which can be reasonably classified as a nondomestic animal that is normally known to live in the wild, such as bears, badgers, and raccoons.
- B. No animal or fowl shall be allowed in the City with a contagious disease, and any such animal must be removed and disposed of in a safe manner, approved by the City.

**§ 64-13. Impoundment of animals.**

- A. Any City employee, City animal control agent, or law enforcement officer may impound at the City-approved animal shelter any animal or fowl found running at large, and such animals shall be provided proper sustenance and shelter.
- B. Within 24 hours after any animal has been impounded, the City shall post notices at the animal shelter and City Hall describing the animal that has been impounded. The City shall make a reasonable attempt to notify the owner, if known.
- C. Animals shall be released to their owner after the payment of all fines, impounding fee, and maintenance cost, and up-to-date permit fees are paid.<sup>16</sup>
- D. If any animal is not redeemed within seven days by its owner, an additional notice shall be posted of the time and place where the animal shall be sold as soon thereafter as possible without further notice.<sup>17</sup>

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15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

16. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

17. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- E. Proceeds of sale shall pay the cost of impounding, and any balance shall be paid to the general fund for animal control cost.

**§ 64-14. Other terms and restrictions.**

- A. It is unlawful for the owner of any animal to interfere with any law enforcement officer, City employee, or animal control agent in the performance of his duty to enforce this article.
- B. Violation of this article shall be subject to a penalty as prescribed in § 1-4 of this Code.<sup>18</sup>
- C. Any owner of an animal that was in compliance under the previous ordinance shall be entitled to keep such animal until the animal dies or is removed from the City. All new animals shall be required to comply with the terms under this article.
- D. The City may revoke or suspend any animal permit for violation of the rules issued pursuant to or established in this article.

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18. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

## Chapter 70

### ASSEMBLIES

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|---------------------------------|---|
| § 70-1. License required.       | § 70-7. Conditions for issuing license.         |
| § 70-2. Definitions.            | § 70-8. Application for license.                |
| § 70-3. Separate licenses; fee. | § 70-9. Processing of application.              |
| § 70-4. Number of people.       | § 70-10. Revocation of license.                 |
| § 70-5. Noise.                  | § 70-11. Enforcement; violations and penalties. |
| § 70-6. Exceptions.             |   |

[HISTORY: Adopted by the City Council of the City of Bethel 3-2-1989 by Ord. No. 89-508 as Ch. V, Part 10, of the 1989 City Code. Amendments noted where applicable.]

#### GENERAL REFERENCES

Liquor and beer — See Ch. 164.  
Nuisances and offenses — See Ch. 177.

Zoning — See Ch. 255.

#### § 70-1. License required.

No person shall permit, maintain, promote, conduct, advertise, act as entrepreneur, undertake, organize, manage or sell or give tickets to an actual or reasonably anticipated assembly of 500 or more people which continues or can reasonably be expected to continue for eight or more consecutive hours, whether on public or private property, unless a license to hold the assembly has first been issued by the Council, application for which must be made at least 30 days in advance of the assembly. When applying for an assembly license, the sponsor must submit certified copies of other necessary Minnesota state licenses and/or permits to support his application. A license to hold an assembly issued to one person shall permit any person to engage in any lawful activity in connection with the holding of the licensed assembly.

#### § 70-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ASSEMBLY — A company of persons gathered together at any location at any single time for any purpose.

PERSON — Any individual natural human being, partnership, corporation, firm, company, association, society, or group.

#### § 70-3. Separate licenses; fee. <sup>1</sup>

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

A separate license shall be required for each day and each location in which 500 people assemble or can be anticipated to assemble. The fee for each license shall be set by resolution of the City Council.

**§ 70-4. Number of people.**

A license shall permit the assembly of only the maximum number of people stated in the license. The licensee shall not sell tickets to, nor permit to assemble at the licensed location, more than the maximum permissible number of people.

**§ 70-5. Noise.**

The licensee shall not permit the sound of the assembly to carry unreasonably beyond the enclosed boundaries of the location of the assembly.

**§ 70-6. Exceptions.**

This chapter shall not apply to:

- A. Any regularly established permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established place of assembly for assemblies which do not exceed by more than 250 people the maximum seating capacity of the structure where the assembly is held;
- B. Government-sponsored fairs held on regularly established fairgrounds; or
- C. Assemblies required to be licensed by other state laws and regulations of this Council.

**§ 70-7. Conditions for issuing license.**

- A. Number of people. Before a license may be issued, the applicant shall first determine the maximum number of people which will be assembled or admitted to the location of the assembly, provided that the maximum number shall not exceed the maximum number which can reasonably assemble at the location of the assembly in consideration of the nature of the assembly, and provided that where the assembly is to continue overnight, the maximum number shall not be more than is allowed to sleep within the boundaries of the location of the assembly by the zoning or health ordinances of the City or regulations of the Minnesota State Department of Health.<sup>2</sup>
- B. Operation of assembly. At the time the application is submitted, the sponsor will provide a plan including the provisions herein for operation of the assembly. Ten days prior to the start of the assembly, local authorities will inspect to determine whether the requirements of these provisions have been met.
  - (1) A fence or barrier (sufficient to prevent ingress/exit except at established gates) completely enclosing the proposed location of sufficient height and strength to

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

prevent people in excess of the maximum permissible number from gaining access to the assembly grounds, which shall have sufficient entrances and exits to allow easy movement into and out of the assembly grounds and provide traffic control onto established public road systems.

- (2) Potable water, meeting all federal and state requirements for sanitary quality, sufficient to provide drinking water for the maximum number of people to be assembled at the rate of at least one gallon per day per person, and where the assembly is to continue for more than 12 hours, water for bathing at the rate of at least 10 gallons per person per day, or portion of a day.
- (3) Separate enclosed toilets for males and females, meeting all state and local specifications, conveniently located throughout the grounds, sufficient to provide facilities for the maximum number of people to be assembled, in accordance with the Minnesota State Department of Health regulations and standards.<sup>3</sup>
- (4) A sanitary method of disposing of solid waste, in compliance with state and local laws and regulations, sufficient to dispose of the solid waste production of the maximum number of people to be assembled at the rate of at least 2.5 pounds of solid waste per person per day, together with a plan for holding and collecting all such waste at least once each day of the assembly, and sufficient trash containers and personnel to perform tasks.
- (5) Physicians and nurses licensed to practice in Minnesota sufficient to provide the average medical care enjoyed by residents of Minnesota for the maximum number of people to be assembled at the rate of at least one physician and nurse for every 5,000 people, together with an enclosed covered structure where treatment may be rendered, containing separately enclosed treatment rooms for each physician, and at least two emergency ambulances with attendants for each 5,000 people.
- (6) If the assembly is to continue during hours of darkness, illumination sufficient to light the entire area of the assembly at the rate of at least five footcandles, but not to shine unreasonably beyond the boundaries of the enclosed location of the assembly.
- (7) A free parking area inside of the assembly grounds sufficient to provide parking space for the maximum number of people to be assembled at the rate of at least one parking space for every four persons.
- (8) If the assembly is to continue overnight, camping facilities in compliance with all state and local requirements as set forth in Minnesota Statutes and regulations and ordinances of this City, sufficient to provide camping accommodations for the maximum number of people to be assembled.<sup>4</sup>
- (9) Security and traffic and narcotics control plan which will meet the requirements of local authorities and the Minnesota Department of Public Safety; regularly employed off-duty Minnesota law enforcement officers or protective agents

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3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).



licensed in Minnesota, sufficient to provide adequate security for the maximum number of people to be assembled; at least one security guard for every 250 people will be provided for.

- (10) Fire protection shall be provided by the sponsor which may include but not be limited to the following: fire alarms, extinguishing devices, and fire lanes, and shall be sufficient to meet all applicable state laws and local regulations which are in effect or may be set forth by the City; and sufficient emergency personnel to efficiently operate the required equipment will be provided by the sponsor also.
- (11) All reasonably necessary precautions to ensure that the sound of the assembly will not carry unreasonably beyond the enclosed boundaries of the location of the assembly.
- (12) Administrative control center with telephones where local authority can contact the sponsors and law enforcement personnel inside the assembly area.
- (13) A bond, filed with the Clerk or County Auditor, either in cash or underwritten by a surety company licensed to do business in Minnesota, in the minimum amount of \$500,000 (minimum liability of political subdivisions established by Minnesota Statute), which shall indemnify and hold harmless the City or any of its agents, officers, servants, and employees from any liability or causes of action which might arise by reason of granting this license, payment of employees, or services rendered by the granting authority, and from any cost incurred in cleaning up any waste material produced or left by the assembly.<sup>5</sup>

#### **§ 70-8. Application for license.**

- A. Application in writing. Application for a license to hold an actual or anticipated assembly of 500 persons shall be made in writing to the Council at least 30 days in advance of such assembly.
- B. Oath or affirmation. The application shall contain a statement made upon oath or affirmation that the statements contained therein are true and correct to the best knowledge of the applicant and shall be signed and sworn to or affirmed by the individual making application in the case of a partnership or by all officers of an unincorporated association, society or group, or, if there are no officers, by all members of such association, society, or group.
- C. Contents/disclosure. The application shall contain and disclose the following:
  - (1) The name, date of birth, fingerprints, residence, and mailing address of all persons required to sign the application by Subsection B hereof, and in the case of a corporation, a certified copy of the articles of incorporation together with the name, date of birth, residence, and mailing address of each person holding 10% or more of the stock of said corporation.

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5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (2) The address and legal description of all property upon which the assembly is to be held, together with the name, residence, and mailing address of the record owner(s) of all such property.
- (3) Proof of ownership of all property upon which the assembly is to be held or a statement made upon oath or affirmation by the record owner(s) of all such property that the applicant has permission to use such property for an assembly of 500 or more persons.
- (4) The nature and purpose of the assembly.
- (5) The total number of days and/or hours during which the assembly is to last.
- (6) The maximum number of persons which the applicant shall permit to assemble at any time, not to exceed the maximum number which can reasonably assemble at the location of the assembly, in consideration of the nature of the assembly, or the maximum number of persons allowed to sleep within the boundaries of the location of the assembly by the zoning regulations of the City if the assembly is to continue overnight.
- (7) The maximum number of tickets to be sold, if any.
- (8) The plans of the applicant to limit the maximum number of people permitted to assemble.
- (9) The plans for fencing the location of the assembly and the gates contained in such fence.
- (10) The plans for supplying potable water, including the source, amount available, and location of outlets.
- (11) The plans for providing toilets and lavatory facilities, including the source, number, and location, type, and means of disposing of waste deposited.
- (12) The plans for holding, collection, and disposing of solid waste material.
- (13) The plans to provide for medical facilities, including the location and construction of a medical structure, the names and addresses and hours of availability of physicians and nurses, and provisions for emergency ambulance service.
- (14) The plans, if any, to illuminate the location of the assembly, including the source and amount of power and the location of lights.
- (15) The plans for parking vehicles, including size and location of lots, points of highway access and interior roads, including routes between highway access and parking lots.
- (16) The plans for telephone service, including the source, number and location of telephones.
- (17) The plans for camping facilities, if any, including facilities available and their location.

- (18) The plans for security, including the number of guards, their deployment, and their names, addresses, credentials and hours of availability.
  - (19) The plans for fire protection as may be required by § 70-7B herein.
  - (20) The plans for sound control and sound amplification, if any, including number, location, and power of amplifiers and speakers.
  - (21) The plans for food concessions and concessionaires who will be allowed to operate on the grounds, including the names and addresses of all concessionaires and their license or permit numbers.
  - (22) The plans for area traffic control for egress from and exit onto public roads or highways.
- D. Bond and license fee. The application shall include the bond required in § 70-7B herein and the license fee.

**§ 70-9. Processing of application.**

The application for a license shall be processed within 20 days of receipt and shall be issued if all conditions are complied with.

**§ 70-10. Revocation of license.**

The license may be revoked by the Council at any time if any the conditions necessary for the issuing of or contained in the license are not complied with or if any condition previously met ceases to be complied with.

**§ 70-11. Enforcement; violations and penalties.**

- A. Injunction. The provisions of this chapter may be enforced by injunction in any court of competent jurisdiction.
- B. Public nuisance. The holding of an assembly in violation of any provision or condition contained in this chapter shall be deemed a public nuisance and may be abated as such.
- C. Optional penalties. Any person who violates §§ 70-1 through 70-6 herein shall be guilty of a misdemeanor. Any person who violates any condition upon which he is granted a license will forfeit an appropriate amount from the bond required in § 70-7B(13). No portion of the bond will be released to the sponsors until all provisions of the license agreement have been met.

## Chapter 80

### BUILDING CONSTRUCTION

§ 80-1. Building Code.

§ 80-2. Plumbing Code.

§ 80-3. Fire Code.

§ 80-4. Building or mechanical permit;  
violations and penalties.

§ 80-5. Administrative authority.

§ 80-6. Permit fees.

[HISTORY: Adopted by the City Council of the City of Bethel 3-2-1989 by Ord. No. 89-508 as Ch. IX, Part 1, of the 1989 City Code. Amendments noted where applicable.]

#### GENERAL REFERENCES

Subdivision regulations — See Ch. 225.

Zoning — See Ch. 255.

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#### § 80-1. Building Code. [Amended 5-20-2004 by Ord. No. 04-03<sup>1</sup> ]

The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes § 326B.101 et seq., including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry through the Construction Codes Advisory Council, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this chapter. The Minnesota State Building Code is hereby incorporated in this chapter as if fully set out herein. The application, administration, and enforcement of the code shall be made in accordance with the Minnesota State Building Code. This code shall be enforced within the extraterritorial limits permitted by Minnesota Statutes § 326B.121, when so established by this chapter. The code enforcement agency is called the "Building Official." This code shall be enforced by the Minnesota-certified Building Official designated by the City to administer the code. (Minnesota Statutes § 326B.133.)

#### § 80-2. Plumbing Code.

The Minnesota Plumbing Code, as set forth in the Minnesota State Building Code, is hereby adopted as the plumbing code regulating the installation of plumbing in the City of Bethel, and such code is hereby incorporated and made a part of this chapter as completely as if set out in full.

#### § 80-3. Fire Code.

The Minnesota Uniform Fire Code, one copy of which is on file in the office of the City Clerk, is hereby adopted as the fire code of the City of Bethel and incorporated in this City Code as completely as if it set out in full. By this chapter the City undertakes to provide for enforcement of the State Uniform Fire Code in the City.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**§ 80-4. Building or mechanical permit; violations and penalties. [Amended 5-20-2004 by Ord. No. 04-03<sup>2</sup> ]**

It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure, or any part or portion thereof, including but not limited to the plumbing, electrical, ventilating, heating or air-conditioning systems therein, or cause the same to be done, without first obtaining a separate building or mechanical permit for each such building, structure or mechanical component from the City. A violation of the code is a misdemeanor (Minnesota Statutes § 326B.082, Subdivision 16).

**§ 80-5. Administrative authority. <sup>3</sup>**

The Building Official is the administrative authority wherever that term is used in the Minnesota State Building Code and the Appendices adopted by reference in this chapter.

**§ 80-6. Permit fees. [Amended 5-20-2004 by Ord. No. 04-03<sup>4</sup> ]**

The issuance of permits and the collection of fees shall be as authorized in Minnesota Statutes § 326B.121. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by resolution of the City Council. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minnesota Statutes § 326B.148.

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

## Chapter 86

### BUSINESS LICENSING

#### § 86-1. License required.

#### § 86-2. State license.

**[HISTORY: Adopted by the City Council of the City of Bethel 3-2-1989 by Ord. No. 89-508 as Ch. V, Part 3, of the 1989 City Code. Amendments noted where applicable.]**

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#### § 86-1. License required.

No business activity shall be conducted within the City limits without being first approved and licensed for such business activity pursuant to Chapter 160, Licenses and Permits, of the Code of the City of Bethel, or unless specifically provided for elsewhere in this Code.

#### § 86-2. State license.

Any business activity required or allowed to be licensed by the State of Minnesota, or any of its departments, according to state law, shall be permitted to conduct business within the City upon filing a copy of such state license with the Clerk, without obtaining a license from the City. However, all insurance and bond requirements of Chapter 160, Licenses and Permits, of the Code of the City of Bethel shall apply.

## Chapter 105

### DANCES

**§ 105-1. Permit required.**

**§ 105-4. Application for permit.**

**§ 105-2. Definitions.**

**§ 105-5. Posting of permit.**

**§ 105-3. Permit fees.**

**§ 105-6. Violations and penalties.**

**[HISTORY: Adopted by the City Council of the City of Bethel 3-2-1989 by Ord. No. 89-508 as Ch. V, Part 9, of the 1989 City Code. Amendments noted where applicable.]**

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**§ 105-1. Permit required. <sup>1</sup>**

A permit shall be required for any person, club or organization to hold a public dance.

**§ 105-2. Definitions.**

Unless the context clearly indicates otherwise, the following items have the meaning given them in this section:

**PUBLIC DANCE** — Any dance wherein the public may participate, whether or not an admission fee is charged.

**PUBLIC DANCING PLACE** — Any room, place, or space open to public patronage in which dancing may be or is carried on, other than a private residence.

**§ 105-3. Permit fees.**

- A. No person shall conduct a public dance or operate a public dancing place unless a permit shall have been issued by the Council.
- B. The fees for public dance shall be made by City Council resolution.

**§ 105-4. Application for permit. <sup>2</sup>**

- A. The application for a permit shall be made on forms furnished by the Clerk.
- B. No permit shall be issued without proper application, accompanied by the proper fee.

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1. Editor's Note: Original § 509.01, Statute adopted, which immediately preceded this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Throughout this chapter, the term "license/permit" was amended to "permit" at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**§ 105-5. Posting of permit.** <sup>3</sup>

Whenever a permit is issued under this chapter, such permit shall be posted in a public place in the public dance place described therein.

**§ 105-6. Violations and penalties.**

Violation of this chapter shall be a misdemeanor.

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).



# Chapter 135

## GAMES OF CHANCE

### ARTICLE I Lawful Gambling

**§ 135-1. Lawful gambling authorized; rights reserved to City; criteria for organizations.**

**§ 135-2. Permit required for certain lawful gambling activities.**

**§ 135-3. Permit fee.**

**§ 135-4. Contributions.**

**§ 135-5. Revocation or temporary suspension of permit.**

[HISTORY: Adopted by the City Council of the City of Bethel as indicated in article histories. Amendments noted where applicable.]

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### ARTICLE I Lawful Gambling

[Adopted 10-21-1993 by Ord. No. 93-508 (§§ 508.01 to 508.05 of the 1989 City Code)]

**§ 135-1. Lawful gambling authorized; rights reserved to City; criteria for organizations.**

Lawful gambling conducted pursuant to Minnesota Statutes Chapter 349 is authorized within the City and shall be operated in accordance with the terms and conditions specified in this article, other applicable provisions of the City Code, and state and federal laws and regulations. The City hereby reserves all rights to regulate lawful gambling as provided in Minnesota Statutes Chapter 349. An organization conducting lawful gambling in the City must meet the following criteria. The organization must:

- A. Be licensed by the Minnesota Gambling Control Board.<sup>1</sup>
- B. Comply with all of the provisions of this article and state and federal law and regulations.
- C. Be a religious, fraternal, veterans, or other nonprofit entity which has been in existence for at least three years and has at least 15 active members and is not in existence solely for the purpose of conducting gambling.

**§ 135-2. Permit required for certain lawful gambling activities.**

- A. No person or organization shall conduct the following gambling activities exempt from licensure requirements of Minnesota Statutes § 349.16 without first obtaining a permit from the City of Bethel:
  - (1) Bingo conducted in connection with a civic celebration if it is not conducted for more than 12 consecutive days in a calendar year.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (2) Bingo conducted by an organization which conducts four or fewer bingo occasions in a calendar year.
- B. Application. To obtain a permit, the applicant shall first file an application in a form furnished for such purpose. The application shall contain the following:
- (1) Name and address of organization requesting permit.
  - (2) Address of officers and person accounting for receipts, expenses, and profits for the event.
  - (3) Dates of bingo occasion or raffle for which permit is requested.
  - (4) Premises on which event will occur.
  - (5) Copy of any rental or leasing arrangement connected with the event, including rental to be charged to the organization.
  - (6) Estimated value of prizes to be awarded.

### § 135-3. Permit fee. <sup>2</sup>

The annual fee for a permit issued by the City pursuant to § 135-2 shall be set by resolution of the City Council.

### § 135-4. Contributions.

- A. Each organization conducting lawful gambling within the City shall contribute at least 3% of its gross sales derived from lawful gambling in the City to a fund administered and regulated by the City, without cost to the fund, for disbursement by the City for:<sup>3</sup>
- (1) Charitable contributions as defined in Minnesota Statutes § 349.12, Subdivision 7a; or
  - (2) Law enforcement, fire, and other emergency or public safety related services, equipment, and training, excluding pension obligations.
- B. The City's use of these funds shall be determined at the time of the adoption of the City's annual budget or at the time of any amendments thereto.
- C. For purposes of this section, net profits are defined as gross profits less reasonable sums actually expended for allowable expenses.
- D. Each organization must remit the required contribution on a monthly basis not more than 20 days after the end of each month.

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**§ 135-5. Revocation or temporary suspension of permit. <sup>4</sup>**

- A. The Council may revoke any gambling operation permit issued under this article upon a showing of cause at a public hearing after the permittee has received timely notice thereof and has an opportunity to examine all witnesses in support of revocation of his or her permit and the opportunity to present witnesses on his or her behalf. Notice may be given in the same manner as that prescribed for service of process under the Minnesota Rules of Civil Procedure for the District Court.
- B. Upon a finding of necessity and probable cause therefor, the Council may temporarily suspend any gambling operation permit issued under this article until it can give notice and hold a hearing on the revocation of the permit in accordance with Subsection A of this section. Such temporary suspension may not exceed 30 days.

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4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

# Chapter 141

## GARBAGE, RUBBISH AND REFUSE

### ARTICLE I Collection and Disposal

- § 141-1. Definitions.
- § 141-2. General regulations.
- § 141-3. Disposal required.
- § 141-4. Containers.

### ARTICLE II Collectors

- § 141-5. License required.
- § 141-6. Application for license.
- § 141-7. Insurance.
- § 141-8. License term and fee.
- § 141-9. Refuse collection schedule.
- § 141-10. Collection vehicles.
- § 141-11. Direct disposal by owner.

[HISTORY: Adopted by the City Council of the City of Bethel 3-2-1989 by Ord. No. 89-508 as Ch. V, Part 2, of the 1989 City Code. Amendments noted where applicable.]

#### GENERAL REFERENCES

Nuisances and offenses — See Ch. 177.

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### ARTICLE I Collection and Disposal

#### § 141-1. Definitions.

For the purpose of this chapter, the following words and phrases have the meaning given them in this section:

**GARBAGE** — Organic waste resulting from the preparation of food and decayed and spoiled food from any source.

**RECYCLABLES** — Includes paper, plastic, tin cans, aluminum, motor oil, glass, and other metal goods, each separated or otherwise prepared so as to be acceptable to the recycling center where they are to be deposited.

**RECYCLING CENTER** — Premises used for the receipt, storage, or processing of recyclables and approved as such by the Council when the premises are in the City or by the governing body of the local government unit having jurisdiction when the premises are outside the City.

**REFUSE** — Includes garbage and rubbish.

**RUBBISH** — Inorganic solid waste such as tin cans, glass, paper, ashes, sweepings, etc.

**§ 141-2. General regulations.**

- A. Unauthorized accumulation. Any unauthorized accumulation of refuse on any premises is a nuisance and prohibited.
- B. Refuse in streets, etc. No person shall place any refuse in any street, alley, or public place or upon any private property except in proper containers for collection. No person shall throw or deposit refuse in any stream or other body of water.
- C. Scattering of refuse. No person shall deposit anywhere within the City any refuse in such manner that it may be carried or deposited by the elements upon any public or private premises within the City.
- D. Burying of refuse; composting. No person shall bury any refuse in the City except in an approved sanitary landfill, but leaves, grass clippings, and easily biodegradable, nonpoisonous 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 (Health Officer) gives its approval to such composting after it (he) finds that the composting will be done in accordance with these standards.

**§ 141-3. Disposal required.**

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

**§ 141-4. Containers.**

- A. General requirement. 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. Leaves, trimmings from shrubs, grass clippings, shavings, excelsior, and other rubbish of similar volume and weight may be stored in closed containers not meeting the requirements of Subsection B of this section.
- B. Container requirements. Each container shall be watertight, shall be impervious to insects and rodents, shall be fireproof, and shall not exceed 32 gallons in capacity, except that any commercial or business establishment having refuse volume exceeding two cubic yards per week shall provide bulk or box-type refuse storage containers of a type approved by the Building Official. 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.<sup>1</sup>
- C. Use of containers. Highly inflammable or explosive material shall not be placed in containers.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

ARTICLE II  
**Collectors**

**§ 141-5. License required.**

No person shall permit refuse to be picked up from his premises by an unlicensed collector.

**§ 141-6. Application for license.**

Any person desiring a license shall make application to the City Clerk on a form prescribed by him. The application shall set forth:

- A. The name and address of the applicant.
- B. A description of each piece of equipment proposed to be used in the collection.
- C. The proposed charges to be made of those who use the service.
- D. A description of the kind of service proposed to be rendered.
- E. The place to which the refuse is to be hauled.
- F. The manner in which the refuse is to be disposed of.

**§ 141-7. Insurance.**

No license shall be issued until the applicant files with the Clerk a current policy of public liability insurance covering all vehicles to be used by the applicant in the licensed business. The limits of coverage of such insurance are:

- A. Each person injured: at least \$100,000.
- B. Each accident: at least \$300,000.
- C. Property damage: at least \$50,000.

**§ 141-8. License term and fee.**

Licenses shall be issued for a period of one year. The annual license fee shall be determined by City Council resolution.

**§ 141-9. Refuse collection schedule.** <sup>2</sup>

- A. Each licensee (contractor) shall collect refuse from premises for which the licensee has a collection contract in accordance with the following minimum schedule:
- (1) Twice a week from restaurants and other premises which in the judgment of the City Council require such collection.
  - (2) Once a week from residences and other premises.
- B. No refuse shall be collected before 6:00 a.m. or after 9:00 p.m. of any day or on any Sunday.

**§ 141-10. Collection vehicles.**

Every refuse collection vehicle shall be lettered on the outside so as to identify the licensee (contractor). Every vehicle used for hauling garbage shall be covered, leakproof, durable, and of easily cleanable construction. Every vehicle used for hauling refuse shall be sufficiently airtight and so used as to prevent unreasonable quantities of dust, paper, or other collected materials to escape. Every vehicle shall be kept clean to prevent nuisances, pollution, or insect breeding and shall be maintained in good repair.

**§ 141-11. Direct disposal by owner.** <sup>3</sup>

Nothing herein shall be construed to prevent an individual from disposing of the owner's own household garbage, provided that such disposal conforms to this chapter.

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

# Chapter 146

## GAS FRANCHISES

### ARTICLE I General Provisions

- § 146-1. Definitions.
- § 146-2. Rights granted by franchise.
- § 146-3. Term of franchise.
- § 146-4. Nonexclusive franchise.
- § 146-5. Expenses.
- § 146-6. Default.

### ARTICLE II Conditions of Use

- § 146-7. Use of public ground.

- § 146-8. Restoration.
- § 146-9. Relocation of utility facilities.
- § 146-10. Relocation when public ground vacated.
- § 146-11. Street improvements, paving or resurfacing.

### ARTICLE III Administration

- § 146-12. Indemnification.
- § 146-13. Assignment.

**[HISTORY: Adopted by the City Council of the City of Bethel 3-2-1989 by Ord. No. 89-508 as Ch. V, Part 11, of the 1989 City Code. Amendments noted where applicable.]**

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### ARTICLE I General Provisions

#### § 146-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

COMPANY — Any company to which a franchise is granted under this chapter.<sup>1</sup>

GAS — Natural gas, manufactured gas, mixture of natural gas and manufactured gas or other forms of gas energy.

PUBLIC GROUND — All streets, alleys, public ways, utility easements and public grounds of the City as to which it has the right to grant the use to the company.

#### § 146-2. Rights granted by franchise.

When the City grants a franchise to a company under this chapter, such grant shall entitle the company to import, manufacture, transport, distribute and sell gas for public and private use in the City and shall allow the company to construct, operate, repair and maintain in, on, over, under and across the public ground of the City all facilities and equipment used in connection

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).



therewith and to do all things which are necessary or customary in the accomplishment of these objectives, at its expense, subject to the zoning and other applicable portions of the City Code, including permit procedures, customary practices and the provisions of this chapter.

**§ 146-3. Term of franchise.**

A grant of a franchise under this chapter shall be for a period of 20 years from the date of the ordinance granting such franchise.

**§ 146-4. Nonexclusive franchise.**

All franchises granted pursuant to this chapter shall be nonexclusive.

**§ 146-5. Expenses.<sup>2</sup>**

The costs incurred by the City, including the publication costs, in granting a franchise shall be paid by the company which is given the franchise.

**§ 146-6. Default.**

- A. If a company is in default in the performance of any material part of a franchise granted by the City for more than 90 days after receiving written notice from the City of such default, the City may, by ordinance, terminate all rights granted to the company under this chapter. The notice of default shall be in writing and shall specify the provisions of this chapter under which the default is claimed and state the basis therefor. Such notice shall be served upon the company by personally delivering the notice to an officer of the company at its principal place of business in Minnesota.
- B. If the company is in default as to any part of this chapter, the City may, after reasonable notice to the company and the failure of the company to cure the default within a reasonable time, take such action as may be reasonably necessary to abate the condition caused by the default, and the company shall reimburse the City for all its reasonable costs.
- C. Nothing in this section shall bar the company from challenging the City's claim that a default has occurred. In the event of disagreement over the existence of a default, the burden of proving the default shall be on the City.

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

ARTICLE II  
**Conditions of Use**

**§ 146-7. Use of public ground.**

All utility facilities and equipment of the company shall be located, constructed, installed and maintained so as not to endanger or unnecessarily interfere with the usual and customary traffic, travel, and use of public ground and shall be subject to those permit conditions the City has adopted in other provisions of this Code, especially Chapter 218, Streets and Sidewalks, Article I, Excavations.

**§ 146-8. Restoration.**

- A. Upon completion of any work requiring the opening of any public ground, the company shall restore the same, including paving and its foundations, to as good a condition as formerly, insofar as reasonably possible.
- B. The restoration shall be completed by the company as promptly as weather permits.
- C. If the company shall not promptly perform and complete the work, the City shall have the right to do so at the expense of the company, and the company shall, upon demand, pay to the City the cost of the work so performed by the City.

**§ 146-9. Relocation of utility facilities.**

- A. The company shall promptly, with due regard for seasonal working conditions, permanently relocate its facilities or equipment whenever the City orders such relocation.
- B. If the relocation is a result of the proper exercise of the police power in grading, regrading, changing the location or shape of or otherwise improving any public ground or constructing or reconstructing any sewer or water system therein, the relocation shall be at the expense of the company.
- C. If the relocation is not a result of the proper exercise of the police power, the relocation shall be at the expense of the City.
- D. If such relocation is done without an agreement first being made as to which party shall pay the relocation cost, such relocation by the company shall not be construed as a waiver of its right to be reimbursed for the relocation costs if relocation is not a result of the proper exercise of the police power. If the company claims that it should be reimbursed for the relocation costs, it shall notify the City within 30 days after receipt of such relocation order.
- E. The City shall give the company reasonable notice of plans which will require relocation.
- F. Nothing contained in this section shall require the company to remove and replace its mains or to cut and reconnect its service pipe running from the main to a customer's premises at its own expense where the removal and replacement or cutting and reconnecting is made for the purpose of a more expeditious operation for the construction or reconstruction of underground facilities.

- G. Nothing contained in this section shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid damaging the company's facilities while performing any work in any public ground.

**§ 146-10. Relocation when public ground vacated.**

The vacation of any public ground shall not operate to deprive the company of the right to operate and maintain its facilities therein. Unless ordered under § 146-9 above, the company need not relocate until the reasonable cost of relocating and the loss and expense of relocating resulting from such relocation are first paid to the company. When the vacation is for the sole benefit of the City in the furtherance of a public purpose, the company shall relocate at its own expense.

**§ 146-11. Street improvements, paving or resurfacing.**

- A. The City shall give the company reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved.
- B. The notice shall contain the nature and character of the improvements, the streets upon which the improvements are to be made, the extent of the improvements and the time when the City will start the work.
- C. If more than one street is involved, the notice shall contain the order in which the work is to proceed.
- D. The notice shall be given to the company a sufficient length of time, considering reasonable working conditions, in advance of the actual commencement of the work to permit the company to make any additions, alterations or repairs to its facilities which the company deems necessary.

ARTICLE III  
**Administration**

**§ 146-12. Indemnification.**

- A. Company to indemnify City. The company shall indemnify, keep and hold the City, its elected officials, officers, employees, and agents free and harmless from any and all claims and actions on account of injury or death of persons or damage to property occasioned by the construction, maintenance, repair, removal, or operation of the company's property located in, on, over, under, or across the public ground of the City, unless such injury or damage is the result of the negligence of the City, its elected officials, employees, officers, or agents. The City shall not be entitled to reimbursement for its costs incurred prior to the notification to the company of claims or actions and a reasonable opportunity for the company to accept and undertake the defense.

- B. Actions. If a claim or action shall be brought against the City under circumstances where indemnification applies, the company at its sole cost and expense, shall defend the City if written notice of the claim or action is promptly given to the company within a period wherein the company is not prejudiced by lack of such notice. The company shall have complete control of such claim or action, but it may not settle without the consent of the City, which shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City, and the company in defending any action on behalf of the City shall be entitled to assert every defense or immunity that the City could assert in its own behalf.

**§ 146-13. Assignment.** <sup>3</sup>

The company, upon notice to the City, shall have the right and authority to assign all rights conferred upon it by a franchise grant to any person.

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3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

## Chapter 160

### LICENSES AND PERMITS

§ 160-1. General rule.

§ 160-2. Acts prohibited.

§ 160-3. Application.

§ 160-4. Bond.

§ 160-5. Insurance.

§ 160-6. Fees.

§ 160-7. Duration of license.

§ 160-8. Transfers.

§ 160-9. Inspection.

§ 160-10. Duties of licensee.

§ 160-11. Suspension or revocation.

[HISTORY: Adopted by the City Council of the City of Bethel 3-2-1989 by Ord. No. 89-508 as Ch. V, Part 1, of the 1989 City Code. Amendments noted where applicable.]

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#### § 160-1. General rule.

Except as otherwise provided in this Code, all licenses and permits granted by the City shall be governed by the provisions of this chapter.

#### § 160-2. Acts prohibited.

No person shall conduct any activity or use any property for which a license or permit is required by law or this Code without a currently valid license or permit for such activity or use.

#### § 160-3. Application.

Every application for a license shall be made to the Clerk on a form provided by him. It shall be accompanied by payment to the Clerk of the prescribed fee. If, after investigation, the Clerk is satisfied that all requirements of law and this Code have been met, he shall present the application to the Council for action or, if the license or permit does not require Council approval, he shall issue the license or permit.

#### § 160-4. Bond. <sup>1</sup>

Where a bond is required for any license or permit, the bond shall be a corporate surety bond executed on a form approved by the City Attorney and shall be filed with the Clerk before the license or permit is issued. Except where otherwise provided, a bond shall be in the amount set by Council resolution conditioned that the licensee or permittee shall comply with the applicable ordinances and laws pertaining to the licensed or permitted activity and that the licensee or permittee will indemnify the City and save it harmless from all loss or damage by

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

reason of inadequate work performed by him or by reason of accident caused by the negligence of the licensee or permittee or his agents or employees.

**§ 160-5. Insurance.**

- A. When a licensee or permittee is required to have in force a policy of insurance, the policy shall be approved as to substance and form by the City Attorney. The policy shall provide that it is noncancellable without 15 days' notice to the City, and the coverage shall be for the term of the license or permit. Satisfactory evidence of coverage by insurance shall be filed with the Clerk before the license or permit is issued. Each license or permit shall terminate upon termination of the required insurance coverage.
- B. Unless otherwise provided, a required policy of liability insurance shall provide for protection in at least the following amounts:
  - (1) For injuries including death therefrom sustained by any one person: \$100,000.
  - (2) For injuries including death resulting therefrom sustained by two or more persons as the result of any one occurrence: \$300,000.
  - (3) For property damage: \$50,000.

**§ 160-6. Fees.**

- A. Fees established. License and permit fees are established from time to time by resolution of the City Council.<sup>2</sup>
- B. Prorated fees. License fees shall not be prorated unless otherwise specified by this Code or by law.
- C. Refunds. License fees shall not be refunded in whole or in part unless otherwise stated by this Code or by law.

**§ 160-7. Duration of license.**

Unless otherwise specified, a license shall be valid for a calendar year or that part of the year for which it is issued and shall expire on December 31.

**§ 160-8. Transfers.**

No license issued under this Code may be transferred to any other person. Where a license relates to specific premises, the license shall not be changed to another location without approval of the Council or other licensing authority.

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<sup>2</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**§ 160-9. Inspection.**

- A. Authorized personnel. Any City official or employee having a duty to perform with reference to a license under this Code and any law enforcement officer may inspect and examine any licensee, his business, or premises to enforce compliance with applicable provisions of this Code. Subject to the provisions of Subsection B of this section, he may, at any reasonable time, enter any licensed premises or premises for which a license is required in order to enforce compliance with this Code.
- B. Search warrants. If the licensee objects to the inspection of his premises, the City official or employee charged with the duty of enforcing the provisions of this Code shall procure a valid search warrant before conducting the inspection.

**§ 160-10. Duties of licensee.**

- A. Compliance required. Every licensee and permittee shall have the duties set forth in this section.
- B. Inspection. He shall permit at reasonable times inspections of his business and examination of his books and records by authorized officers or employees.
- C. Compliance with law. He shall comply with laws, ordinances, and regulations applicable to the licensed business, activity, or property.
- D. Display of license. He shall display the license or other insignia given him as evidence of the license in a conspicuous place on the premises, vehicle, or device to which the license relates. If the license is not so related, the license shall be carried on the licensee's person whenever he is carrying on the licensed activity.
- E. Unlawful disposition. The licensee shall not lend or give to any other person his license or license insignia.

**§ 160-11. Suspension or revocation.**

The Council may suspend for a period not exceeding 60 days or revoke any license or permit for violation of any provision of law, ordinance, or regulation applicable to the licensed or permitted activity or property. Except where mandatory revocation is provided by law without notice and hearing and except where suspension may be made without a hearing, the holder of the license or permit shall be granted a hearing upon at least 10 days' notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of the charges against the licensee.

# Chapter 164

## LIQUOR AND BEER

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| § 164-1. Adoption of state law by reference.  | § 164-12. Application for license.                     |
| § 164-2. Authority to impose additional restrictions.   | § 164-13. Description of premises.                     |
| § 164-3. Definitions.   | § 164-14. Application for renewal.                     |
| § 164-4. Nudity on licensed premises prohibited.  | § 164-15. Transfer of license.                         |
| § 164-5. Consumption in public places.  | § 164-16. Investigation.                               |
| § 164-6. Wine, beer or intoxicating liquor as prizes in raffles or other fund-raising events. | § 164-17. Hearing and issuance.                        |
| § 164-7. Number of licenses to be issued.   | § 164-18. Restrictions on issuance.                    |
| § 164-8. Term and expiration of licenses.   | § 164-19. Conditions of license.                       |
| § 164-9. Kinds of liquor licenses.  | § 164-20. Hours and days of sale.                      |
| § 164-10. License fees.   | § 164-21. Minors on premises.                          |
| § 164-11. Council discretion to grant or deny license.  | § 164-22. Restrictions on preparation and consumption. |
|   | § 164-23. Suspension or revocation of license.         |
|   | § 164-24. Violations and penalties.                    |

[HISTORY: Adopted by the City Council of the City of Bethel at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

### GENERAL REFERENCES

Adult entertainment — See Ch. 55.

Nuisances and offenses — See Ch. 177.

#### § 164-1. Adoption of state law by reference.

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



**§ 164-2. Authority to impose additional restrictions.**

The Council is authorized by the provisions of Minnesota Statutes § 340A.509, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in Minnesota Statutes Chapter 340A, as it may be amended from time to time.

**§ 164-3. Definitions.**

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

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

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

**§ 164-4. Nudity on licensed premises prohibited.**

- A. The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the City that nudity is prohibited as provided in this section on the premises of any establishment licensed under this chapter. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the City.
- B. It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a nontransparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a nontransparent material.

- C. A violation of this section is a misdemeanor punishable as provided by law and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or any other license issued under this chapter or the imposition of a civil penalty under the provisions of § 164-24B.

**§ 164-5. Consumption in public places.**

No person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this chapter, in a municipal liquor dispensary if one exists in the City, or where the consumption and display of liquor are lawfully permitted.

**§ 164-6. Wine, beer or intoxicating liquor as prizes in raffles or other fund-raising events.**

No person shall conduct a silent auction, raffle or other fund-raising event pursuant to Minnesota Statutes § 340A.707 with prizes or awards of wine, beer or intoxicating liquors without notifying the City Clerk of the event at least 10 days prior to the occurrence of the event. The event holder shall provide the City with the following information: the person or organization holding the event, the day, time and location of the event, type of fund-raising event (silent auction, raffle or otherwise), type and amount of wine, beer, or intoxicating liquor to be awarded as prizes, and the charitable purposes to which the event proceeds will be donated.

**§ 164-7. Number of licenses to be issued.**

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

**§ 164-8. Term and expiration of licenses.**

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

**§ 164-9. Kinds of liquor licenses.**

The council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in § 164-7. Subject to the number specified in § 164-7, the Council may issue the following licenses and permits:

- A. 3.2 percent malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.
- B. 3.2 percent malt liquor off-sale licenses.
- C. Temporary 3.2 percent malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.
- D. Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drugstores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under § 164-10 shall not exceed \$240 or a greater amount which may be permitted by Minnesota Statutes § 340A.408, Subdivision 3, as it may be amended from time to time.
- E. On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by Minnesota Statutes § 340A.101, as it may be amended from time to time, and this chapter: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, theaters and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under § 164-10 of this chapter shall not exceed the amounts provided for in Minnesota Statutes § 340A.408, Subdivision 2(b), as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the City under the provisions of Minnesota Statutes § 340A.404, Subdivision 4(b), as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the City, under the provisions of Minnesota Statutes § 340A.404, Subdivision 4(a), as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.
- F. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in § 164-3 of this chapter, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of § 164-10 of this chapter, shall not exceed \$200, or the maximum amount provided by Minnesota Statutes § 340A.504, Subdivision 3(c), as it may be amended from time to time.
- G. Combination on-sale/off-sale intoxicating liquor licenses.

- H. Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the City shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year.
- I. On-sale wine licenses, with the approval of the Commissioner of Public Safety, to theaters, to restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of Minnesota Statutes § 340A.404, Subdivision 5, as it may be amended from time to time, and which meet the definition of restaurant in § 164-3; to licensed bed-and-breakfast facilities which meet the criteria in Minnesota Statutes § 340A.4011, Subdivision 1, as it may be amended from time to time, and to theaters that meet the criteria of Minnesota Statutes § 340A.404, Subdivision 1(b), as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of § 164-10 of this chapter shall not exceed 1/2 of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.
- J. One-day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the City sponsored by the organization.
- K. Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of § 164-10 of this chapter shall not exceed \$300, or the maximum amount permitted by Minnesota Statutes § 340A.414, Subdivision 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.
- L. Culinary class limited on-sale licenses may be issued to a business establishment not otherwise eligible for an on-sale intoxicating liquor license that, as part of its business, conducts culinary or cooking classes for which payment is made by each participant or advance reservation required. The license authorizes the licensee to furnish to each participant in each class, at no additional cost to the participant, up to a maximum of six ounces of wine or 12 ounces of intoxicating malt liquor, during and as part of the class, for consumption on the licensed premises only.
- M. Temporary off-sale wine licenses, with the approval of the Commission of Public Safety, may be issued for the off-sale of wine at an auction. A license issued under this subsection authorizes the sale of only vintage wine of a brand and vintage that is not commonly being offered for sale by any wholesaler in Minnesota. The license may authorize the off-sale of wine for not more than three consecutive days, provided that not more than 600 cases of wine are sold at any auction. The licenses are subject to the terms, including license fee, imposed by § 164-10.

- N. On-Sale Brewer Taproom.<sup>1</sup> On-sale brewer taproom license authorizes on-sale of malt liquor produced by a brewer for consumption on the premises of or adjacent to one brewery location owned by the brewer, subject to the restrictions of this chapter and M.S. 340A.301 Subd. 6b, as may be amended from time to time.
- O. Off-Sale Growler.<sup>2</sup> An off-sale growler license authorizes off-sale of malt liquor produced by a brewer and packaged in a 64-ounce or 750-milliliter containers that are designed, sealed and labeled pursuant to M.S. 340A.301, Subd. 6(d), (i) of (j) are eligible for an off-sale growler license, subject to the limitations set forth in Subd. 7(b) of that statute.
- P. Brewer temporary on-sale intoxicating liquor licenses may be issued, with the approval of the commissioner of public safety, to brewers who manufacture fewer than 3,500 barrels of malt liquor in a year for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer.<sup>3</sup>

#### § 164-10. License fees.

- A. No license or other fee established by the City shall exceed any limit established by Minnesota Statutes Chapter 340A, as it may be amended from time to time, for a liquor license.
- B. The Council may establish from time to time by resolution the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this chapter. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.
- C. The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.
- D. All license fees shall be paid in full at the time the application is filed with the City. If the application is denied, the license fee shall be returned to the applicant.
- E. A refund of a pro rata share of an annual license fee may occur only if authorized by Minnesota Statutes § 340A.408, Subdivision 5, as it may be amended from time to time.

1. Editor's Note: Amended (See Ord. 2016-001).

2. Editor's Note: Amended (See Ord. 2016-001).

3. Editors Note: Amended (See Ord. 2016-001).

F. Reduction of fee.

- (1) Off-sale intoxicating liquor licensees may request a reduction in their annual license fee by the amount specified in Minnesota Statutes § 340A.408 if at the time of initial application or renewal they:
  - (a) Agree to have a private vendor approved by the City train all employees within 60 days of hire and annually thereafter in laws pertaining to the sale of alcohol, the rules for identification checks, and the responsibilities of establishments serving intoxicating liquors.
  - (b) Post a policy requiring identification checks for all persons appearing to be 30 years old or less.
  - (c) Establish a written cash award and incentive program to award employees who catch underage drinkers and a written penalty program to punish employees in the event of a failed compliance check.
- (2) Failure to abide by the provisions of this subsection may result in suspension of the license until the conditions of the fee reduction are met and may result in suspension and/or revocation of the license pursuant to § 164-23 of this chapter.

**§ 164-11. Council discretion to grant or deny license.**

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

**§ 164-12. Application for license.**

- A. Form. Every application for a license issued under this chapter shall be on a form provided by the City. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this section. The form shall be verified and filed with the City. No person shall make a false statement in an application.
- B. Financial responsibility. Prior to the issuance of any license under this chapter, the applicant shall demonstrate proof of financial responsibility as defined in Minnesota Statutes § 340A.409, as it may be amended from time to time, with regard to liability under Minnesota Statutes § 340A.801, as it may be amended from time to time. This proof will be filed with the City and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to Minnesota Statutes § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this chapter without having on file with the City at all times effective proof of financial responsibility is a cause for revocation of the license.

**§ 164-13. Description of premises.**

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

**§ 164-14. Application for renewal.**

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

**§ 164-15. Transfer of license.**

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

**§ 164-16. Investigation.**

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

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

**§ 164-17. Hearing and issuance.**

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

**§ 164-18. Restrictions on issuance.**

- A. Each license shall be issued only to the applicant for the premises described in the application.
- B. Not more than one license shall be directly or indirectly issued within the City to any one person.
- C. No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the City are delinquent and unpaid.
- D. No license shall be issued for any place or any business ineligible for a license under state law.
- E. No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this subsection shall not apply to any license existing on the effective date of this chapter or to the renewal of an existing license.
- F. No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the school or church to the closest side of the structure on the premises within which liquor is to be sold.

**§ 164-19. Conditions of license.**

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

- A. Within 90 days after employment, every person selling or serving liquor in an establishment which has an on-sale license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.
- B. Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this chapter and the law equally with the employee. §164-22
- C. Every licensee shall allow any peace officer, health officer, City employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.



- D. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- E. Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.
- F. Failure by on off-sale intoxicating liquor licensee who has received a fee reduction pursuant to § 164-10F of this chapter to abide by the provisions of § 164-10F.

**§ 164-20. Hours and days of sale.**

- A. The hours of operation and days of sale shall be those set by Minnesota Statutes § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.
- B. No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- C. No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served more than 30 minutes after the time when a sale can legally occur.
- D. No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- E. Any violation of any condition of this section may be grounds for revocation or suspension of the license.

**§ 164-21. Minors on premises.**

- A. No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor is sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person, host or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor is sold at retail on sale.
- B. No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

**§ 164-22. Restrictions on preparation and consumption.**

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

**§ 164-23. Suspension or revocation of license.**

- A. The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, Minnesota Statutes §§ 14.57 to 14.69, as it may be amended from time to time. The Council may act as the hearing body under that Act, or it may contract with the Office of Hearing Examiners for a hearing officer.
- B. The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this chapter or Minnesota Statutes Chapter 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time:
- (1) For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of § 164-4, the license shall be revoked.
  - (2) The license shall be suspended by the Council after a finding under Subsection A that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:
    - (a) For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.
    - (b) For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
    - (c) For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
    - (d) For a fourth violation within any three-year period, the license shall be revoked.
  - (3) The Council shall select the day or days during which the license will be suspended.
- C. Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within 10 days. Any suspension under Subsection B shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.
- D. The provisions of § 164-24 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.

**§ 164-24. Violations and penalties.**

- A. Any person violating the provisions of this chapter or Minnesota Statutes Chapter 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.
- B. The Council shall impose a civil penalty of up to \$2,000 for each violation of Minnesota Statutes Chapter 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, Minnesota Statutes §§ 14.57 to 14.69, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Nonpayment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the license is revoked:
  - (1) For the first violation within any three-year period: \$500.
  - (2) For the second violation within any three-year period: \$1,000.
  - (3) For the third and subsequent violations within any three-year period: \$2,000.
- C. The term "violation" as used in § 164-23 includes any and all violations of the provisions in this chapter or of Minnesota Statutes Chapter 340A, as it may be amended from time to time, or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

# Chapter 171

## MOTORCYCLES

§ 171-1. Definitions.

§ 171-3. Operation.

§ 171-2. Regulations.

§ 171-4. Violations and penalties.

**[HISTORY: Adopted by the City Council of the City of Bethel 3-2-1989 by Ord. No. 89-508 as Ch. VII, Part 3, of the 1989 City Code. Amendments noted where applicable.]**

### GENERAL REFERENCES

Vehicles and traffic — See Ch. 240.

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**§ 171-1. Definitions.** <sup>1</sup>

Any term used in this chapter and defined in Minnesota Statutes § 169.011 has the meaning given it by that section.

**§ 171-2. Regulations.**

The provisions of Minnesota Statutes § 169.974 are adopted by reference and made a part of this chapter as if set out in full, as they may apply to the City's jurisdiction.

**§ 171-3. Operation.** <sup>2</sup>

A. Unlawful operation. It is unlawful for any person to operate a motorcycle:

- (1) On private property of another without the owner's permission.
- (2) On publicly owned land, including school property, City park property, playgrounds, and recreational areas under the City's jurisdiction, except as permitted by this chapter.
- (3) On any street or highway in violation of any provision of Chapter 240, Vehicles and Traffic, of the Code of the City of Bethel.

B. No person shall operate or halt any motorcycle carelessly or heedlessly in disregard of the rights or safety of others or in a manner so as to endanger or be likely to endanger any person or property.

C. No person shall operate a motorcycle in a manner which creates loud, unnecessary or unusual noise which disturbs, annoys, or interferes with the peace and quiet of other persons.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**§ 171-4. Violations and penalties.**

Violation of this chapter shall be a misdemeanor.

# Chapter 177

## NUISANCES AND OFFENSES

### ARTICLE I General Provisions

- § 177-1. Purpose.
- § 177-2. Definitions.
- § 177-3. Violations and penalties.
- § 177-4. Other remedies.

### ARTICLE II Nuisances

- § 177-5. Nuisances prohibited.
- § 177-6. Violations.
- § 177-7. Disclosure of responsible party.
- § 177-8. Inspection of buildings.

- § 177-9. Order to cease.
- § 177-10. Authority to abate.
- § 177-11. Service of order or notice.
- § 177-12. Abatement procedure.
- § 177-13. Substantial abatement procedure.
- § 177-14. Emergency abatement procedure.

### ARTICLE III Offenses

- § 177-15. Use of weapons.
- § 177-16. Curfew.
- § 177-17. Clandestine drug labs.

[HISTORY: Adopted by the City Council of the City of Bethel at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

#### GENERAL REFERENCES

Adult entertainment — See Ch. 55.  
Animals — See Ch. 64.  
Garbage, rubbish and refuse — See Ch. 141.

Abandoned property — See Ch. 188.  
Tobacco — See Ch. 231.

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### ARTICLE I General Provisions

#### § 177-1. Purpose.

The purpose of this chapter is to take all reasonable measures within the City to prevent the establishment of activities that maintain or permit a condition which unreasonably annoys, injures or endangers the health, safety, welfare, morals, decency, or public peace so that such activities do not affect the comfortable enjoyment of life or property.

#### § 177-2. Definitions.

For the purpose of this chapter, the meaning of the following terms, phrases, words, and their derivations shall be construed as set forth in such definition:

ABANDONED BUILDING — Any building or portion thereof which has stood with an incomplete exterior shell for longer than one year or any building or portion thereof which has stood unoccupied for longer than one year and which meets one or more of the following criteria:

- A. Unsecured.
- B. Boarded.
- C. Having multiple exterior housing code or building violations.
- D. Has been ordered vacated or uninhabitable by the City.

ABATEMENT DEADLINE — The date by which the nuisance must be abated as specified in a written order.

DANGEROUS STRUCTURE — Any structure which is potentially dangerous to persons or property, including specifically, but not exclusively:

- A. A structure which is in danger of partial or complete collapse.
- B. A structure which has any exterior parts, such as chimneys, eaves, porches, siding, railings or trim, which are loose or in danger of falling.
- C. A structure which has any parts, such as porches, stairs, ramps, rails, balconies, or roofs, which are accessible and which are collapsed, in danger of collapsing, or unable to support a person.

ENFORCEMENT OFFICER — The City Clerk, Fire Chief, Council member or a duly authorized representative.

EXTERMINATION — The eradication of vermin by methods such as poison, fumigation or trapping.

HAZARDOUS WASTE — Any material so defined by Minnesota statutes or Minnesota Code of Agency Rules.

ILLEGAL ACTIVITIES — Any action or condition which constitutes a violation of law.

INTERESTED PARTY — Any owner of record, occupying tenant, or lienholder of record.

JUNK — Accumulations of discarded or disused machinery, household appliances, automobile bodies, broken or unused metal, wood, lumber, cement, electrical fixtures, plumbing fixtures, building materials except for building materials awaiting use in construction or improvement presently in progress on the same premises, trash, debris, or rubbish situated outside of a building or if situated inside building stored in such a manner as to constitute a fire, health or safety hazard or in a manner conducive to the harboring of vermin.

**JUNK OR DISABLED VEHICLE and VEHICLE-RELATED JUNK** — No person or persons within the City or city limits of Bethel shall permit or maintain the storage of more than one junk or disabled vehicle.

- A. "Junk or disabled vehicle" shall include any motor vehicle, part of a motor vehicle, or former motor vehicle stored on site which is not currently licensed for use upon the public streets and highways of the State of Minnesota and/or:
- (1) Is unusable or inoperable because of lack of or defects in component parts;
  - (2) Is unusable or inoperable because of damage from collision, deterioration, or having been dismantled;
  - (3) Is beyond repair and therefore not intended for future use as a motor vehicle;
  - (4) Is being retained on the property for possible use of salvageable parts;
  - (5) Is being retained on the property and creating a health and safety concern due to the harboring of snakes, rats, mice and all other vermin; or
  - (6) Has an approximate fair market value equal only to the total scrap value of the vehicle.
- B. "Vehicle-related junk" includes the outdoor storage or outside storage of any part of a motor vehicle or piece of machinery that is deteriorating or unusable or intended to be used as salvageable parts.

**LAST KNOWN ADDRESS** — The address shown on the records of the Anoka County Auditor or a more recent address known to the enforcement officer. In the case of parties not listed in the Auditor's records, the last known address shall be that address obtained by the officer after a reasonable search.

**NOXIOUS SUBSTANCES** — Substances, solid, liquid or gas, which are offensive, detrimental to health, hurtful, or dangerous. Noxious substances shall include specifically, but not exclusively, any dead animal, putrid carcass, decayed animal matter, green hides, or any putrid, spoiled, foul or stinking beef, pork, fish, offal, hides, skins, fat, grease or liquors, human or animal excrement, manure, blood or sewage.

**NUISANCE** — In addition to the nuisances described in § 177-5, "nuisance" shall also mean any substance, matter, emission, or thing which creates a dangerous or unhealthy condition or which threatens the public peace, health, safety, or sanitary condition of the City or which is offensive or has a blighting influence on the community and which is found upon, in, being discharged or flowing from any street, alley, highway, railroad right-of-way, vehicle, railroad car, water, excavation, building, erection, lot, grounds, or other property located within the City of Bethel.

**OBSTRUCTIONS** — Objects or conditions which interfere with, endanger or prevent the ordinary or safe use of any property.

**OWNER** — Any person shown to be the owner of the property on the public records of Anoka County.



PERSONAL SERVICE — Service by personally handing a copy to the intended recipient or by leaving a copy at the intended recipient's residence with a person of suitable age and discretion then residing therein.

PRIVY — Any type of non-flush fixture for the receipt and storage of human waste, including specifically, but not exclusively, fixed units with vaults as well as portable units.

PROPERTY — Any parcel of land, whether vacant or not, whether any structure thereon is occupied or not or whether submerged or not.

REFUSE — Putrescible and nonputrescible and combustible and noncombustible waste, including specifically, but not exclusively, paper, garbage, material resulting from the handling, processing, storage, preparation, serving and consumption of food, vegetable or animal matter, offal, rubbish, plant wastes such as tree trimmings or grass cuttings, ashes, incinerator residue, street cleanings, construction debris, detached vehicle parts and unlicensed vehicles which are not stored inside a building, and industrial and market wastes.

RESPONSIBLE PARTY — Any one or more of the following:

- A. Agent.
- B. Collector of rents or assignee.
- C. Holder of a contract for deed.
- D. A mortgagee or vendee in possession.
- E. Receiver or executor or trustee.
- F. Lessee.
- G. Other person, firm or corporation exercising apparent control over a property.

SERVICE BY MAIL — Service by depositing the item with the United States Postal Service addressed to the intended recipient at his last known address with first-class postage prepaid thereon.

UNSECURED —

- A. Open to entry by unauthorized persons without the use of tools or ladders.
- B. Open to the elements because of broken, cracked or missing windows, doors, siding, molding, brick, stucco, concrete, metal, roofing or other exterior building surfaces.

VERMIN — Specifically, but not exclusively, rats, mice, skunks, raccoons, chipmunks, woodchucks, snakes, bats, grackles, starlings, pigeons, wasps, hornets, cockroaches or flies.

WEEDS — Useless and troublesome plants commonly known as weeds, including specifically, but not exclusively, noxious weeds such as cocklebur, burdock, tumble mustard, wild mustard, wild oats, Canadian thistle, oxeye daisy, quack grass, Frenchweed, and Russian thistle.

**§ 177-3. Violations and penalties.**

Any person who violates any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine and/or imprisonment as set forth in Minnesota Statutes § 609.03, as may be amended.

**§ 177-4. Other remedies.**

The City, in its sole discretion, may criminally prosecute any violations and/or seek abatement of the nuisance, as outlined herein. Nothing in this chapter shall be construed to limit the authority of the City under other provisions of the City Code.

**ARTICLE II  
Nuisances****§ 177-5. Nuisances prohibited.**

The following are declared to be nuisances affecting the public peace, health, safety and/or welfare of the community and are prohibited:

- A. Junk, refuse, noxious substances and hazardous wastes.
  - (1) Junk, refuse, noxious substances, or hazardous wastes laying, pooled, accumulated, piled, left, deposited, buried or discharged upon or in or being discharged or flowing from any property, body of water, structure, or vehicle, except for:
    - (a) Junk and refuse deposited at places designated and provided for that purpose in accordance with the regulations of the City.
    - (b) Compost piles established and maintained in accordance with the University of Minnesota's extension service recommendations on the design and maintenance of compost piles. Copies of said recommendations are available for review at the offices of the City Clerk.
  - (2) Sewage discharged in violation of the regulations of the City.
  - (3) Junk or disabled vehicle and vehicle-related junk as defined.
  - (4) Noxious substances, as defined.
  - (5) Refuse, as defined.
- B. Firewood. Piles of firewood in excess of 200 cubic feet stored closer than 10 feet to buildings used for human habitation, piles of firewood higher than six feet from point of elevation from ground, or piles of firewood harboring vermin.
- C. Grass and weeds. Grass or weeds which have grown upon any property to a height of eight or more inches or which have gone to seed.
- D. Stagnant water. Stagnant water standing on any property and any property, container, or material kept in such a condition that water can accumulate and stagnate.

E. Vermin harborage or infestation.

- (1) Vermin harborage. Conditions which are conducive to the harboring or breeding of vermin, including specifically, but not exclusively, materials stored less than 12 inches off the ground.
- (2) Vermin infestations. Infestations of vermin except for those kept in accordance with the regulations of the City.

F. Sanitary structures.

- (1) Structures for sanitation, such as privies, vaults, sewers, private drains, septic tanks, cesspools and drain fields, which are not permitted per the regulations of the City.
- (2) Privies, as defined.

G. Unsecured, dangerous or abandoned buildings or structures.

- (1) Unsecured building. A building or portion thereof which is unsecured.
- (2) Dangerous structure. A dangerous structure, as defined.
- (3) Abandoned building. An abandoned building, as defined.

H. Any violation of Chapter 64 of the City Code relating to the keeping of animals.

I. Safety hazard. Any thing or condition on property which may contribute to injury of any person present on the property. Safety hazards shall include specifically, but not exclusively, open holes, open foundations, open wells, wires which are too close to the ground or in violation of any applicable safety code, dangerous trees or limbs, abandoned refrigerators, or barbed-wire fences less than six feet above the ground and within three feet of a public sidewalk or way, dangerous and unguarded machinery in any public place or so situated, stored or operated on private property as to attract the public, antennas erected or maintained in a dangerous manner, or trapping devices.

J. Fire hazard. Any thing or condition on property which creates a fire hazard or which is a violation of the Fire Code.

K. Health hazard. Any thing or condition on property which creates a health hazard or which is a violation of any health or sanitation law, including specifically, but not exclusively, the following:

- (1) Public exposure of persons having a contagious disease that would normally require quarantine.
- (2) Diseased animals not under treatment.
- (3) Diseased animals running at large.

L. Statutory and common law nuisance. Any thing or condition on property which is known to the common law of the land, the statutes of Minnesota, or the Bethel City Code, including specifically, but not exclusively, Chapter 255, Zoning, as a nuisance.

- M. Obstructions. Obstructions, as defined. Obstructions shall include specifically, but not exclusively, the following:
- (1) Snow and ice not removed from the public sidewalks within 24 hours after the precipitation has ceased to fall.
  - (2) Rain, ice, snow or wastewater falling or flowing from private property or buildings onto public property except gutters, drainageways and storm sewers.
  - (3) Use of a public street or sidewalk or use of property abutting a public street or sidewalk which causes large crowds of people to gather, obstructing traffic, streets or sidewalks, except in accordance with the regulations of the City.
  - (4) Excavations obstructing public property, except in accordance with the regulations of the City.
  - (5) Placing or storing boxes, good, wares, merchandise, building materials, machinery, business or trade articles on public property except for the purpose of immediately transferring the same to some other proper place.
  - (6) Placing or throwing on any public property of any glass, tacks, nails, bottles or other substances which may injure any person, animal or property or damage any pneumatic tire or vehicle when passing over such substance.
  - (7) Signs, awnings, vegetation or other objects located on private property which are not constructed and maintained as required by law, which prevent persons from having a clear view of all traffic approaching intersections, or which overhang and obstruct public property.
  - (8) Obstructing the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other substances.
  - (9) Digging, excavating, placing culverts, placing dams or doing any act which alters or affects the drainage of property or alters or affects flows of the public storm sewer and drainage ditch system, except in accordance with the regulations of the City.
- N. Burial. The burial or entombment of any remains of a deceased human being except within a public or private cemetery established under law.
- O. Open burning. Burning of rubbish, trash, paper or other combustible material without a permit except in accordance with the regulations of the City.
- P. Annoyances. Annoyances shall include specifically, but not exclusively, the following:
- (1) Noises, odors, vibrations or emissions of smoke, fumes, gas, soot, cinders, ash or otherwise which exceed the standards of the Minnesota Pollution Control Agency or, if no standards are then in effect, which have an unreasonable and adverse effect.

- (2) Any artificial lighting upon private property without an effective shade or equivalent device to protect nearby residential premises from glare and other unreasonable and adverse effects.
  - (3) Any offensive trade or business as defined by law and not otherwise licensed by the City.
  - (4) Any condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public.
- Q. Illegal activities. Illegal activities shall include specifically, but not exclusively, the following:
- (1) Gambling devices, slot machines, and punch boards except as permitted by law.
  - (2) Betting, bookmaking and all apparatus used in such occupations except as permitted by law.
  - (3) Houses kept for the purpose of prostitution or promiscuous sexual conduct, gambling, houses of ill fame, and bawdy houses.
  - (4) Places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining such a place.
  - (5) Vehicles used for the illegal transportation of intoxicating liquor or for promiscuous sexual conduct or any other illegal purpose.
  - (6) Any violation of § 177-17 of this chapter relating to clandestine drug lab sites.
- R. Vehicle parking violations. Vehicle parking nuisance violations shall include specifically, but not exclusively, the following:
- (1) The parking of vehicles, on or in front of a residential lot, which exceeds double the number of persons residing on the premises and having a valid driver's license [except for short-term parking (eight hours or less) and guest parking not to exceed two days].
  - (2) The parking of passenger vehicles and trucks on the street in an inoperative state for a period exceeding seven days; "inoperative" shall mean incapable of movement under their own power and in need of repairs.
  - (3) Any truck, trailer, railroad car, or other vehicle standing on or along any street, highway, or railroad track or other public or private property within the City carrying or containing any refuse, noxious substance, or hazardous waste.
- S. Noise violations.
- (1) Prohibited noises. The following are declared to be nuisances affecting public health, safety, peace or welfare:

- (a) Any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any persons, or precludes their enjoyment of property, or affects their property's value (this general prohibition is not limited by any specific restrictions provided in this chapter).
  - (b) All obnoxious noises, motor vehicle or otherwise, in violation of Minnesota Rules Chapter 7030, as may be amended from time to time, which is hereby incorporated into this chapter by reference.
  - (c) The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.
  - (d) The discharging of the exhaust or permitting the discharge of the exhaust of any stationary internal combustion engine, motorboat, motor vehicle, motorcycle, all-terrain vehicle (ATV), snowmobile, or any recreational device, except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable state laws and regulations.
  - (e) Any loud or excessive noise in the loading, unloading, or unpacking of any vehicle.
  - (f) The use or operation, or permitting the use or operation, of any radio receiving set, television set, musical instrument, music device, paging system, machine, or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet, and comfort of any person nearby.
- (2) Hourly restriction of certain operations.
- (a) Domestic power equipment. No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill, or other similar domestic power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.
  - (b) Refuse hauling. No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 9:00 p.m. There shall be no collection on Sunday.
  - (c) Construction activities. It is unlawful for any person to engage in or permit construction activities creating audible noise off site involving the use of hand-held tools, including but not limited to tools such as hammers, saws, or wrecking bars, or electrical, diesel, or gas-powered tools, including but not limited to saws, drills, or sanders, except between the hours of 7:00 a.m. and 9:00 p.m. on any weekday and Saturday or between the hours of 9:00 a.m. and 8:00 p.m. on any Sunday or holiday. Operations and acts performed exclusively for emergency work to preserve the safety, welfare or public health on behalf of the citizens of the City for emergency work necessary to restore public service or to eliminate a public hazard shall be exempt.

- (3) Noise impact statements. The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation, alteration, or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. The Council shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning changes requested.
- T. Any other act or omission declared by law to be a nuisance and for which no penalty is specifically provided.

**§ 177-6. Violations.**

- A. No person shall, directly or indirectly or by omission, create a nuisance as defined herein.
- B. No responsible party shall allow a nuisance to remain upon or in any property, structure or vehicle under that person's control.

**§ 177-7. Disclosure of responsible party.**

Upon the request of the enforcement officer, a responsible party or owner shall disclose the name of any other responsible party or owner known to that person. This shall include specifically, but not exclusively, the persons for whom the responsible party or owner is acting, from whom the responsible party or owner is leasing the property, to whom that party is leasing the property, with whom he shares joint ownership or with whom said person has any conveyancing contract.

**§ 177-8. Inspection of buildings.**

An owner or responsible party shall, upon the request of the enforcement officer, provide the officer with access to all interior portions of the subject building in order to permit the officer to make a complete inspection.

**§ 177-9. Order to cease.**

In the event that an enforcement officer observes a person creating a nuisance, the officer may, after presenting proper identification, order that the person to cease the nuisance.

**§ 177-10. Authority to abate.**

- A. Nuisance abatement may include specifically, but not exclusively, removing, cleaning, exterminating, cutting, mowing, grading, repairing, draining, securing, boarding, barricading, fencing and/or demolishing.

- B. Abatement costs shall include specifically, but not exclusively, the costs of the abatement; the cost of investigation, such as title searches, inspection and testing; the cost of notification; filing costs; and administrative costs.
- C. Record of abatement costs and billing. The enforcement officer shall keep a record of the costs of abatement performed under this chapter and shall report monthly to the City Council all work performed for which the property owners shall be billed. The invoices shall state and certify the description of the land, lots or parcels involved and the amount assessable to each.
- D. Certification of unpaid abatement costs to County Auditor. On or before September 1 of each year, the City Clerk shall list the total unpaid charge for each abatement against each separate lot or parcel to which it is attributable under this chapter. After notice and hearing as provided in Minnesota Statutes § 429.061, the Council may then spread the charges against property benefited as a special assessment under Minnesota Statutes § 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 10, as the Council may determine in each case.

**§ 177-11. Service of order or notice.**

When service of an order or notice is required, any one or more of the following methods of service shall be adequate:

- A. Personal service.
- B. Service by mail, unless it is a written order which gives three days or less for the completion of any act required by the order.
- C. If the appropriate party or address cannot be determined after reasonable effort, by posting a copy of the order in a conspicuous place on the property.
- D. If a mailed order or notice is returned by the United States Postal Service, a good faith effort shall be made to determine the correct address, unless the order or notice orders abatement and that abatement has been completed.

**§ 177-12. Abatement procedure.**

Unless the nuisance is as described in § 177-13 or 177-14, the City may abate the nuisance by the procedure described below:

- A. Order. The enforcement officer shall serve a written order upon the owner and any responsible party known to the officer. The order may also be served upon any party known to have caused the nuisance. The order shall contain:
  - (1) A description of the property sufficient for identification which shall include the legal description.
  - (2) The location of the nuisance.



- (3) A description of the nuisance and the basis upon which it is declared to be a nuisance.
  - (4) The remedial action required to abate the nuisance.
  - (5) The abatement deadline, as determined by the enforcement officer, allowing a reasonable time for the performance of any act required.
  - (6) A statement that the order may be appealed and a hearing before the City Council obtained by filing a written request with the City Clerk before the appeal deadline, which shall be the abatement deadline designated in the order or seven calendar days after the date of the order, whichever comes first.
  - (7) A statement that unless the remedial action is taken before the abatement deadline or unless a request for a hearing is filed with the City Clerk within the time specified, the City may abate the nuisance and charge all costs incurred against the property as a special assessment to be collected in the same manner as taxes.
- B. Setting hearing date. In the event that an appeal is filed with the City Clerk, the City Council shall within three weeks fix a date for a hearing.
- C. Notice. The City Clerk shall mail a notice of the date, time, place and subject of the hearing to the owner and known responsible parties.
- D. Hearing. At the time of the hearing, the City Council shall hear from the enforcement officer and any other persons who wish to be heard. After the hearing, the City Council shall adopt a resolution confirming or modifying the order of the enforcement officer. If the Council's resolution requires abatement, the Council shall fix a time within which the nuisance must be abated and provide that unless corrective action is taken or unless the Council's determination is appealed to the District Court within the time specified, the City may abate the nuisance. The City Clerk shall mail a copy of the resolution to the owner and known responsible parties.
- E. Abatement. Unless the remedial action is taken or an appeal to the District Court is filed within the time specified, the City may abate the nuisance.

### **§ 177-13. Substantial abatement procedure.**

When the enforcement officer determines that a nuisance exists on a property and the cost of abatement of the nuisance is estimated to exceed \$2,000, or the abatement involves demolition of a building other than a structure accessory to a residential building, or the abatement substantially diminishes the value of the property, and except in the case of an emergency as provided for in § 177-14, the City may abate the nuisance by the procedure described below. A good faith estimate of the abatement costs, not the actual cost calculated after the abatement is completed, shall be the basis for determining which abatement procedure shall be used.

- A. Order. The enforcement officer shall serve a written order upon the owner, all interested parties, and any responsible party known to the officer. The order shall contain the following:

- (1) A description of the property sufficient for identification which shall include the legal description.
  - (2) The location of the nuisance.
  - (3) A description of the nuisance and the basis upon which it is declared to be a nuisance.
  - (4) The remedial action required to abate the nuisance.
  - (5) The abatement deadline, as determined by the enforcement officer, allowing a reasonable time for the performance of any act required.
  - (6) A statement that unless the remedial action is taken before the abatement deadline, the matter will be referred to the City Council, which may order the City after a hearing to abate the nuisance and charge all costs incurred against the property as a special assessment to be collected in the same manner as taxes.
- B. Setting hearing date. Unless the remedial action is taken within the time specified in the written order, the enforcement officer may notify the City Council that substantial abatement is necessary and appropriate. Upon being notified by the enforcement officer, the City Council shall within three weeks fix a date for a hearing.
- C. Notice. Written notice of the time, date, place and subject of the hearing shall be given as follows:
- (1) At least 10 days prior to the hearing, the enforcement officer shall serve the notice upon the owner and interested parties by personal service. If after reasonable effort personal service cannot be made, either of the following methods of notice shall be considered adequate:
    - (a) Confirmed mail service which is either certified mail with signed receipt returned or first-class mail confirmed by written response.
    - (b) Mailing the notice to the last known address and publishing the notice once a week for two weeks in the official newspaper and posting the notice in a conspicuous place on the building or property.
  - (2) At least 10 days prior to the hearing, the enforcement officer shall mail a notice to any responsible party known to the enforcement officer.
- D. Hearing. At the time of the hearing, the City Council shall hear from the enforcement officer and any other persons who wish to be heard. After the hearing, the City Council shall adopt a resolution confirming or modifying the order of the enforcement officer. If the Council's resolution requires abatement, the Council shall fix a time within which the nuisance must be abated and provide that unless corrective action is taken or unless the Council's determination is appealed to the District Court within the time specified, the City may abate the nuisance and charge all costs incurred against the property as a special assessment to be collected in the same manner as taxes. The enforcement officer shall mail copies of the resolution to any of the persons required to be notified and for whom the enforcement officer has a current mailing address.

**§ 177-14. Emergency abatement procedure.**

When the enforcement officer determines that a nuisance exists on a property and the nuisance constitutes an immediate danger or hazard which if not immediately abated will endanger the health or safety of the public and there does not exist sufficient time to follow the procedures of § 177-12 or 177-13, the City may abate the nuisance by the procedure described below:

- A. Order by Mayor. The City may order emergency abatement by an administrative order signed by the Mayor. A good faith effort shall be made to inform the owner of the action being taken.
- B. Notice of the abatement. Following an emergency abatement and as soon as the costs incurred are known to the enforcement officer, he shall serve written notice upon the owner. The notice shall contain:
  - (1) A description of the property sufficient for identification which shall include the legal description.
  - (2) The location of the nuisance.
  - (3) A description of the nuisance and the basis upon which it is declared to be a nuisance.
  - (4) The remedial action taken by the City.
  - (5) The reasons for immediate action.
  - (6) The costs incurred in abating the nuisance.
  - (7) A statement that unless the owner requests a hearing before the City Council to review the actions taken by the City by filing a written request with the City Clerk within 14 calendar days after the date of the notice, the City will charge all costs incurred against the property as a special assessment to be collected in the same manner as taxes.
- C. Setting hearing date. In the event that a request for a review is filed with the City Clerk, the City Council shall within three weeks fix a date for a hearing.
- D. Notice. At least 10 days prior to the hearing, the City Clerk shall mail notice of the date, time, place and subject of the hearing to the owner.
- E. Hearing. At the time of the hearing, the City Council shall hear from the enforcement officer and any other persons who wish to be heard. After the hearing the City Council may adopt a resolution levying a special assessment for all or portion of the costs incurred in abating the nuisance. The enforcement officer shall mail a copy of the resolution to the owner.

## ARTICLE III

**Offenses****§ 177-15. Use of weapons.**

- A. Restrictions. No person except a state-licensed peace officer in the performance of duty shall, within the City, discharge any gun, pistol, or firearm of any description, or carry any such weapon unless it is dismounted or broken apart or carried in a case in such a manner that it cannot be discharged. This subsection does not prevent the carrying of a handgun within the City under a permit subject to the restrictions imposed by law.
- B. Air rifles; slingshots; bow and arrows. No person shall use or discharge any air rifle or slingshot or bow and arrows within the City.

**§ 177-16. Curfew.**

- A. Proclamation. In order to reduce juvenile crime, protect the children of this City, and reinforce parental authority, this curfew section is included in the Bethel City Code.
- B. Restriction. It shall be unlawful for any person under the age of 17 to be in or upon any public street, highway, park, vacant lot, business establishment opened to the public, or other public place between the hours of 9:00 p.m. and 6:00 a.m.
- C. Exceptions. The following shall constitute valid exceptions to the operation of the curfew:
  - (1) At any time, if the child is accompanied by his or her parent or legal guardian.
  - (2) Until the hour of 12:30 a.m. if the child is on an errand as directed by the parent or legal guardian.
  - (3) If the child is legally employed, for the period of 1/2 hour before to 1/2 hour after work, while going directly between his or her home and place of employment. This exception shall also apply if the child is in a public place during curfew hours in the course of his or her employment. To come under this exception, the child must be carrying a written statement from the employer attesting to the place and hours of employment.
  - (4) Until the hour of 12:30 a.m. if the child is on the property of or the sidewalk directly adjacent to the building in which he or she resides.
  - (5) The child is attending an activity sponsored by a school, religious, or civic organization, by a public organization or agency, or by another similar organization or entity, which activity is supervised by adults, or the child is returning home from such activity.
  - (6) The child is involved in an emergency situation.
- D. A law enforcement officer who has probable cause to believe that a child is in violation of this section shall take such child to the Sheriff's office where such child's parents shall be immediately notified and the parent or guardian shall come to take the child home, or

he shall take such child directly home to deliver the child into the hands of the child's parent or legal guardian. In either case, upon the first offense, the law enforcement officer shall give a copy of this section to the parent or guardian. If the child is brought to the Sheriff's office and no parent or guardian can be notified, or none appears to take the child, then the child shall be turned over to the custody of the juvenile authorities until a parent or guardian can take custody.

- E. It shall be unlawful for any parent or guardian to permit or by inefficient control allow a violation by a child in his or her custody or control.

**§ 177-17. Clandestine drug labs.**

- A. Definitions. For the purposes of this section, the following terms or words shall be interpreted as follows:

CHEMICAL DUMP SITE — Any place or area where chemicals or other waste materials used in a clandestine drug lab have been located.

CHILD — Any person less than 18 years of age.

CITY — The City of Bethel, Anoka County, Minnesota.

CITY BUILDING OFFICIAL or BUILDING OFFICIAL — That person appointed by the City to enforce the State Building Code and local building regulations.

CITY COUNCIL — The City Council of the City of Bethel, Minnesota. and is referred to as "Council."

CLANDESTINE DRUG LAB — The unlawful manufacture or attempt to manufacture a controlled substance.

CLANDESTINE DRUG LAB SITE — Any place or area where law enforcement authorities have determined that conditions associated with the operation of an unlawful clandestine drug lab exist. A clandestine drug lab site may include dwellings, accessory buildings, accessory structures, a chemical dump site or any land.

CONTROLLED SUBSTANCE — A drug, substance or immediate precursor in Schedules I through V of Minnesota Statutes § 152.02. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

MANUFACTURE — In places other than a pharmacy, shall mean and include the production, cultivation, quality control, and standardization, by mechanical, physical, chemical or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling, or by other process, of drugs.

OWNER — Any person, firm or corporation who or which owns, in whole or in part, the land, buildings or structures associated with a clandestine drug lab site or chemical dump site.

PUBLIC HEALTH NUISANCE — All dwellings, accessory structures and buildings or adjacent property associated with a clandestine drug lab site which are deemed potentially unsafe due to health hazards.

B. General provisions.

- (1) Purpose. The purpose of this section is to reduce public exposure to health risks where law enforcement authorities have determined that hazardous chemicals from a suspected clandestine drug lab site or associated dump site may exist. The City Council finds that such sites may contain suspected chemicals and residues that place people, particularly children or adults of child-bearing age, at risk when exposed through inhabiting or visiting the site, now and in the future.
- (2) Interpretation and application.
  - (a) In their interpretation and application, the provisions of this section shall be construed to protect the public health, safety and welfare.
  - (b) Where the conditions imposed by any provision of this section are either more or less restrictive than comparable provisions imposed by any other law, ordinance, statute, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
- (3) Fees. Fees for the administration of this section may be established and amended periodically by resolution of the City Council.

C. Administration.

- (1) Law enforcement notice to other authorities. Law enforcement authorities that identify conditions associated with a clandestine drug lab site or chemical dump site that places neighbors, visiting public, or present and future occupants of the dwelling at risk for exposure to harmful contaminants and other associated conditions must promptly notify the appropriate municipal, child protection, and public health authorities of the property location, property owner, if known, and conditions found.
- (2) Declaration of property as a public health nuisance. If law enforcement authorities determine the existence of a clandestine drug lab site or chemical dump site, the property shall be declared a public health nuisance.
- (3) Notice of public health nuisance to concerned parties. Upon notification by law enforcement authorities, the City Building Official shall promptly issue a declaration of public health nuisance for the affected property and post a copy of the declaration at the probable entrance to the dwelling or property. The Building Official shall also notify the owner of the property by mail and notify the following parties:
  - (a) Occupants of the property;
  - (b) Neighbors at probable risk;

- (c) The Sheriff's Office; and
  - (d) Other state and local authorities, such as the Minnesota Pollution Control Agency (MPCA) and Minnesota Department of Health (MDH), which are known to have public and environmental protection responsibilities that are applicable to the situation.
- (4) Property owner's responsibility to act. The Building Official shall also issue an order to abate the public health nuisance, including the following:
- (a) Immediately vacate those portions of the property, including building or structure interiors, which may place the occupants or visitors at risk.
  - (b) Promptly contract with appropriate environmental testing and cleaning firms to conduct an on-site assessment, complete cleanup and remediation testing and follow-up testing, and determine that the property risks are sufficiently reduced to allow safe human occupancy of the dwelling. The property owner shall notify the City of actions taken and reach an agreement with the City on the cleanup schedule. The City shall consider practical limitations and the availability of contractors in approving the schedule for cleanup.
  - (c) Provide written documentation of the cleanup process, including a signed, written statement that the property is safe for human occupancy and that the cleanup was conducted in accordance with MDH guidelines.
- (5) Property owner's responsibility for costs. The property owner shall be responsible for all costs of vacation or cleanup of the site, including contractor's fees and public costs for services that were performed in association with a clandestine drug lab site or chemical dump site cleanup. Public costs may include, but are not limited to:
- (a) Posting of the site;
  - (b) Notification of affected parties;
  - (c) Expenses related to the recovery of costs, including the assessment process;
  - (d) Laboratory fees;
  - (e) Cleanup services;
  - (f) Administrative fees; and
  - (g) Other associated costs.
- (6) Recovery of public costs.
- (a) If, after service of declaration of public health nuisance, the property owner fails to arrange appropriate assessment and cleanup, the City Building Official is authorized to proceed in a prompt manner to initiate the on-site assessment and cleanup.

- (b) If the City is unable to locate the property owner within 10 days of the notice of declaration of public health nuisance, the City is authorized to proceed in a prompt manner to initiate the on-site assessment and cleanup.
  - (c) The City may abate the nuisance by removing the hazardous structure or building pursuant to the procedures established in §§ 177-12 to 177-14 herein or otherwise according to Minnesota Statutes Chapter 463.
- (7) Authority to modify or remove declaration of public health nuisance.
- (a) The Building Official is authorized to modify the declaration conditions or remove the declaration of public health nuisance.
  - (b) Such modifications or removal of the declaration shall only occur after documentation from a qualified environmental or cleaning firm stating that the health and safety risks, including those to neighbors and potential dwelling occupants, are sufficiently abated or corrected to allow safe occupancy of the dwelling.



# Chapter 188

## PROPERTY, ABANDONED

### ARTICLE I Abandoned Motor Vehicles

- § 188-1. Impoundment and sale.
- § 188-2. Disposition of proceeds.

### ARTICLE II Other Abandoned Property

- § 188-3. Procedure.
- § 188-4. Storage.
- § 188-5. Claim by owner.
- § 188-6. Sale.
- § 188-7. Disposition of proceeds.

[HISTORY: Adopted by the City Council of the City of Bethel 3-2-1989 by Ord. No. 89-508 as Ch. II, Part 7, of the 1989 City Code. Amendments noted where applicable.]

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### ARTICLE I Abandoned Motor Vehicles

#### § 188-1. Impoundment and sale. <sup>1</sup>

The Sheriff's Office shall take into custody and impound any abandoned motor vehicle as defined by Minnesota Statutes § 168B.011, Subdivision 2. It shall give notice of the taking as provided by law, and if the owner or any lienholder does not reclaim the vehicle within the period provided by law, it shall provide for the sale of the vehicle to the highest bidder at public auction or sale following two weeks' published notice.<sup>2</sup>

#### § 188-2. Disposition of proceeds.

The proceeds of the sale of an abandoned motor vehicle shall be placed in the general fund of the City. If the former owner or entitled lienholder makes application and furnishes satisfactory proof of ownership or lien interest within 90 days of the sale, he shall be paid the proceeds of the sale of the vehicle less the cost of towing, preserving, and storing the vehicle and all administrative, notice and publication costs incurred in its handling.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

2. Editor's Note: Original § 207.01(2), Summary action in certain cases, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

ARTICLE II  
**Other Abandoned Property**

**§ 188-3. Procedure.**

All other property lawfully coming into possession of the City shall be disposed of as provided in this article.

**§ 188-4. Storage.**

The department of the City acquiring possession of the property shall arrange for its storage. If City facilities for storage are unavailable or inadequate, the department may arrange for storage at privately owned facilities.

**§ 188-5. 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.

**§ 188-6. Sale.**<sup>3</sup>

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 Sheriff after 10 days' published notice setting forth the time and place of the sale and the property to be sold.

**§ 188-7. 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, he shall be paid the proceeds of the sale of his property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

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3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

## Chapter 192

### RECREATIONAL VEHICLES

§ 192-1. Purpose and intent.

§ 192-2. Definitions.

§ 192-3. Operational requirements.

§ 192-4. Street crossings.

§ 192-5. Hours of operation.

§ 192-6. Minimum equipment requirements.

§ 192-7. Designation of public areas for use.

§ 192-8. Violations and penalties.

**[HISTORY: Adopted by the City Council of the City of Bethel at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]**

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§ 192-1. Purpose and intent.

- A. The purpose of this chapter is to provide reasonable regulations for the use of special and recreational motor vehicles on public and private property in the City. This chapter is not intended to allow what the Minnesota Statutes prohibit or to prohibit what the Minnesota Statutes expressly allow.
- B. It is intended to ensure the public safety and prevent a public nuisance.

§ 192-2. Definitions.

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

**RECREATIONAL MOTOR VEHICLE** — Any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including but not limited to a trail bike, off-highway motorcycle, as defined by Minnesota Statutes § 84.787, Subdivision 7, as it may be amended from time to time, or other all-terrain vehicle as defined by Minnesota Statutes § 84.90 and § 84.92, Subdivisions 8 to 10, as they may be amended from time to time, or motorized go-carts, hovercraft, or a motor vehicle licensed for highway operation which is being used for off-road recreational purposes, but not including motorized golf carts, personal electric mobility devices, motorized foot scooters, neighborhood electric vehicles, medium-speed electric vehicles, or mini trucks.

§ 192-3. Operational requirements.

- A. It is unlawful for any person to operate a recreational motor vehicle:
  - (1) On private property in the seven-county metropolitan area as defined in Minnesota Statutes § 473.121, Subdivision 2, without written or oral permission of the owner of the property. (Written permission may be given by a posted notice of any kind or description, so long as it specifies the kind of vehicles allowed, that the owner, occupant, or lessee prefers, such as by saying "Recreational Vehicles Allowed,"

"Trail Bikes Allowed," "All-Terrain Vehicles Allowed" or words substantially similar.) Outside the seven-county metropolitan area, no person shall enter on any land not owned by the person for the purpose of operating a recreational motor vehicle after being notified, either orally or by written or posted notice, by the owner, occupant, or lessee not to do so. Where posted notice is used, signs shall bear letters not less than two inches high and shall state one of the following: "Recreational Vehicles Prohibited," "Snowmobiles Prohibited," "Trail Bikes Prohibited," "All-Terrain Vehicles Prohibited" or words substantially similar. In lieu of the above notice, an owner, occupant, or lessee may post any sign prohibiting recreational motor vehicles that has been adopted by rule of the Commissioner of Natural Resources. The notice or sign shall be posted at corners and ordinary ingress and egress to the property and when so posted shall serve so as to raise a conclusive presumption that a person operating a recreational motor vehicle thereon had knowledge of entering upon such posted lands. Failure to post notice as provided in this subsection shall not deprive a person of the right to bring a civil action for damage to one's person or property as otherwise provided by law.

- (2) On publicly owned land, including school, exclusive City streets, park property, playgrounds, recreation areas and golf courses, except where permitted by this chapter.
- (3) In a manner so as to create a loud, unnecessary, or unusual noise that disturbs, annoys, or interferes with the peace and quiet of other persons.
- (4) On a public sidewalk or walkway provided or used for pedestrian travel.
- (5) At a place while under the influence of intoxicating liquor or narcotics or habit-forming drugs.
- (6) At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
- (7) At any place in a careless, reckless, or negligent manner so as to endanger or be likely to endanger any person or property or to cause injury or damage thereto.
- (8) On any public street, highway, or right-of-way unless registered pursuant to Minnesota law.
- (9) To intentionally drive, chase, run over, or kill any animal, wild or domestic.
- (10) By halting any recreational motor vehicle carelessly or heedlessly in disregard of the rights or the safety of others or in a manner so as to endanger or be likely to endanger any person or property or in excess of 25 miles per hour on publicly owned lands.
- (11) Within 150 yards of any public recreational area or gathering of people. This provision does not apply to the occasional use of a recreational motor vehicle on private property for the purpose of loading or unloading it from a trailer or for mechanically checking it.

- (12) Without headlight and taillight lighted at all times if the vehicle is equipped with headlight and taillight.
  - (13) Without a functioning stoplight if so equipped.
  - (14) Without a brake operational by either hand or foot.
  - (15) At a speed exceeding 10 miles per hour on the frozen surface of public waters within 100 feet of a person not on an all-terrain vehicle or within 100 feet of a fishing shelter.
- B. Helmet and seat belts required.
- (1) A person less than 18 years of age shall not ride as a passenger or as an operator of a recreational vehicle regulated herein on public land, public waters, or on a public road right-of-way unless wearing a safety helmet approved by the Commissioner of Public Safety.
  - (2) A person less than 18 years of age shall not ride as a passenger or as an operator of a vehicle regulated herein without wearing a seat belt when such seat belt has been provided by the manufacturer.
- C. All-terrain vehicles and passengers.
- (1) No person under 18 years of age shall operate a Class 1 all-terrain vehicle while carrying a passenger. A person 18 years of age or older may operate a Class 1 all-terrain vehicle carrying one passenger. For the purposes of this subsection, a Class 1 all-terrain vehicle means an all-terrain vehicle that has a total dry weight of less than 900 pounds.
  - (2) No person under 18 years of age shall operate a Class 2 all-terrain vehicle while carrying a passenger. A person 18 years of age or older may operate a Class 2 all-terrain vehicle while carrying a passenger, or up to the number of passengers for which the vehicle was designed, whichever is greater. For the purposes of this subsection, a Class 2 all-terrain vehicle means an all-terrain vehicle that has a total dry weight of 1,000 to 1,800 pounds.

#### **§ 192-4. Street crossings.**

- A. No person under 12 years of age operating the vehicles regulated herein shall make a direct crossing of any street, highway, or public right-of-way; or operate a vehicle regulated herein on a public street, highway, or road right-of-way; or operate a vehicle regulated herein on public lands or waters, except that a person at least 10 years of age but under 12 years of age may operate an all-terrain vehicle with an engine capacity up to 90cc on public lands or waters if accompanied by a parent or legal guardian.
- B. Additional restrictions for all-terrain vehicles. An all-terrain vehicle may make a direct crossing of a public road right-of-way, provided that:
- (1) The crossing is made at an angle of approximately 90° to the direction of the road and at a place where no obstruction prevents a quick and safe crossing.

- (2) The vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the road.
- (3) The driver yields the right-of-way to all oncoming traffic that constitutes an immediate hazard.
- (4) In crossing a divided road, the crossing is made only at an intersection of the road with another public road.
- (5) If the crossing is made between the hours of 1/2 hour after sunset and 1/2 hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

**§ 192-5. Hours of operation.**

Hours for use are 8:00 a.m. to 10:00 p.m.

**§ 192-6. Minimum equipment requirements.**

- A. Standard mufflers shall be properly attached and in constant operation to reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, bypass, straight pipe, or similar device on a recreational motor vehicle motor. The exhaust system shall not emit or produce a sharp popping or crackling sound.
- B. Brakes shall be adequate to control the movement of and to stop and hold under any conditions of operation.
- C. At least one clear lamp shall be 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 that glaring rays are not projected into the eyes of an oncoming vehicle operator. It shall also be equipped with at least one red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during the hours of darkness under normal atmospheric conditions. This equipment shall be required and shall be in operating condition when the vehicle is operated between the hours of 1/2 hour after sunset and 1/2 hour before sunrise, or at times of reduced visibility.

**§ 192-7. Designation of public areas for use.**

- A. The Council may designate areas and exclusive City streets for use of recreational motor vehicles by approval of a resolution by a majority of the members of the City Council. The areas designated may be changed from time to time by the City Council. Any area designated shall be published in the official newspaper of the City in a conspicuous place after the approval. If an area is changed, the change shall be published in like manner in the official newspaper of the City. An up-to-date map of any designated park areas open for recreational motor vehicle use shall be kept on file in the office of the City Clerk, who shall provide on request a copy of the map together with the applicable rules, regulations, and this chapter to each person requesting the information from the City.

- B. Unless designated by the City Council as an area for recreational motor vehicles, the use on City park property and City streets shall be unlawful. Further, the use of City parks designated by the City Council shall be in accordance with all of the applicable provisions of this chapter.

**§ 192-8. Violations and penalties.**

Except where another penalty is prescribed by state law, any person convicted of violating any provision of this chapter is guilty of a petty misdemeanor.

# Chapter 196

## SEWERS

### ARTICLE I Sewer Use

- § 196-1. Definitions.
- § 196-2. Utilities Superintendent.
- § 196-3. Unlawful activities; connection to public sewer required.
- § 196-4. Private wastewater disposal.
- § 196-5. Building sewers and connections.
- § 196-6. Use of public services.
- § 196-7. Use of individual sewage treatment systems.
- § 196-8. Maintenance.
- § 196-9. Administration and enforcement.

- § 196-10. Damage to facilities.
- § 196-11. User charges.
- § 196-12. Violations and penalties.

### ARTICLE II Sewer Service Charge System

- § 196-13. Definitions.
- § 196-14. Establishment of sewer service charge system.
- § 196-15. Determination of sewer service charge.
- § 196-16. Sewer service fund.
- § 196-17. Administration.
- § 196-18. Delinquent charges.
- § 196-19. Charge to take precedence.

[HISTORY: Adopted by the City Council of the City of Bethel as indicated in article histories. Amendments noted where applicable.]

#### GENERAL REFERENCES

Subdivision regulations — See Ch. 225.

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### ARTICLE I Sewer Use

[Adopted 6-4-1992 by Ord. No. 403 (Ch. IV, Part 3 of the 1989 City Code)]

#### § 196-1. Definitions.

Unless the context specifically indicates otherwise, the terms used in this article shall have the meanings hereinafter designated. "Shall" is mandatory; "may" is permissive.

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

ACTIVE MAINTENANCE — A maintenance program for individual sewage treatment systems whereby the property owner has complete responsibility for effecting operation, maintenance and replacement (OM&R) in a manner acceptable to the Sewer Authority.

ASTM — American Society for Testing and Materials



**AUTHORITY** — The City of Bethel, Minnesota, or the representative thereof.

**BOD<sub>5</sub> or BIOCHEMICAL OXYGEN DEMAND** — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C. in terms of milligrams per liter (mg/l).

**BUILDING DRAIN** — That part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 10 feet outside the building wall.

**BUILDING SEWER** — The extension from the building drain to the public sewer or other place of disposal, also referred to as a "house connection" or "service connection."

**CHEMICAL OXYGEN DEMAND (COD)** — The quantity of oxygen utilized in the chemical oxidation of organic matter as determined by standard laboratory procedures and as expressed in terms of milligrams per liter (mg/l).

**CITY** — The area within the corporate boundaries of the City of Bethel as presently established or as amended by ordinance or other legal action at a future time. The term "City" when used herein may also be used to refer to the City Council and its authorized representative.

**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.

**CONTROL MANHOLE** — A structure specially constructed for the purpose of measuring flow and sampling of wastes.

**EASEMENT** — An acquired legal right for the specific use of land owned by others.

**FECAL COLIFORM** — Any number of organisms common to the intestinal tract of man and animals whose presence in sanitary sewage is an indicator of pollution.

**FLOATABLE OIL** — Oil, fat, or grease in a physical state such that it will separate by gravity from wastewater.

**GARBAGE** — Animal and vegetable waste resulting from the handling, preparation, cooking, and serving of food.

**INCOMPATIBLE POLLUTANT** — Any pollutant that is not defined as a compatible pollutant (in this section), including nonbiodegradable dissolved solids.

**INDIVIDUAL SEWAGE TREATMENT SYSTEM** — A sewage treatment system connecting to a single dwelling or other establishment, consisting of soil treatment unit, septic tank, and any associated pumping and piping systems.

**INDUSTRIAL WASTE** — Gaseous, liquid, and solid wastes resulting from industrial or manufacturing processes, trade or business, or from the development, recovery and processing of natural resources, as distinct from residential or domestic strength wastes.

**INDUSTRY** — Any nongovernmental or nonresidential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual, latest edition, which is categorized in Divisions A, B, D, E and I.

**INFILTRATION** — Water entering the sewage system (including building drains and pipes) from the ground through such means as defective pipes, pipe joints, connections, and manhole walls.

**INFILTRATION/INFLOW (I/I)** — The total quantity of water from both infiltration and inflow.

**INFLOW** — Water other than wastewater that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers, catch basins, surface runoff, street wash waters or drainage.

**INTERFERENCE** — The inhibition or disruption of the City's wastewater disposal system processes or operations which causes or significantly contributes to a violation of any requirement of the City's NPDES and/or SDS permit. The term includes prevention of sewage sludge use or disposal by the City in accordance with published regulations providing guidelines under Section 405 of the Act or any regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria applicable to the method of disposal or use employed by the City.<sup>1</sup>

**MPCA** — Minnesota Pollution Control Agency.

**NATIONAL CATEGORICAL PRETREATMENT STANDARDS** — 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.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT** — A permit issued by the MPCA setting limits on pollutants that a permittee may legally discharge into navigable waters of the United States pursuant to Sections 402 and 405 of the Act.

**NATURAL OUTLET** — Any outlet, including storm sewers and combined sewers, which overflows into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

**NON-CONTACT COOLING WATER** — The water discharged from any use, such as air conditioning, cooling or refrigeration, during which the only pollutant added is heat.

**NORMAL DOMESTIC STRENGTH WASTE** — Wastewater that is primarily introduced by residential users with a BOD<sub>5</sub> concentration not greater than 275 mg/l and a total suspended solids (TSS) concentration not greater than 300 mg/l.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**PASSIVE MAINTENANCE** — A maintenance program for community sewage treatment systems whereby the community in which the treatment system is situated is responsible for conducting operation, maintenance and replacement in a manner acceptable to the Sewer Authority.

**PERSON** — Any individual, firm, company, association, society, corporation, or group.

**pH** — The logarithm of the reciprocal of the concentration of hydrogen ions in terms of grams per liter of solution.

**PRETREATMENT** — The treatment of wastewater from industrial sources prior to the introduction of the waste effluent into a publicly owned treatment works. (See "national categorical pretreatment standards.")

**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 1/2 inch (1.27 cm) in any dimension.

**SEWAGE** — The spent water of a community. The preferred term is "wastewater."

**SEWER** — A pipe or conduit that carries wastewater or drainage water.

- A. **COLLECTION SEWER** — A sewer whose primary purpose is to collect wastewaters from individual point source discharges and connections.
- B. **COMBINED SEWER** — A sewer intended to serve as a sanitary sewer and a storm sewer.
- C. **FORCE MAIN** — A pipe in which wastewater is carried under pressure.
- D. **INTERCEPTOR SEWER** — A sewer whose primary purpose is to transport wastewater from collection sewers to a treatment facility.
- E. **PRIVATE SEWER** — A sewer which is not owned and maintained by a public authority.
- F. **PUBLIC SEWER** — A sewer owned, maintained and controlled by a public authority.
- G. **SANITARY SEWER** — A sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of groundwater, stormwater, and surface water which are not admitted intentionally.
- H. **STORM SEWER or STORM DRAIN** — A drain or sewer intended to carry stormwater, surface runoff, groundwater, subsurface water, street wash water, drainage, and unpolluted water from any source.

**SEWER AUTHORITY** — The governmental entity and department thereof which has monitoring, inspection, permitting and enforcement authority over sanitary improvements, including public drain fields and associated collection systems.

SLUG — Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average twenty-four-hour concentration of flows during normal operation and shall adversely affect the collection and/or performance of the wastewater treatment works.

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 5.

SUPERINTENDENT — The City of Bethel's Utilities Superintendent or a deputy, agent or representative thereof.

SUSPENDED SOLIDS (SS) or TOTAL SUSPENDED SOLIDS (TSS) — The total suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids and is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater, latest edition, and referred to as "nonfilterable residue."

TOXIC POLLUTANT — The concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse effects as defined in standards issued pursuant to Section 307(a) of the Act.

UNPOLLUTED WATER — Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities. (See "non-contact cooling water.")

USER — Any person who discharges or causes or permits the discharge of wastewater into the City's wastewater disposal system.

WASTEWATER — The spent water of a community and referred to as "sewage." From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with any groundwater, surface water and stormwater that may be present.

WASTEWATER TREATMENT WORKS or TREATMENT WORKS — An arrangement of any devices, facilities, structures, equipment, or processes owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water, including interceptor sewers, outfall sewers, collection sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply, such as standby treatment units and clear well facilities; and any works, including land, which are an integral part of the treatment process or are used for ultimate disposal of residues resulting from such treatment.

WATERCOURSE — A natural or artificial channel for the passage of water, either continuously or intermittently.

WEF — The Water Environment Federation.<sup>2</sup>

### § 196-2. Utilities Superintendent.

The Utilities Superintendent shall have control and general supervision of all public sewers and service connections in the City and shall be responsible for administering the provisions of this article to the end that a proper and efficient public sewer is maintained.

### § 196-3. Unlawful activities; connection to public sewer required.

- A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the City's jurisdiction, any human or animal excrement, garbage or objectionable waste.<sup>3</sup>
- B. It shall be unlawful to discharge to any natural outlet any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article and the City's NPDES/SDS permit.
- C. Except as provided hereinafter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
- D. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes from which wastewater is discharged and which are situated within the City and adjacent to any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary sewer of the City shall be required at the owner's expense to install a suitable service connection to the public sewer in accordance with the provisions of this article within 90 days of the date said public sewer is operational, provided that said public sewer is within 300 feet of the structure generating the wastewater. All future buildings constructed on property adjacent to the public sewer shall be required to immediately connect to the public sewer. If sewer connections are not made pursuant to this subsection, an official sixty-day notice shall be served instructing the affected property owner to make said connection.
- E. In the event that an owner shall fail to connect to a public sewer in compliance with a notice given under Subsection D of this section, the City must undertake to have said connection made and shall assess the cost thereof against the benefitted property. Such assessment, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the Auditor of the County of Anoka, Minnesota, and shall be collected and remitted to the City in the same manner as assessments for local improvements. The rights of the City shall be in addition to any remedial or enforcement provisions of this article.

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2. Editor's Note: Throughout this chapter, references to the Water Pollution Control Federation (WPCF) were amended to the Water Environment Federation (WEF) at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- F. Prohibited discharges from sump pumps and other sources into the sanitary sewer system. **[Added 7-21-2011]**
- (1) Purpose. The City Council finds that the discharge of water from a roof surface, groundwater, sump pump, footing tile or swimming pool or other natural precipitation to the City sanitary sewage system will, and has on numerous occasions in the past, flood and overload the sanitary sewage system to such an extent as to cause significant and grave damage to the City's waste treatment plant and sanitary sewer trunk system. Such damage is caused by the backup of sewage into the plant and private properties and pressure damage to the trunk lines. The City Council, therefore, finds it essential to the minimization of damage to property and to meet the Minnesota Pollution Control Agency and Bethel City Code requirements that the provisions of this Subsection F be strictly enforced to avoid emergencies in the future.
  - (2) Prohibition against discharges into sanitary sewer system. No water from any roof surface, groundwater, sump pump, footing tile, swimming pool, or other natural precipitation shall be discharged into the City's sanitary sewer system. Dwellings and other buildings and structures which require, because of infiltration of water into basements, crawl spaces and the like, a sump pump discharge system shall have a permanently installed discharge line which shall not at any time discharge water into the City's sanitary sewer system, except as provided herein. A permanently installed discharge line shall be one which either provides for year-round discharge capability to the outside of the dwelling, building or structure or is connected to the City's storm sewer or discharges through the curb and gutter to the street. It shall consist of a rigid discharge line, without valves or quick connections for altering the path of discharge. Said discharge line shall not be capable of connection or reconnection to the City's sanitary sewer system.
  - (3) Disconnection. On or before November 18, 2011, any person, firm, or corporation having a roof surface, groundwater, sump pump, footing tile or swimming pool now connected and/or discharging into the City's sanitary sewer system shall disconnect and/or remove the same. Any disconnects or openings in the sanitary sewer shall be closed in an effective, workmanlike manner, as approved by the Superintendent or his designated agent.<sup>4</sup>
  - (4) Inspection. No later than November 18, 2011, every person owning improved real estate in the City that discharges into 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 inspection shall be to confirm that there is no sump pump or other prohibited discharge into the City's sanitary sewer system. In lieu of having the City inspect such property, the owner may, no later than December 1, 2011, furnish a certificate from a licensed plumber, on a form acceptable to the City, certifying that the property is in compliance with this Subsection F.

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4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (5) Future inspections. Any building may be reinspected on a yearly basis in conjunction with any other inspections.
- (6) New home inspections. All new homes built within the City will be required to have their sump pump system inspected and be in compliance with this Subsection F prior to issuance of a certificate of occupancy.
- (7) Surcharge and penalties. A surcharge of \$100 per month shall be added to every sewer bill mailed after December 1, 2011, to property owners who have not obtained a property inspection as above described by that date. The surcharge shall be added every month to be included in monthly bills for properties not complying with this Subsection F. All properties found during a yearly inspection to have violated this Subsection F will be subject to the charge of \$100 per month for all months between the two most recent inspections and for each month thereafter until the property owner submits proof to the City that the property is brought into full compliance with this Subsection F. In addition to the charge of \$100 per month, a property owner or other person who is not in compliance with this section may be mailed, by regular mail, a notice that such violation shall cease and desist within a time limit provided by the City Council. If such violation does not cease and desist by the established time limit, the owner of the property or other person in violation of this Subsection F shall be guilty of a misdemeanor and prosecuted by the City.

#### **§ 196-4. Private wastewater disposal.**

- A. Where a public sewer is not available under the provisions of § 196-3D, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this section.
- B. Prior to commencement of construction of a private wastewater disposal system, the owner(s) shall first obtain a written permit signed by the City. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary to the City.
- C. A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the City or its authorized representative. The City or its representative shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the City when work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice.
- D. The type, capacities, location, and layout of a private wastewater disposal system shall comply with all requirements of Chapter 7080, Individual Subsurface Sewage Treatment Systems, of the Minnesota Administrative Rules. No septic tank or cesspool shall be permitted to discharge to any natural outlet.<sup>5</sup>

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5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- E. At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within 90 days in compliance with this article, and within 120 days any septic tanks, cesspools, and similar private wastewater disposal systems shall be cleaned of sludge. The bottom shall be broken to permit drainage, and the tank or pit filled with suitable material.
- F. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times at no expense to the City.
- G. No statement contained in this section 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.

**§ 196-5. Building sewers and connections.**

- A. 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, BOD<sub>5</sub>, and suspended solids, as determined by the Superintendent.
- B. 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.<sup>6</sup>
- C. Applications for permits 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.
- D. There shall be two classes of building sewer permits: for residential and commercial service and 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.
- E. 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.
- F. A separate and independent building sewer shall be provided for every building, except that 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

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6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).



will not assume any obligation or responsibility for damage caused by or resulting from any such connection aforementioned.

- G. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent or his representative, to meet all requirements of this article.
- H. The size, slope, alignment, and materials of construction of a building sewer, 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 of Minnesota building and plumbing codes or other applicable rules and regulations of the City. In the absence of code provisions or in the amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WEF Manual of Practice No. 9 shall apply.
- I. 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.
- J. 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.
- K. The connection of the building sewer into the public sewer shall conform to the requirements of the State of Minnesota building and plumbing codes or other applicable rules and regulations of the City or the procedures set forth in appropriate specifications of the ASTM and the WEF 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.
- L. The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection and inspection shall be made under the supervision of the Superintendent or authorized representative thereof.
- M. 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.
- N. No person shall make a service connection with any public sewer unless regularly licensed under this chapter to perform such work, and no permit shall be granted to any person except such regularly licensed person.
- O. Any person desiring a license to make a service connection with public sewers shall apply in writing to the City Council with satisfactory evidence that the applicant or employer is trained or skilled in the business and qualified to receive a license. All applications shall be referred to the Superintendent for recommendations to the Council.

If approved by the Council, such license shall be issued by the City Clerk upon the filing of a bond as hereinafter provided.

- P. No license shall be issued to any person until a bond of \$2,000 to the City, approved by the Council, is filed with the City Clerk conditioned that the licensee 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 such 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 Superintendent and shall conform in all respects to the rules and regulations of the Council relative thereto and pay all fines that may be imposed on the licensee by law.
- Q. The annual license fee for making service connections is set by resolution of the City Council. All licenses shall expire on December 31 of the license year unless the license is suspended or revoked by the Council for cause.<sup>7</sup>
- R. The Council may suspend or revoke any license issued under this section for any of the following causes:
- (1) Giving false information in connection with the application for a license.
  - (2) Incompetence of the licensee.
  - (3) Willful violation of any provisions of this section or any rule or regulation pertaining to the making of service connections.

**§ 196-6. Use of public services.**

- A. No person shall discharge or cause to be discharged any unpolluted water such as stormwater, groundwater, roof runoff, surface drainage, or non-contact cooling water to any sanitary sewer.
- B. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers or to a natural outlet approved by the City and other regulatory agencies. Industrial cooling water or unpolluted process waters may be discharged to a storm sewer or natural outlet on approval of the City and upon approval and the issuance of a discharge permit by the MPCA.
- C. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
- (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,

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7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.

- (2) Solid or viscous substances which will cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as, but not limited to, grease, garbage with particles greater than 1/2 inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastic, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.
  - (3) Any wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater disposal system.
  - (4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to inhibit or disrupt any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the wastewater disposal system. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.
- D. 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 or the wastewater treatment works treatment process or equipment, will not have an adverse effect on the receiving stream and/or soil, vegetation and groundwater, or will not otherwise endanger lives, limb, or public property or constitute a nuisance. The Superintendent may set limitations lower than limitations established in the regulations below if, in his opinion, such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability of wastes, the Superintendent will give consideration to such factors as the quantity of subject waste in relation 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 wastewater treatment works, degree of treatability of wastes in the wastewater treatment works, 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 Superintendent are as follows:
- (1) Any wastewater having a temperature greater than 150° F. (65.6° 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 amount which will inhibit biological activity in the wastewater treatment works resulting in interference therein.
  - (2) Any wastewater containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous at temperatures between 32° F. and 150° F. (0° C. and 65.6° C.) and any wastewater containing oil and grease concentrations of mineral origin of greater than 100 mg/l, whether emulsified or not.

- (3) Any garbage not properly shredded, as defined in § 196-1 of this article. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food on the premises or when served by caterers.
  - (4) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.
  - (5) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
  - (6) Non-contact cooling water or unpolluted stormwater, drainage, or groundwater.
  - (7) Any quantities of flow, concentrations, or both which constitute a slug as defined herein. (See § 196-1.)
  - (8) Wastewater containing inert suspended solids (such as, but not limited to, fuller's earth, lime slurries, and lime residues) or dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) in such quantities that would cause disruption of the wastewater disposal system.
  - (9) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.
  - (10) Any wastewater which creates conditions at or near the wastewater disposal system which violate any statute, rule, regulation, or ordinance of any regulatory agency or state or federal regulatory body.
  - (11) Any waters or wastes containing BOD<sub>5</sub> or suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the wastewater treatment works, except as may be permitted by specific written agreement subject to the provisions of Subsection Q of this section.
  - (12) Any waters or wastes containing the following substances to such degree that any such material received in the composite wastewater at the wastewater treatment works is in excess of the limits for such materials established at the discretion of the Superintendent to ensure compliance with the City's NPDES permit: arsenic, cadmium, copper, cyanide, lead, mercury, nickel, silver, total chromium, zinc, or phenolic compounds which cannot be removed by City's wastewater treatment system.<sup>8</sup>
- E. If any waters or wastes are discharged or are proposed to be discharged to the public sewers which contain substances or possess the characteristics enumerated in Subsection C or D of this section and/or which in the judgment of the Superintendent may have a deleterious effect upon the wastewater treatment facilities, processes, or equipment,

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7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

receiving waters and/or soil, vegetation, and groundwater or which otherwise create a hazard to life or constitute a public nuisance, the City may reject the wastes; require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to Section 307(b) of the Act and all addendums thereof; require control over the quantities and rates of discharge; and/or require payment to cover the added costs of handling, treating, and disposing of wastes not covered by existing taxes or sewer service charges. If the City permits the pretreatment or equalization of waste flows, the design, installation, and maintenance of the facilities and equipment shall be made at the owner's expense and shall be subject to the review and approval of the City pursuant to the requirements of the MPCA.

- F. 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 Subsections C and D of this section or contained in the national categorical pretreatment standards or any state requirements.
- G. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner(s).
- H. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in Subsection D(2) of this section, any flammable wastes as specified in Subsection C(1), sand or other harmful ingredients, except that such 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(s) 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 is subject to review by the Superintendent. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by a currently licensed waste disposal firm.
- I. Where required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, or control manhole, with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes. Such structure shall be accessible and safely located and shall be constructed in accordance with plans approved by the City. The structure shall be installed by the owner at his expense and shall be maintained by the owner to be safe and accessible at all times.
- J. 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 article 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 is being met. The owner shall report the results of measurement and laboratory analyses to the City at such times and in such

manner as prescribed by the City. The owner shall bear the expense of all measurements, analyses, and reporting required by the City. At such times as deemed necessary, the City reserves the right to take measurements and samples for analysis by an independent laboratory.

- K. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association. Sampling methods, locations, times, duration and frequencies are to be determined on an individual basis subject to approval by the Superintendent.
- L. 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 article. 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 Superintendent for review and approval prior to construction of the facility. Review and approval of such 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 article. Users shall notify the Superintendent immediately upon having a slug or accidental discharge of substances of wastewater in violation of this article to enable countermeasures to be taken by the Superintendent to minimize damage to the wastewater treatment works. Such 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 such a discharge are advised of the emergency notification procedure.
- M. 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 such other work as the 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 Superintendent may cause such work to be completed at the expense of the owner or representative thereof.
- N. 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 such work to be done as the Superintendent may direct. Each day after seven days that a person neglects or fails to so act shall constitute a separate violation of this section, and the Superintendent may then cause the work to be done and recover from such owner or agent the expense thereof by an action in the name of the City.
- O. 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.

- P. 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 such person and may collect such assessment as an additional charge for the use of the public sewer system or in any other manner deemed appropriate by the City.
- Q. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the City of Bethel 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 the national categorical pretreatment standards and the City's NPDES and/or SDS permit limitations are not violated and said user pays for wastewater treatment services in proportion to actual use, in keeping with user charge regulations promulgated under the Act and Article II of this chapter.

#### **§ 196-7. Use of individual sewage treatment systems.**

- A. Mandatory sewage treatment. Where a public sewage treatment system is not available, the building sewer shall be connected to an individual sewage treatment system complying with the rules and regulations of Chapter 7080, Individual Subsurface Sewage Treatment Systems, of the Minnesota Administrative Rules or the requirements of Anoka County or other regulatory agencies, whichever is more restrictive.<sup>9</sup>
- B. New installation. No new private treatment systems or extensions shall be constructed within the City without first obtaining a permit for said system or expansion from the City.
- C. Unlawful discharge to individual treatment system. It shall be unlawful to discharge such wastes that are prohibited in § 196-6 to an individual sewage treatment system.
- D. The owner of privately owned individual treatment systems shall be responsible for all operation and maintenance and the costs associated with such systems.

#### **§ 196-8. Maintenance.**

- A. All sanitary improvements constructed, in whole or in part, with state and federal grant assistance shall be maintained according to the provisions of either the passive or active maintenance program.
- B. Passive maintenance program. All homeowners who are connected to a community sewage treatment system (serves two or more residences) and which was constructed in whole or in part with state and federal grant assistance shall be required to participate and comply with the provisions of the passive maintenance program.

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6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (1) Via this maintenance program, the City shall be responsible for maintaining all publicly owned components of the collector sewage system.
    - (a) Public ownership shall include all components of a collector system which are purchased and constructed, in whole or in part, with state and federal grant assistance. Unless otherwise prescribed, public ownership shall begin at the end of the building sewer which is opposite the building drain and shall include all components to and including the soil treatment unit and the land it is constructed on.
    - (b) The City shall be responsible for complete maintenance, including inspections, tank pumping, sewer line repair and cleaning, pump maintenance, and operation, maintenance and monitoring of the soil treatment system.
    - (c) All users shall be billed proportionately for the costs of operation and maintenance in accordance with Article II of this chapter.
  - (2) Property owners shall be responsible for operation and maintenance of all plumbing lines and components that lie within the walls of their structure. It is also the property owner's responsibility to maintain the building sewer which extends from the building drain to the sewage tank, pump chamber or public sewer and any lift pumps situated along the building sewer.
    - (a) The property owner shall be responsible for maintaining the ground surface on his property which overlies the sewer system.
    - (b) The property owner has the primary responsibility for informing the City of any sewage system problems. The City will respond to such problems and undertake corrective measures within a reasonable time.<sup>10</sup>
    - (c) Each property owner shall make timely payments of the user charges established by the City.
    - (d) The owner or occupant of a property shall be responsible to provide access, at reasonable times, to the City or its agents for the purpose of performing inspections and maintenance required under this article.
- C. Active maintenance program. Each individual sewage treatment system which is constructed or improved, in whole or in part, with state or federal grant assistance shall be operated and maintained according to the provisions of this subsection.
- (1) Responsibility for proper operation, maintenance and replacement (OM&R) of individual sewage treatment systems shall be as follows:
    - (a) The owner of each dwelling unit or other establishment served by an on-site system shall be responsible for the operation, maintenance, and replacement throughout the useful life of the system.

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7. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).



- (b) The City shall be responsible to ensure through a biannual return mail reporting system, through routine periodic monitoring, investigation of complaints, and other appropriate means, that corrective action is taken to protect the health, safety and welfare of the community and assure compliance with the City's SDS/NPDES permit in the event that the responsible owner is negligent or fails to take action as required by this article.
  - (c) When it has been determined that maintenance and replacement are necessary on an individual sewage treatment system (apart from septic tank pumping addressed below), such maintenance and replacement shall be accomplished in a manner acceptable to the Sewer Authority. Replacement parts, equipment, and appurtenances shall be of a design and quality acceptable to the Sewer Authority and in conformance with requirements of State of Minnesota Rule 7080, Individual Subsurface Sewage Treatment Systems. In the absence of code provisions or in the amplification thereof, materials and procedures shall be as set forth in appropriate specifications of the ASTM and WEF Manual of Practice No. 9. Replacement effected on individual systems shall be reported to the Sewer Authority.
- (2) Maintenance inspections shall be the responsibility of the owner and shall be performed annually by an individual or firm certified and licensed to provide maintenance services who or which shall report such inspection and/or maintenance effort to the City biannually. Such inspection shall include but is not limited to:
- (a) Measurement of accumulated sludge and scum in the septic tank.
  - (b) Inspection of effluent levels in soil treatment systems which are provided with inspection wells.
  - (c) Inspection of pumps and pump stations when included as part of the system.
  - (d) Inspection of distribution devices, valve boxes and drop boxes.
- (3) Whenever inspection of the septic tank discloses that the accumulated sludge in the bottom of the tank has reached a point 12 inches or less from the bottom of the outlet baffle device, or that the bottom of the floating scum layer is less than three inches above the bottom of the outlet baffle device, the owner shall have the tank promptly pumped to remove all accumulated septage. Whenever a septic tank is pumped such action shall be reported to the City. Exception: Where a conforming septic tank serving a dwelling is regularly pumped on an annual basis, the annual inspection of sludge and scum accumulation is waived.
- (4) Whenever inspection of pump stations, distribution devices, valve or drop boxes indicates the accumulation of solids, such devices shall be promptly cleaned.
- (5) Pumping of sewage tanks and other components of sewage treatment systems shall be performed only by contractors licensed by the City to provide such services.
- (6) Septage shall be disposed of only by approved means as follows:

- (a) Into a municipal sewage treatment system capable of treating such wastes and as authorized by such municipal authority.
  - (b) At a land disposal site approved by the MPCA.
- (7) In no case shall septage be discharged to any body of water or the ground surface at locations which have not been approved for surface application.
  - (8) Fees for inspections, maintenance, or other services rendered under this article shall be as set by resolution of the City Council from time to time.

**§ 196-9. Administration and enforcement.**

- A. Applicability. This article shall apply and be in effect for the stated purposes within the City of Bethel.
- B. Enforcement.
  - (1) The Superintendent shall be responsible for administration and enforcement of this article.
  - (2) The Superintendent or his agent shall be qualified and certified by the MPCA as competent in the design, evaluation, and inspection of individual on-site sewage treatment systems and shall carry a current Class D operator certificate and an individual sewage treatment system certificate.
- C. Adjustment and appeals.
  - (1) The appropriate board or agency of the City shall hear and decide appeals and review any order, decision or determination made by the Superintendent regarding the enforcement of this article.
  - (2) The appropriate board or agency of the City shall hear and act upon all rate adjustment and variance requests where provisions of this article are specifically variable.
  - (3) Any appeal of an administrative decision or determination may be filed by any person, department, bureau, town, city, county or state.
- D. Inspections as required to determine compliance with this article shall be performed by the Superintendent or his authorized agent under the following circumstances:
  - (1) Duly authorized employees of the City, bearing proper credentials and identification, shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this article. Those employees shall have no authority to inquire into processes including metallurgical, chemical, oil refining, ceramic, paper, or other industries except as is necessary to determine the kind and source of the discharge to the public sewer.

- (2) The owner or occupant of a property shall be responsible to provide access at reasonable times to the Superintendent or his agent for the purpose of performing inspections required under this article.
- (3) While performing the necessary work on private property as referred to in Subsection D(1) of this section, the authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company 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 such may be caused by negligence or failure of the company to maintain safe conditions as required in § 196-6I of this article.

#### **§ 196-10. Damage to facilities.**

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.

#### **§ 196-11. User charges.**

- A. Each user of sewer service shall pay the charge(s) applicable to the type of service and in accordance with the provisions set forth in Article II of this chapter.
- B. The Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have 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.

#### **§ 196-12. Violations and penalties.**

- A. Any person found to be violating any provision of this article 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 such notice, permanently cease all violations.
- B. Any person who shall continue any violation beyond the time limit provided for in Subsection A of this section shall be guilty of a misdemeanor and, on conviction thereof, shall be subject to a penalty as prescribed in § 1-4 of this Code. Each day in which any such violation occurs shall be deemed as a separate offense.<sup>11</sup>

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8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

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

## ARTICLE II

### Sewer Service Charge System

[Adopted 6-4-1992 by Ord. No. 405 (Ch. IV, Part 3A of the 1989 City Code)]

#### § 196-13. Definitions.

Unless the context specifically indicates otherwise, the meaning of the terms used in this article shall be as hereafter designated. "Shall" is mandatory; "may" is permissive.

ACT — The Federal Water Pollution Control Act, also referred to as the "Clean Water Act," as amended, 33 U.S.C. § 1251 et seq.<sup>12</sup>

ADMINISTRATION — Those fixed costs attributable to administration of the wastewater treatment works.

BIOCHEMICAL OXYGEN DEMAND or BOD<sub>5</sub> — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C. in terms of milligrams per liter (mg/l).

CITY — The area within the corporate boundaries of the City of Bethel as presently established or as amended by ordinance or other legal action at a future time.<sup>13</sup>

COMMERCIAL USER — Any place of business which discharges sanitary waste as distinct from industrial wastewater.

COMMERCIAL WASTEWATER — Domestic wastewater emanating from a place of business as distinct from industrial wastewater.

DEBT SERVICE CHARGE — A charge levied on users of wastewater treatment facilities for the cost of repaying money bonded to construct said facilities.

EQUIVALENT RESIDENTIAL UNIT (ERU) — A unit of wastewater volume of 220 gallons per day at a strength not greater than 275 mg/l of BOD<sub>5</sub> and 300 mg/l of total suspended solids.

EXTRA-STRENGTH WASTE — Wastewater having a BOD and/or TSS greater than normal domestic strength wastewater as defined in this section and not otherwise classified as an incompatible waste.<sup>14</sup>

GOVERNMENTAL USER — Users which are units, agencies, or instrumentalities of federal, state, or local government discharging normal domestic strength wastewater.

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9. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

10. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**INCOMPATIBLE WASTE** — Waste that either singly or by interaction with other wastes interferes with any waste treatment process, constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in the receiving waters of the wastewater treatment works.

**INDUSTRIAL USERS or INDUSTRIES** —

A. 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.

(1) These are identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under one of the following divisions:

(a) Division A. Agriculture, Forestry and Fishing.

(b) Division B. Mining.

(c) Division D. Manufacturing.

(d) Division E. Transportation, Communications, Electric, Gas, and Sanitary Sewers.

(e) Division I. Services.

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

(a) BOD<sub>5</sub>: less than 275 mg/l.

(b) Suspended solids: less than 300 mg/l.

B. 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.

**INDUSTRIAL WASTE** — The liquid processing wastes from an industrial manufacturing process, trade, or business, including but not limited to all Standard Industrial Classification Manual Division A, B, D, E and I manufacturers, as distinct from domestic wastewater.

**INSTITUTIONAL USER** — Users other than commercial, governmental, industrial or residential users, discharging primarily normal domestic strength wastewater (e.g., nonprofit organizations).

**NORMAL DOMESTIC STRENGTH WASTEWATER** — Wastewater that is primarily produced by residential users, with BOD<sub>5</sub> concentrations not greater than 275 mg/l and suspended solids concentrations not greater than 300 mg/l.

OPERATION AND MAINTENANCE — Activities required to provide for the dependable and economical functioning of the treatment works, throughout the useful life, and at the level of performance for which the treatment works were constructed. "Operation and maintenance" includes replacement.

OPERATION AND MAINTENANCE COSTS — Expenditures for operation and maintenance, including replacement.

PUBLIC WASTEWATER COLLECTION SYSTEM — A system of sanitary sewers owned, maintained, operated and controlled by the City.

REPLACEMENT — Obtaining and installing of equipment, accessories, or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such facilities were designed and constructed.

REPLACEMENT COSTS — Expenditures for replacement.

RESIDENTIAL USER — A user of the treatment facilities whose premises or building is used primarily as a residence for one or more persons, including dwelling units such as detached and semidetached housing, apartments, and mobile homes, and which discharges primarily normal domestic strength sanitary wastes.

SANITARY SEWER — A sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of groundwater, stormwater, and surface water which are not admitted intentionally.

SEWER SERVICE CHARGE — The total of the charges for operation, maintenance, replacement, debt service, and other sewer-related charges that are billed periodically to users of the City's wastewater treatment facilities.

SEWER SERVICE FUND — A fund into which income from sewer service charges is deposited along with other income, including taxes intended to retire debt incurred through capital expenditure for wastewater treatment. Expenditure of the sewer service fund will be for operation, maintenance and replacement costs and to retire debt incurred through capital expenditure for wastewater treatment.

SLUG — Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average twenty-four-hour concentration of flows during normal operation and shall adversely affect the collection and/or performance of the wastewater treatment works.

STANDARD INDUSTRIAL CLASSIFICATION MANUAL — The manual published by the Office of Management and Budget, 1972, as amended.<sup>15</sup>

SUSPENDED SOLIDS (SS) or TOTAL SUSPENDED SOLIDS (TSS) — The total suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids and is removable by laboratory filtering as prescribed in Standard Methods for

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12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

the Examination of Water and Wastewater, latest edition, and referred to as "nonfilterable residue."

**TOXIC POLLUTANT** — The concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse effects as defined in standards issued pursuant to Section 307(a) of the Act.

**USER CHARGE** — A charge levied on users of a treatment works for the user's proportionate share of the cost of operation and maintenance, including replacement.

**USERS** — Those residential, commercial, institutional, industrial and governmental establishments which are connected to the public sewer collection system.

**WASTEWATER** — The spent water of a community, also referred to as "sewage." From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with any groundwater, surface water and stormwater that may be present.

**WASTEWATER TREATMENT WORKS or TREATMENT WORKS** — An arrangement of any devices, facilities, structures, equipment, or processes owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water, including interceptor sewers, outfall sewers, collection sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply, such as standby treatment units and clear well facilities; and any works, including land, which are an integral part of the treatment process or are used for ultimate disposal of residues resulting from such treatment.

**§ 196-14. Establishment of sewer service charge system.**

- A. The City of Bethel 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.
- B. Each user shall pay its proportionate share of operation, maintenance and replacement costs of the treatment works, based on the user's proportionate contribution to the total wastewater loading from all users.
- C. Each user shall pay debt service charges to retire local capital costs as determined by the City Council.
- D. 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 article. The sewer service charge shall be adopted upon enactment of this article, published in the City's official newspaper, and shall be effective upon

publication. Subsequent changes in sewer service rates and charges shall be adopted by City Council resolution and shall be published in the official newspaper.<sup>16</sup>

- E. 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 facility and to retire the debt for capital expenditure.
- F. Sewer service charges and the sewer service fund will be administrated in accordance with the provisions of § 196-17 of this article.

**§ 196-15. Determination of sewer service charge.**

- A. User classes.
  - (1) Users of the City of Bethel wastewater treatment works shall be identified as belonging to one of the following user classes:
    - (a) Residential.
    - (b) Commercial.
    - (c) Industrial.
    - (d) Institutional.
    - (e) Governmental.
  - (2) The allocation of users to these categories for the purpose of assessing user charges and debt service charges shall be the responsibility of the City Clerk. Allocation of user classes shall be based on the substantive intent of the definitions of these classes contained herein.
- B. The rates assessed residential users and those users of other classes who discharge normal domestic strength wastewater shall be determined on the basis of wastewater volume only. Those industrial users who discharge normal domestic strength wastewater only can be classified as commercial users for the purpose of rate determination.
- C. For those users who discharge normal domestic strength wastewater as described in Subsection B above, wastewater volume will be calculated on the basis of equivalent residential units (ERUs). Equivalent residential units, at a volume of 220 gallons per day, will be assigned to connections according to Tables I and II, Appendix A.<sup>17</sup> Determination of the number of ERUs assigned to a particular connection in accordance with Tables I and II shall be the responsibility of the City Council or its authorized representative.

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13. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

14. Editor's Note: Appendix A is on file at the office of the City Clerk.



D. The sewer service charge shall consist of a user charge for operation, maintenance and replacement and a charge for debt service. These charges will be determined as follows:

(1) User charge. User charge rate per equivalent residential unit:

$$\frac{Uc}{ERU} = \frac{Comr}{Total\ ERUs}$$

Where:

- Uc = Annual user charge.
- Comr = Total annual OM&R costs.
- ERU = Equivalent residential unit.
- Total ERUs = The total number of ERUs connected to the treatment facility.

(2) Debt service charge.

(a) The major parts of the debt will be recovered through property assessments and through a special tax levy. The portion to be recovered through the user charge will be computed as follows:

$$TD = UCH + PAD + TLD$$

Where:

- TD = Total debt.
- UCH = Portion of debt to be recovered through the user charge.
- PAD = Portion of debt to be recovered through property assessments.
- TLD = Portion of debt to be recovered through special tax levy.

$$\frac{Udc}{\# ERU} = \frac{UCH}{Total\ ERUs}$$

Where:

- Udc = User debt service charge.
- #ERU = Number of ERUs assigned to that connection.
- Total ERUs = Total number of ERUs connected to the treatment facility.

- (b) The portion to be recovered through property assessments will be computed as follows:  $\frac{X}{Y}$

$$DC = (AF) (PAD/TAF)$$

Where:

- DC = Debt charged to property.
- AF = Assessable feet to property.
- PAD = Portion of debt to be recovered through property assessment.
- TAF = Total assessable feet of property in the City.

- (c) The portion to be recovered through a special tax levy will be computed as follows:

$$TLD = \frac{X}{Y}$$

Where:

- TLD = Portion of debt to be recovered through special tax levy.
- $\frac{X}{Y}$  = The computations by the county or other authorized governmental body to generate the required revenue, subjected to all applicable local and state ordinances.

- E. Users may appeal the number of ERUs assigned to a particular connection by installing and maintaining, at their own expense, sewage meters of a type approved by the City. Such meters shall be equipped with remote registering recorders located at an accessible site on the owner's property.
- F. The City may, at its discretion, require nonresidential users to install water meters for the purpose of determining wastewater volume. The City may require residential connections to install water meters as part of a comprehensive program to install meters throughout the City's water system. When so required, such meters shall be of a type approved by the City. They shall be equipped with remote registering recorders and located at an accessible site on the owner's property.

G. Determination of a user charge to a connection.

$$\text{Annual user charge to a connection} = \frac{\text{UC}}{\text{ERU}} \times \text{\#ERUs}$$

Where:

- UC = User charge.
- \#ERUs = Number of ERUs assigned that connection.
- ERU = Equivalent residential unit.

H. Recovery of local construction costs through debt service charge. Local construction costs for the wastewater treatment facility will be recovered from users according to their contribution of wastewater flows and loadings into the treatment facility as follows:

Debt service charge per equivalent residential unit:

$$\frac{\text{Dc}}{\text{ERU}} = \frac{\text{Cd}}{\text{Total ERUs}}$$

Where:

- Dc = Annual debt service charge.
- Cd = Annual debt service cost.
- ERU = Equivalent residential unit.
- Total ERUs = The total number of ERUs connected to the treatment facility.

I. Sewer service charge. The sewer service charge will consist of the total of the user charge and the debt service charge:

$$\text{SSC} = \text{Uc} + \text{Dc}$$

Where:

- SSC = Annual sewer service charge.
- Uc = Annual user charge.
- Dc = Annual debt service charge.

Determination of sewer service charge to a connection

$$\text{Annual sewer service charge to a connection} = \frac{\text{SSC}}{\text{ERU}} \times \text{\#ERUs}$$

Where:

- SSC = Sewer service charge.
- \#ERUs = Number of ERUs assigned that connection.
- ERU = Equivalent residential unit.

J. Additional charges.

- (1) The sewer service charge established in this article 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:
  - (a) 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.
  - (b) 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 Article I, Sewer Use, of this chapter.
  - (c) The City's NPDES permit and sewer use regulations are not violated.
- (2) 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 users discharging wastes of greater than normal domestic strength or wastes of unusual character.

**§ 196-16. Sewer service fund.**

- A. The City of Bethel 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. The City also establishes the following account as an income and expenditure account within the sewer service fund:

- (1) Operation and maintenance account.
  - (2) Equipment replacement account.
  - (3) Debt retirement account.
- B. 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 in accordance with state and federal regulations and the provisions of this article.
- C. Revenue generated by the sewer service charge system sufficient to ensure adequate replacement throughout the design or useful life, whichever 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.
- D. 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.

#### **§ 196-17. Administration.**

The sewer service charge system and sewer service fund shall be administrated according to the following provisions:

- A. 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 January.
- (1) 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 § 196-14B of this article and Section 204(b)(2)(A) of the Federal Water Pollution Control Act, as amended.
  - (2) 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 ensure the proportionality of the user charges and to ensure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed and to retire the construction debt.
- B. In accordance with federal and state requirements, 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.

- C. In accordance with federal and state requirements, the City Clerk shall be responsible for maintaining all records necessary to document compliance with the sewer service charge system adopted.
- D. Bills for sewer service charges shall be rendered on a quarterly basis succeeding the period for which the service was rendered and shall be due 30 days from the date of rendering. Any bill not paid in full 30 days after the due date will be considered delinquent. At that time the City shall notify the delinquent owner/occupant in writing regarding the delinquent bill and subsequent penalty. The penalty shall be computed as 5% of the original bill and shall be increased the same 5% for every quarter the bill is outstanding.
- E. 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 therefor to the City.
- F. Any additional costs caused by discharges to the treatment works of toxic or other incompatible wastes, including the cost of restoring wastewater treatment services, cleanup 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.

**§ 196-18. Delinquent charges.**

- A. Each and every sewer service charge levied by and pursuant to this article is hereby made a lien upon the lot or premises served, and all such charges which are on January 1 of the year past due and delinquent shall be certified to the County Auditor as taxes or assessments on the real estate. Nothing in this article 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.
- B. 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 fees incurred by the City in filing the civil action. Such attorney fees shall be fixed by order of the court.
- C. 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 12% per annum.

**§ 196-19. Charge to take precedence.**

The sewer service charge system shall take precedence over any terms or conditions of agreements or contracts which are inconsistent with the requirements of Section 204(b)(1)(A) of the Act and federal regulation 40 CFR 35.2140 of the Environmental Protection Agency's grant regulations.

# Chapter 207

## SNOWMOBILES

- § 207-1. Adoption of statutory provisions.      § 207-3. Violations and penalties.  
§ 207-2. Snowmobile operation.

**[HISTORY: Adopted by the City Council of the City of Bethel 3-2-1989 by Ord. No. 89-508 as Ch. 7, Part 2, of the 1989 City Code. Amendments noted where applicable.]**

### GENERAL REFERENCES

Vehicles and traffic — See Ch. 240.

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#### § 207-1. Adoption of statutory provisions. <sup>1</sup>

The definitions and provisions of Minnesota Statutes §§ 84.81 through 84.915 are adopted and made a part of this chapter as if set out in full, as they may apply to the City's jurisdiction.

#### § 207-2. Snowmobile operation.

- A. Unlawful operation. It is unlawful for any person to operate a snowmobile:
- (1) On private property of another without the owner's permission.
  - (2) On publicly owned land, including school property, City park property, playgrounds, and recreational areas under the City's jurisdiction, except as permitted by this chapter.
  - (3) On any City street or highway in violation of any provision of Chapter 240, Vehicles and Traffic.
- B. No person shall operate or halt any snowmobile carelessly or heedlessly in disregard of the rights or safety of others or in a manner so as to endanger or be likely to endanger any person or property.
- C. No person shall operate a snowmobile in a manner which creates loud, unnecessary or unusual noise which disturbs, annoys, or interferes with the peace and quiet of other persons.
- D. Snowmobile operation shall be allowed for special events, such as snowmobile runs.<sup>2</sup>

#### § 207-3. Violations and penalties.

Violation of this chapter shall be a misdemeanor.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

2. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

# Chapter 218

## STREETS AND SIDEWALKS

### ARTICLE I Excavations

### ARTICLE II Assessable Current Services

- |  |   |
|--|---|
| § 218-1. Permit required; fee.                   | § 218-6. Definitions.   |
| § 218-2. Application and regulations.            | § 218-7. Sidewalk to be kept safe;<br>removal of snow, ice, dirt or<br>rubbish. |
| § 218-3. Bond.                                   | § 218-8. Public health and safety<br>hazards.                                   |
| § 218-4. General regulations for<br>excavations. | § 218-9. Liability for costs of current<br>service.                             |
| § 218-5. Refilling excavations.                  | § 218-10. Assessment.   |

[HISTORY: Adopted by the City Council of the City of Bethel as indicated in article histories. Amendments noted where applicable.]

#### GENERAL REFERENCES

Subdivision regulations — See Ch. 225.

Vehicles and traffic — See Ch. 240.

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### ARTICLE I Excavations

[Adopted 3-2-1989 by Ord. No. 89-508 as Ch. III, Part 1, of the 1989 City Code]

#### § 218-1. Permit required; fee.

- A. Permit required. No person, except an authorized City employee, or a contractor performing work under a contract with the City, shall make any excavation in a street, alley, sidewalk, or public ground without first having secured a permit therefor from the City Clerk.
- B. Permit fee. The fee for an excavation permit shall be set annually by City Council resolution. The fee for such permit shall be paid for each location covered by the permit.<sup>1</sup>

#### § 218-2. Application and regulations.

The Clerk shall prepare the necessary application forms and permits required under § 218-1. The Clerk shall also prepare such rules and regulations with respect to excavations as the

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).



Clerk finds necessary to protect the public from injury, prevent damage to public or private property, and minimize interference with the public use of streets, alleys, sidewalks, and public grounds. Any person making an excavation covered by this article shall comply with such rules and regulations.

**§ 218-3. Bond.**

- A. Any permittee except a public utility corporation or a bonded plumber shall file with the City Clerk a corporate surety bond in the amount of \$10,000 conditioned that the permittee will:<sup>2</sup>
- (1) Perform work in connection with the excavation in accordance with applicable ordinances and regulations;
  - (2) Indemnify the City and hold it harmless from all damage caused in the execution of such work; and
  - (3) Pay all costs and damages suffered by the City by reason of the failure of the permittee to observe the terms of applicable ordinances and regulations or because of negligence in the execution of the work.
- B. The bond shall be approved as to form and legality by the City Attorney.
- C. Any permittee except a public utility corporation shall furnish proof that the permittee has in existence an insurance policy protecting the contractor from liability to the public, including the City, to an amount equal to the maximum claim the City might be required to pay under Minnesota Statutes Chapter 466.<sup>3</sup>

**§ 218-4. General regulations for excavations.**

Street openings shall be made in a manner that will cause the least inconvenience to the public. Provision shall be made for the passage of water along the gutters, and at least 1/2 of the traveled portion of the street shall be left open and in good condition for the safe passage of vehicles. Open excavations shall be guarded with substantial barriers and marked with red flags and at night with red lights or flashing devices. Pipes or mains exposed to freezing temperatures shall be protected so as to prevent freezing. Any person responsible for exposing a City main or pipe so that it might be damaged by freezing shall be liable to the City for all damages caused by such freezing and all damages sustained by others by such freezing for which the City may be liable.

**§ 218-5. Refilling excavations.** <sup>4</sup>

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
  3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).
  4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

Every street excavation shall be refilled as soon as possible after the work is completed, and paving, sidewalks, and appurtenances shall be replaced in at least as good condition as before the excavation to the satisfaction of the Building Official. All dirt and debris shall be removed immediately. Any person who fails to comply with these requirements within 24 hours after notice from the City shall be liable to the City for the full cost incurred by the City in remedying the defect and restoring the street, sidewalk, alley, or public ground to its proper condition. The cost shall be an obligation of the surety on the bond of the permittee.

## ARTICLE II

### Assessable Current Services

[Adopted 3-2-1989 by Ord. No. 89-508 as Ch. 3, Part 2, of the 1989 City Code]

#### § 218-6. Definitions.

As used in this article, the following terms shall have the meanings indicated:

CURRENT SERVICE — One or more of the following:<sup>5</sup>

- A. Snow, ice, or rubbish removal from sidewalks;
- B. Weed elimination from street grass plots adjacent to sidewalks or from private property;
- C. Removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in Minnesota Statutes §§ 463.15 to 463.26;
- D. Installation or repair of water service lines;
- E. Street sprinkling, street flushing, or other dust treatment of streets;
- F. Trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and
- G. The operation of a streetlighting system.

#### § 218-7. Sidewalk to be kept safe; removal of snow, ice, dirt or rubbish. <sup>6</sup>

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 24 hours after its deposit thereon.

#### § 218-8. Public health and safety hazards.

When the City removes or eliminates public health or safety hazards from private property under City ordinance, the administrative officer responsible for doing the work shall keep a

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5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

record of the cost of such removal or elimination against each parcel of property affected and annually deliver such information to the City Clerk. This section does not apply to hazardous buildings under the Hazardous Building Law, Minnesota Statutes §§ 463.15 to 463.26.

**§ 218-9. Liability for costs of current service.**

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.

**§ 218-10. Assessment.**

On or before September 1 of each year, the Clerk shall list the total unpaid charges of each type of current service against each separate lot or parcel to which they are attributable under this article. The Council may then spread the charges against property benefited as a special assessment under Minnesota Statutes § 429.101 and other pertinent statutes for certification to the County Auditor and collection along with the current taxes the following year or in annual installments, not exceeding 10, as the Council may determine in each case.

# Chapter 225

## SUBDIVISION REGULATIONS

### ARTICLE I General Provisions

- § 225-1. Title.
- § 225-2. Purpose.
- § 225-3. Interpretation.
- § 225-4. Definitions.
- § 225-5. Land suitability.
- § 225-6. Registered land surveys.
  
- § 225-7. Conveyance by metes and bounds.
- § 225-8. Access.
- § 225-9. Variances.

### ARTICLE II Design Standards

- § 225-10. General requirements.
- § 225-11. Street width and design.
- § 225-12. Street surfacing.
- § 225-13. Street signs.
- § 225-14. Streetlighting.
- § 225-15. Public utilities.
- § 225-16. Easements.
- § 225-17. Blocks.
- § 225-18. Lots.

### ARTICLE III Public Sites and Open Spaces

- § 225-19. Dedication required.
- § 225-20. Dedication formula.
- § 225-21. Credit for private open space.

- § 225-22. Conformance with Comprehensive Plan.
- § 225-23. Cash in lieu of dedication.
- § 225-24. Cash payments in special fund.
- § 225-25. Time of dedication or cash payment.

### ARTICLE IV Platting Procedure

- § 225-26. Compliance required.
- § 225-27. Sketch plan.
- § 225-28. Preliminary plat.
- § 225-29. Final plat.

### ARTICLE V Required Improvements in Platted Subdivisions

- § 225-30. Construction and installation.
- § 225-31. Construction standards.
- § 225-32. Inspection.
- § 225-33. Certificate of completion.
- § 225-34. Acceptance by City.
- § 225-35. Maintenance.
- § 225-36. Basic improvements.

### ARTICLE VI Administration and Enforcement

- § 225-37. Building permits.
- § 225-38. Enforcement.
- § 225-39. Violations and penalties.
- § 225-40. Amendments.

**[HISTORY: Adopted by the City Council of the City of Bethel 9-26-1989 (Ch. IX, Part 3, of the 1989 City Code). Amendments noted where applicable.]**

**GENERAL REFERENCES**

Planning Commission — See Ch. 41.  
Building construction — See Ch. 80.

Sewers — See Ch. 196.  
Zoning — See Ch. 255.

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**ARTICLE I  
General Provisions**

**§ 225-1. Title.**

This chapter of the Bethel City Code shall be known as the "Bethel Subdivision Regulations."

**§ 225-2. Purpose.**

This chapter is enacted to comply with the provisions of the Comprehensive Plan which was approved by the City in 1983 and for the following purposes:

- A. To encourage well-planned, efficient and attractive subdivisions by establishing reasonable standards for design and construction and to prevent the use of land which is not feasible for subdivisions.
- B. To provide for the health and safety of residents by facilitating adequate provisions for transportation, water, sewerage, storm drainage, schools, parks, playgrounds and other public services and facilities.
- C. To place the cost of improvements against those benefitting from their construction.
- D. To make all subdivision of property conform as nearly as possible to the Bethel Comprehensive Plan.
- E. To secure equitable handling of all subdivision plans by providing uniform procedures and standards.
- F. To assure that the general design of subdivisions complies with Chapter 255, Zoning, of the Bethel City Code and with the State Building Code and other pertinent regulations of the City, Anoka County, and the State of Minnesota.
- G. To preserve agricultural lands and to promote the availability of housing affordable to persons and families of all income levels.

**§ 225-3. Interpretation.**

If ambiguity arises concerning the content or application of these Subdivision Regulations, it shall be the duty of the Planning Commission to ascertain all pertinent facts and by formal resolution set forth its findings and interpretation, and such resolution shall be forwarded to

the City Council. The City Council shall consider the findings and interpretation of the Planning Commission and render a final decision and interpretation on the matter, and thereafter such interpretation of the City Council shall govern.

**§ 225-4. Definitions.**

For the purposes of this chapter, all definitions found in Chapter 255, Zoning, § 255-5, specifically set forth, and the following words and phrases shall have the meanings respectively ascribed:

**ADMINISTRATOR** — The City Clerk or such other person appointed by the City Council.

**ALLEY** — A public passage or way affording a secondary means of access to abutting property and not intended for general traffic circulation.

**BLOCK** — An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a lake or stream.

**BOULEVARD** — The portion of the street right-of-way between the curblin and the property line.

**BUILDING SITE** — A single parcel of land occupied or intended to be occupied by a building or structure.

**CITY CODE** — The Bethel City Code.

**CITY COUNCIL** — The governing or legislative authority of the City of Bethel, Minnesota.

**CITY ENGINEER** — A professional engineer as designated by the City Council.

**COMMISSION** — The Planning Commission of the City of Bethel as established in Chapter 41 of the City Code.

**COMPREHENSIVE PLAN** — An official document, or parts thereof, of the City of Bethel containing policies concerning present conditions and future growth of Bethel as adopted and amended by the City Council.

**DEFLECTION ANGLE** — The angle between a line and the prolongation of the preceding line.

**DESIGN STANDARDS** — The specifications to landowners or subdividers for the preparation of plats, both preliminary and final, indicating, among other things, the optimum, minimum or maximum dimensions of such items as rights-of-way, blocks, easements and lots.

**DRAINAGE CHANNEL** — The open man-made portion of a drainage system.

**DRAINAGE SYSTEM** — Either an open or enclosed system and all laterals or parts thereof. It includes the improvement of any natural waterway included in or utilized in the construction of any drainage system.

**EASEMENT** — A grant by a property owner for the use of land for the purpose of constructing and maintaining any public utilities, storm drainageways or ponding areas.

**FINAL PLAT** — A drawing or map upon which the subdivider's plan for a subdivision is presented to the Council for approval and which if approved will be submitted to and filed with the Anoka County Recorder or Registrar of Deeds. Such drawing or map must comply with all requirements of the City Code, including this chapter, and with any applicable state laws or county ordinances and regulations.

**FLOOD** — A temporary rise in stream flow or stage that results in inundation of the areas adjacent to the channel.

- A. **FLOOD FREQUENCY** — The average frequency, statistically determined, for which it is expected that a specific flood level or discharge may be equaled or exceeded.
- B. **FLOOD-FRINGE** — That portion of the floodplain outside the floodway.
- C. **FLOODPLAIN** — The area adjoining a watercourse which has been or hereafter may be covered by the regional flood.
- D. **FLOODPROOFING** — A combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damage.
- E. **FLOODWAY** — The channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the regional flood.
- F. **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 the magnitude of the one-hundred-year recurrence interval.
- G. **REGULATORY FLOOD PROTECTION ELEVATION** — A point not less than one foot above the water surface profile associated with the regional flood plus any increases in flood heights attributable to encroachments on the floodplain. It is the elevation to which uses regulated by this Code are required to be elevated or floodproofed.

**GRADE** — The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and the line five feet from the building.

**HOMEOWNERS' ASSOCIATION** — An incorporated nonprofit organization operating under recorded land agreements through which:

- A. Each lot owner and/or homeowner in a planned unit or other described land area is automatically a member;
- B. Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property; and
- C. The charge if unpaid becomes a lien against the property.

LOT — A parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area and to provide such yards and other open spaces as are required in Chapter 255, Zoning, of the City Code and this chapter.

- A. LOT AREA — The area of a lot in a horizontal plane bounded by the lot lines, but not including any area occupied by the waters of a duly recorded lake or river, or area which has been dedicated as a public thoroughfare or road.
- B. LOT, BUTT — Any lots, or lot, at the end of a block, located between two corner lots.
- C. LOT, CORNER — A lot bordered on at least two sides by streets.
- D. LOT DEPTH — The average horizontal distance between the front and rear lot lines.
- E. LOT, DOUBLE FRONTAGE — A lot which has a front line abutting on one street and a back or rear line abutting on another street.
- F. LOT OF RECORD — A lot which is a part of an approved plat or metes and bounds subdivision, the map of which has been recorded in the office of the Anoka County Recorder.
- G. LOT, REVERSE FRONTAGE — A lot extending between and having frontage on a major traffic street and a minor street, with vehicular access solely from the latter.
- H. LOT WIDTH — The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth.

METES AND BOUNDS DESCRIPTION — A description of real property shown on a map which is not described by reference to a lot or block of a plat but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property, or a description of real property which delineates a fractional portion of a section, lot or area by described lines or portions thereof.

NATURAL WATERWAY — A natural passageway in the surface of the earth so situated and having such a topographical nature that surface water flows through it from other areas before reaching a final ponding area.

OUTLOT — A parcel of land included in a plat that is declared unbuildable as its area is less than the minimum required for lots, unless combined through platting with additional land; or a parcel that is greater than the minimum lot area but intended for future development as with a subsequent plat; or a parcel that is designated for public or private open space, right-of-way, utilities or similar purpose.<sup>1</sup>

OWNER — Includes the plural as well as the singular, and where appropriate shall include a natural person, partnership, firm, association, public or quasi-public corporation, or private corporation, or a combination of any of them.

PARCEL — A lot, or contiguous group of lots, in single ownership or under single control and usually considered a unit for purposes of development.

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1. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).



**PEDESTRIANWAY** — A public or private right-of-way across a block or within a block to provide access, to be used by pedestrians, and which may be used for the installation of utilities where approved by the Planning Commission and City Council.

**PERCENTAGE OF GRADE** — The distance vertically (up or down) from the horizontal in feet and decimals of a foot for each 100 feet of horizontal distance.

**PLANNED UNIT DEVELOPMENT** — A zoning designation which allows a mixing of buildings and uses which cannot be otherwise addressed under this chapter and/or whereby internal site design standard deviations from this chapter may be allowed to improve site design and operation.<sup>2</sup>

**PRELIMINARY PLAT** — The preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission for its consideration.

**PROTECTIVE COVENANTS** — Contracts made between private parties as to the manner in which land may be used, with the view to protecting and preserving the physical, social and economic integrity of any given area.

**PUBLIC IMPROVEMENT** — Any stormwater drainageway, street, sidewalk, pedestrianway, tree, plantings, open space, lot improvement or other facility for which the City may ultimately assume the responsibility for maintenance and operation or which may affect an improvement for which local government responsibility is established.<sup>3</sup>

**RIGHT-OF-WAY** — A strip of land occupied or intended to be occupied by a street, sidewalk, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, pedestrianway or for another specific use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on the final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

**RIGHT-OF-WAY LINE** — A dividing line between a lot, tract or parcel of land and a contiguous street. Also known as "property line."

**SETBACK** — The required distance between structures and a lot line measured perpendicularly in a horizontal plane extending across the complete length of said lot line or lines.

**SKETCH PLAN** — A drawing showing the proposed subdivision of property.

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2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

3. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

**STREET** — A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, or place, or however otherwise designated.

- A. **STREET, COLLECTOR** — Those streets that carry traffic from local streets to the system of arterial and connector streets as designated by the Comprehensive Plan.<sup>4</sup>
- B. **STREET, CUL-DE-SAC** — A local street with only one outlet permanently terminated by a vehicular turnaround.
- C. **STREET GRADE** — The center-line grade of the street which shall be related to the property line grades as shown on standard street cross sections on file in the City Hall.
- D. **STREET, INTERSECTING** — Any street which joins another street at an angle, whether or not it crosses the other.
- E. **STREET, LOCAL** — Those streets which are used primarily for access to abutting properties.
- F. **STREET, ARTERIAL OR CONNECTOR**— Those streets used primarily for heavy traffic and serving as an arterial or connector roadway between various districts of the community, including as designated by the Comprehensive Plan.<sup>5</sup>
- G. **STREET, SERVICE** — Those streets which provide marginal access and which are parallel and adjacent to a thoroughfare and which provide access to abutting properties and protection from through traffic.
- H. **STREET WIDTH** — The shortest distance between lines of lots delineating the right-of-way of a street.

**SUBDIVIDER** — Includes the plural as well as the singular, and where appropriate shall include a natural person, partnership, firm, association, public or quasi-public corporation, developer, owner, or private corporation, or a combination of any of them, that shall make application for a subdivision under this chapter.

**SUBDIVISION** — A described tract of land which is to be or has been divided into two or more lots or parcels, any of which resultant parcels is less than 2 1/2 acres, for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land. The term includes resubdivision and, where it is appropriate to the context, relates either to the process of subdividing or to the land subdivided.<sup>6</sup>

**TANGENT** — A straight line which is perpendicular to the radius of a curve where a tangent meets a curve.

**USGS DATUM** — The United States Geodetic Survey Datum (1929 adjustment).

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4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

6. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

VERTICAL CURVE — The surface curvature connecting lines of different percentage of grade.

**§ 225-5. Land suitability.**

No land shall be subdivided which is held unsuitable for its intended use by the City Council for reason of flooding, inadequate drainage, soil and rock formations with severe limitations for development, erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature harmful to the health, safety or welfare of the future residents of the proposed subdivision or community. However, the City Council may approve the preliminary and final plats if the subdivider improves the land consistent with the standards of this chapter and other applicable ordinances in order to make the area, in the opinion of the City Council, suitable for its intended use. Should the City Council determine that only part of a proposed subdivision can be safely developed, it shall limit development to that part and require that the specifications for development be consistent with its determination.

**§ 225-6. Registered land surveys.**

All registered land surveys in the City shall be presented to the Planning Commission in the form of a preliminary plat in accordance with the standards set forth in this chapter for preliminary plats, and the Planning Commission shall first approve the arrangement, sizes and relationship of proposed tracts in such registered land surveys, and tracts to be used as easements or roads should be so designated. Unless such Planning Commission approval and City Council approval in accordance with the standards set forth in this chapter have been obtained, building permits will be withheld for buildings on tracts which have been so subdivided by registered land surveys, and the City may refuse to take over tracts as streets or roads and refuse to improve, repair or maintain any such tracts.

**§ 225-7. Conveyance by metes and bounds.**

A. Prohibition and exceptions.

- (1) No conveyance of land in which the land conveyed is described by metes and bounds, or by a portion of a platted lot, or by reference to an unapproved land survey made after the date upon which this chapter became effective, or to an unapproved plat made after the effective date of this chapter, shall be made or recorded unless the parcel described in the conveyance:
  - (a) Is a separate parcel of record on November 3, 1989, the effective date of this chapter;
  - (b) Is the subject of a written agreement to convey entered into prior to November 3, 1989, the effective date of this chapter; or
  - (c) Is a separate parcel of record of not less than one acre in area and 75 feet in width and with 75 feet of frontage on a public road, and its conveyance does

not result in the division of the parcel into two or more lots, any one of which is less than one acre in area or 75 feet in width.

- (2) Except as provided for by this section, all subdivisions that create two or more lots or parcels that are 2.5 acres or less in area shall be platted in accordance with Article IV of this chapter.<sup>7</sup>
- B. Lot splits. Any owner that desires to subdivide a parcel of property located in the City under this section, as an exception to this chapter, shall apply to the Administrator for a lot split.
- (1) The owner shall submit an application which includes the name and address of the applicant; the legal description of the parcel to be split; the full legal description of the two new lots; a drawing of the property to be divided, representing the two new lots; and the approximate acreage and road frontage of the new and remaining parcel.
  - (2) The Planning Commission shall review the proposed lot split at its next regularly scheduled meeting, to determine whether it conforms to the exception of this section, and so advise the City Council. If the proposed lot split does not conform to this exception, then the Planning Commission shall make a written report specifying its findings and give a copy of the report to the applicant.
  - (3) Upon receipt of an approval or disapproval of the proposed lot split by the Planning Commission, the City Council shall review the proposal. If the Council approves of the lot split, the City Clerk shall certify the proposed deed which evidences the lot split with a notation that the lot split represented by such deed has been approved by the City and that the Anoka County Recorder is authorized to record the same.
- C. Hardship. In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of the Subdivision Regulations, the City Council may waive such compliance by adoption of a resolution to that effect pursuant to the provisions of this chapter. All requests for waivers shall require a public hearing.
- D. Certification by City Clerk. When a division or subdivision to which the regulations of the City do not apply is presented to the City, the City Clerk shall certify to the applicant within 30 days of receipt of the application by the City that the Subdivision Regulations of the City do not apply to that particular division.

#### **§ 225-8. Access.**

No permit for the erection of any building shall be issued unless such building is to be located upon a parcel of land abutting on a street which has been designated on an approved plat or which has been otherwise reviewed by the Planning Commission and approved by the City Council. This limitation on issuing permits shall not apply to planned residential

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7. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

developments approved by the City Council pursuant to Chapter 255, Zoning, of the City Code.

**§ 225-9. Variances.**

The Planning Commission may recommend a variance from the provisions of this chapter when, in its opinion, undue hardship may result from strict compliance.

- A. General conditions. In granting any variance, the Council shall prescribe only conditions it deems necessary to or desirable for the public interest. In making its findings, as required hereinbelow, the Planning Commission shall take into account the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Planning Commission finds that:
- (1) There are special circumstances or conditions affecting such property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of the applicant's land.
  - (2) The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.
  - (3) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which such property is situated.
- B. Application. Application for any such variance shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for consideration by the Planning Commission, stating fully and clearly all facts relied upon by the applicant, and shall be supplemented with maps, plans or other additional data which may aid the Commission in the analysis of the proposed project.

**ARTICLE II  
Design Standards**

**§ 225-10. General requirements.**

- A. In the subdivision of land in the City of Bethel, the Planning Commission and the City Council will take into consideration the requirements of the community and the best use of the land being subdivided. Particular attention will be given to the arrangement, location and widths of streets, the general drainage situation, lot sizes and arrangement, as well as Comprehensive Plan requirements for the development of the City such as parks, school sites, boulevards and highways. The Planning Commission and Council shall not be limited to these considerations but shall use them as a basic guide only when examining a proposed subdivision.<sup>8</sup>

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8. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- B. The proposed subdivision, as initially submitted by sketch plan and the preliminary plat, must cover all of the subdivider's contiguous land, but the final plat may cover only a portion of the preliminary plat, provided that it is in conformance with an approved preliminary plat and other requirements herein.
- C. Where the parcel is subdivided into larger tracts than for residential building lots, such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
- D. Subdivisions showing unplatted strips or private streets controlling access to public ways shall not receive approval.
- E. All lots within the floodplain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage disposal facilities that comply with the requirements of Chapter 196 of the City Code and with all applicable federal, state and county laws, statutes, ordinances, rules and regulations and have road access both to the subdivision and to the individual building sites, and such access shall be no lower than one foot below the regulatory flood protection elevation.<sup>9</sup>

#### **§ 225-11. Street width and design.**

- A. Right-of-way width.
  - (1) All right-of-way widths shall conform to the following minimum dimensions:
    - (a) Intermediate arterial: 200 feet.
    - (b) Minor arterial outside sewer area: 120 feet.
    - (c) Minor arterial inside sewer area: 100 feet.
    - (d) Collector: 100 feet.
    - (e) Local: 66 feet.
    - (f) Alley: 33 feet.
  - (2) Different widths may be required depending upon anticipated traffic volume, planned function of the street, character of abutting land use, and right-of-way secured on adjoining properties.
- B. Street grades shall not exceed 7% for local and collector streets.
- C. Where horizontal street lines deflect from each other at any point by more than 10°, said street lines shall be connected by a curve with a radius of not less than 100 feet for local streets or of such greater radius in the case of other streets as the Planning Commission may determine after review by the City Engineer.

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9. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- D. Different connecting street gradients shall be connected with vertical curves. Minimum length, in feet, of said vertical curves shall be 20 times the algebraic difference in the percentage of grade of the two adjacent gradients but not less than 100 feet.
- E. Jogs in local and service streets shall have a center-line offset not less than 150 feet. Street jogs in collector streets shall have a center-line offset of not less than 300 feet.
- F. Minor streets shall be so aligned that their use by through traffic will be discouraged.
- G. Cul-de-sac streets, designed to be so permanently, shall not be longer than 500 feet, measured along the center line from the intersection of origin to the end of the right-of-way. Each cul-de-sac shall have a terminus of nearly circular shape with a minimum right-of-way diameter of 100 feet and a minimum outside roadway diameter of 80 feet. The property line at the intersection of the turnaround and the straight portion of the street shall be rounded at a radius of not less than 20 feet. Where a street dead ends at the property line of the tract, the developer shall submit a plan for ingress and egress acceptable to the Planning Commission.
- H. Half streets shall be prohibited, except where essential to the reasonable development of the subdivision or the completion of an existing half street in conformity with other requirements of these regulations and where the Planning Commission finds that it will be practicable to require the dedication of the other half when the adjoining property is subdivided.
- I. Street names or numbers shall be used and shall not duplicate or be confused with names of existing streets, and they shall be subject to approval by the Planning Commission.
- J. The City may require wider alleys in commercial areas where adequate off-street loading space is not available. Alley intersections and sharp changes in alignment shall be avoided, but, where necessary, corners shall be cut off sufficiently to permit safe vehicular movement. Dead-end alleys shall be avoided, but if unavoidable shall be provided with adequate turnaround facilities at the dead end.
- K. Street rights-of-way shall not be planned so as to cause hardship to owners of adjoining property.
- L. The angle formed by the intersection of streets shall not be less than 70°. Ninety-degree intersections are preferred. Intersections of more than four corners are prohibited.
- M. Roadways of street intersections shall be rounded by a radius of not less than 20 feet for urban-type streets and 30 feet for rural-type streets. Roadways of alley-street intersections shall be rounded by a radius of not less than 10 feet.

#### § 225-12. Street surfacing.<sup>10</sup>

- A. All streets to be included in subdivisions shall be constructed of Class V gravel or pavement, or other all-weather surface, the design of which shall be in accordance with the State of Minnesota Department of Transportation current Road Design Manual.

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<sup>10</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- B. The designed thickness of the street gravel or pavement or other permitted surfacing shall be in accordance with the design standards for the applicable road classifications as determined by the Minnesota Department of Transportation for the types of street to be included in any proposed subdivision. These standards can be increased based upon an assessment of the traffic needs of an area and a report from the City Engineer.

**§ 225-13. Street signs.**

Street signs of standard design approved by the City shall be installed at each street intersection.

**§ 225-14. Streetlighting.**

Streetlights shall be installed per City specifications at street intersections and/or where deemed necessary by the City Engineer.

**§ 225-15. Public utilities.**

All utility lines for telephone cable, streetlights, and electrical service shall be placed underground in the street right-of-way or adjacent easements for development within the City.

**§ 225-16. Easements.**

- A. Easements at least 10 feet wide centered on front lines and 20 feet wide centered on rear and side lot lines shall be provided for utilities where necessary. They shall have continuity of alignment from block to block and at deflection points. Easements for pole-line anchors shall be provided.
- B. Easements for streetlighting may be required along lot lines to rights-of-way.
- C. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, a stormwater easement or drainage right-of-way conforming substantially to the lines of such watercourse shall be provided, together with such further width or construction, or both, as will be adequate for the stormwater drainage of the area.

**§ 225-17. Blocks.**

- A. The maximum length of blocks shall be 1,500 feet. Blocks over 900 feet long may require pedestrianways at least 10 feet wide at their approximate centers. The use of additional accessways to schools, parks and other destinations may be required.
- B. Blocks intended for commercial and industrial use must be designed as such, and the block must be of sufficient size to provide for adequate off-street parking, loading and such other facilities as are required to satisfy the requirements of Chapter 255, Zoning, of the City Code.



**§ 225-18. Lots.**

- A. The minimum lot size and dimensions in the subdivision shall be as specified in Chapter 255, Zoning, of the City Code.
- B. All lots which are located in areas not anticipating immediate municipal sewer service shall meet the following physical characteristics:
  - (1) The finished lot must contain:
    - (a) At least 10 acres in area.
    - (b) Within the lot, there must be an acre of land that meets the following criteria. A minimum of 30,000 square feet with six feet between the final surface elevation of the lot and the highest known groundwater elevation. The balance of the acre is to have a minimum of four feet of separation. The highest water table is to be determined by the presence of mottled soil in soil tests.
    - (c) Soils with physical properties and percolation rates suitable for the construction of an on-site sewage disposal and water supply system conforming to state and City standards and the structural capacity to support normal buildings, streets, driveways and usable yards.
  - (2) The finished lot shall be of sufficient size to contain two on-site sewer systems (although only one system will be required to be built when the lot is improved; this provision is intended to permit each lot to be of sufficient area to support a second system if the first system should fail). The area set aside for the second system shall be of a size and so located that a system could be constructed which would meet all standards for sewage disposal found in the applicable State Health Department and Pollution Control Agency standards and other applicable codes and Chapter 196 of the City Code.
  - (3) The entire acre mentioned above is to have an average slope of 12% or less, subject to review of the City Engineer.
- C. Lots intended for commercial, industrial or any other than residential use shall be designed as such, and the lot shall be of adequate size to allow off-street parking, loading areas and such other facilities as are required by Chapter 255, Zoning, of the City Code.
- D. Corner lots in residential zones shall have at least 10 feet extra width and sufficient depth for establishing building setback on both streets.
- E. All lots must have at least the minimum required frontage on a public dedicated street.
- F. Side lot lines shall be substantially at right angles or radial to the street line.
- G. Double frontage or lots with frontage on two parallel streets shall not be permitted except:
  - (1) Where lots back on an arterial street, in which case vehicular and pedestrian access between the lots and arterial street shall be prohibited. Such double frontage lots shall have an additional back depth of at least 20 feet in order to allow space for screen planting or fencing along the back lot line.

- (2) Where topographic or other conditions render subdividing otherwise unreasonable, such double frontage lots shall have an additional depth of at least 20 feet in order to allow space for screen planting or fencing along the back lot line.
  - (3) Lots abutting on a watercourse, drainageway, channel or stream shall have an additional depth or width, as required, to assure house sites that are not subject to flooding.
- H. All lots must have a minimum of 50 feet in width at the rear lot line.
  - I. Lots abutting a lake shall have additional depth or width as required by laws and regulations of the State Department of Natural Resources or Anoka County or other regulatory agencies of the state or county.
  - J. Butt lots shall be platted at least five feet wider than the average width of interior lots in the block. Use of butt lots shall be avoided whenever possible.
  - K. In the subdividing of land, regard shall be shown for all natural features, including tree growth and watercourses.
  - L. Lot remnants which are below minimum lot area or dimensions must be added to adjacent or surrounding lots rather than be allowed to remain as unusable outlots or parcels, unless the subdivider can show acceptable plans for the future use of such remnants.
  - M. No plat shall extend over a political subdivision boundary.

### ARTICLE III Public Sites and Open Spaces

#### § 225-19. Dedication required.

- A. In every plat, replat, or subdivision of land allowing development for residential, commercial, industrial or other uses or combination thereof, or where a waiver of platting is granted (but excluding simple lot line adjustments which do not create additional lots), or when required by Subsection C below, a reasonable portion of such land shall be set aside and dedicated by the owner or owners to the general public as open space for parks, playgrounds, trails, public open space, or stormwater holding areas or ponds.
- B. It is hereby found and declared that, as a general rule, it is reasonable to require dedication of an amount of land equal in value to that percentage of the undeveloped land set forth in § 225-20 below. Said land shall be suitable for public use as parks and playgrounds or for one of the aforescribed purposes, and the City shall not be required to accept lands which will not be usable for parks and playgrounds or which would require extensive expenditures on the part of the public to make them usable. This dedication shall be in addition to the property dedicated for streets, alleys, or other public ways or easements.
- C. A developer of a mobile home park, multiple-family development, or institutional, commercial or industrial development, for which no subdivision of property is required,

shall comply with the above requirement of dedication of land for park and recreational purposes or the payment of fees in lieu thereof prior to receiving the City approval of the plot plan for such development; however, where formerly residential property is redeveloped at higher density, the required dedication shall be based only on the increase in number of housing units created by the development.

**§ 225-20. Dedication formula.**

The amount of land required to be dedicated by a developer shall be based upon the gross area of the subdivision or development which could be developed for residential, commercial, or industrial purposes and shall be determined as follows:

A. Residential development. **[Amended 3-7-2002 by Ord. No. 02-04]**

<b>Dwelling Units</b>	<b>Land to be Dedicated</b>
0 to 1	None
2 to 10	5%
More than 10	10%

B. Industrial development. The park dedication requirement for an industrial subdivision or development shall be 5% of the gross area included in the subdivision or development.

C. Commercial development. The park dedication requirement for a commercial subdivision or development shall be 3% of the gross area included in the subdivision or development.

**§ 225-21. Credit for private open space.**

Where a private open space for park or recreation purposes is provided in a proposed subdivision and such space is to be privately owned and maintained by the future residents of the subdivision, a credit of up to 25% of the requirements of § 225-20 above may be given, provided that the following conditions are met:

- A. Such land area is not occupied by nonrecreational buildings and is available for the use of all residents of the proposed subdivision.
- B. Required setbacks shall not be included in the computation of such private open space.
- C. The use of the private open space is restricted for park and recreational purposes by recorded covenants which run with the land in favor of the future owners of the property within the tract and which cannot be defeated or eliminated without the consent of the City Council.
- D. The proposed private open space is of a size, shape, location, topography, and usability for park and recreational purposes or contains unique natural features that are important to be preserved.

- E. The proposed private open space reduces the demand for public recreational facilities to serve the development.

**§ 225-22. Conformance with Comprehensive Plan.**

Land dedicated under this provision shall reasonably conform to the City's Comprehensive Plan. The Planning Commission shall review proposed dedication of land or proposed payment of cash in lieu of land and shall recommend to the City Council appropriate action. If the Comprehensive Plan of the parcel of land to be divided shows public property in excess of that required in § 225-20A above, the City Planning Commission and City Council shall, before they approve or disapprove of the plat, consider the Comprehensive Plan and determine whether to take the necessary steps to acquire, by purchase or condemnation, all or part of the public property as shown on the Comprehensive Plan.

**§ 225-23. Cash in lieu of dedication.**

The City shall have the option to require cash contributions in lieu of accepting dedication of land, or the City may require a combination of land dedication and cash payment.

**§ 225-24. Cash payments in special fund.**

Contributions of cash payments in lieu of land dedication shall be placed in a special fund which shall be held and used by the City to acquire land for, or to improve, parks, playgrounds, trails, public open space, or stormwater holding areas or ponds.

- A. The City shall require a cash payment in lieu of park dedication whenever the proposed dedication of land for public use is not needed, is not suitable for the intended use, or is too small for practical maintenance or whenever cash payment would be more beneficial to the development of the overall park system than dedication of land within the property to be developed.
- B. Calculation of cash fees in lieu of land dedication.<sup>11</sup>
- (1) If the City elects to accept a cash payment in lieu of land dedication for a residential development, the subdivider shall pay to the City the amount determined in accordance with the fee schedule adopted by ordinance.
  - (2) Industrial subdivision cash payments in lieu of land dedication shall be equal to 5% of the average fair market value of unplatted, undeveloped land zoned for industrial uses within the City but shall not exceed three times the park dedication fee for a single-family residential unit as determined in accordance with the fee schedule adopted by ordinance.
  - (3) Commercial subdivision cash payments in lieu of park dedication shall be equal to 3% percent of the average fair market value of unplatted, undeveloped land zoned for commercial uses within the City, but shall not exceed three times the park

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11. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

dedication fee for a single-family residential unit as determined in accordance with the fee schedule adopted by ordinance.

- (4) The estimate of average fair market value for the purposes of calculating park dedication cash fees in lieu of land dedication shall be determined by the City and shall include value added to the property by utilities, streets and other public improvements serving the land but shall exclude value added by all other improvements to the land.
- C. If the City accepts park dedication in an amount less than that specified in § 225-20 above, the subdivider or owner shall pay in addition a fraction of the park dedication fee otherwise payable, the numerator of which is the difference between the percentage of land dedicated and the percentage of land required to be dedicated and the denominator of which is the percentage of land to be dedicated.
  - D. If the City requires park dedication in excess of the amount required in § 225-20 above, the City shall pay to the subdivider or owner the fair market value of the land in excess of the percentage of land required to be dedicated.
  - E. If any of the procedures for the determination of the park dedication fee as contained in this article are determined by any court to be invalid for any reason whatsoever, the park dedication fee shall then be determined as follows:
    - (1) The Planning Commission shall determine the fair market value of the land at the time of final plat or plot plan approval; and
    - (2) A percentage equal to the percentage of land to be dedicated as contained in § 225-20 above shall be applied to the fair market value and shall be the park dedication fee.

**§ 225-25. Time of dedication or cash payment.**

- A. The requirements of this article shall apply at the time of the final approval of the plat, replat, subdivision, waiver of platting, or plot plan approval and shall apply to any plat, replat, subdivision, waiver of platting, or development within the requirements of this article receiving final approval after the effective date of this chapter.
- B. No final plat shall be approved by the City until all amounts owed under this article for cash payment in lieu of park dedication have been paid to the City.

ARTICLE IV  
**Platting Procedure**

**§ 225-26. Compliance required.**

Before any owner may subdivide any tract of land into two or more lots or parcels, the following procedure shall be complied with.

**§ 225-27. Sketch plan.**

- A. Filing. Prior to the preparation of a preliminary plat, the subdivider or owner shall submit 10 copies of a sketch plan for the proposed development to the Administrator at least 30 calendar days before the next regularly scheduled meeting of the Planning Commission. As used herein, the subdivider or owner shall be referred to as the "developer" or "applicant."
- B. Contents. The sketch plan shall include the following:
- (1) Legal description of property to be subdivided.
    - (2) Names and addresses of the owner and subdivider or developer, if the developer is not the owner.
    - (3) Date, North point, scale and legend.
    - (4) Total approximate acreage of the subdivision and approximate size of each proposed lot within the subdivision.
    - (5) Existing zoning classification for each tract of land in the proposed subdivision and the property abutting the subdivision. If rezoning is requested, the appropriate application for rezoning pursuant to Chapter 255, Zoning, of the City Code shall be submitted with the sketch plan.
    - (6) Location and names of existing or platted streets and other public ways, parks and public open spaces together with section and municipal boundary lines within the proposed subdivision and to a distance of 350 feet beyond.
    - (7) Significant topographical features. For example, hills, valleys, watercourses, lakes, ponds, wetlands, marshes, floodplain, floodway, flood-fringe areas, wooded areas or other significant features. This list is not intended to include all features which should be included. The Planning Commission will determine if there are features which should be added to any plan, on a case-by-case basis.
    - (8) Proposed street pattern.
    - (9) Proposed land use, including approximate density of dwelling units for residential uses.
    - (10) Areas intended to be dedicated or reserved for public use, including the approximate size of such areas.
    - (11) Sufficient soil borings to determine soil classifications and water table elevation, down to and including the depth of proposed utilities.
  - C. Escrow account. At the time of submission of the sketch plan, the applicant shall deposit with the City the sum of at least \$500, or such higher amount as may be set by resolution of the City Council from time to time, into a development escrow account.
    - (1) The City may use this account to defray expenses incurred by the City in employing the services of the City Engineer, Attorney and other professional

consultants, as well as other costs incurred by the City in connection with the review of the sketch plan, as well as for such costs incurred in the review of the preliminary plat and final plat, as required in this chapter.

- (2) If the escrow account is not sufficient to defray the above expenses, additional moneys will be required to be paid by the applicant to the City prior to final action on the plat.
- (3) If the escrow account is depleted such that it appears to the City Clerk or City Council that it will be insufficient to defray the costs of the City, the Clerk or Council may require the applicant to deposit an amount necessary to bring the account to a balance sufficient to cover such estimated costs prior to any further action on the plat.
- (4) If there is a surplus in the escrow account after the final plat is approved and recorded, and the applicant has completed all improvements required under the development agreement and said improvements have been approved by the City Engineer and accepted by resolution of the City Council, the City shall refund such surplus to the applicant.
- (5) The City shall provide the applicant with an itemized accounting of the escrow account upon acceptance of the final plat and completion and acceptance of all improvements required, if so requested by the applicant.
- (6) The City shall not pay interest on the escrow account.

D. Procedure on sketch plan.

- (1) Upon receipt of the appropriate number of copies of a sketch plan and the required deposit, the Administrator shall distribute a copy of the plan to the following parties: the Mayor, one to each member of the Planning Commission, the City Engineer, and the City Building Official.<sup>12</sup>
- (2) The Administrator shall place the plan on the agenda of the Planning Commission's regular meeting to be held no later than 45 days from the date of receiving the sketch plan. If a petition for rezoning is submitted with the sketch plan, the Clerk shall schedule a public hearing and give such notice of the public hearing as required by § 255-69 of Chapter 255, Zoning, of the City Code.
- (3) The Engineer shall submit a report to the Planning Commission which shall deal with drainage, traffic, utilities, soils and other engineering matters pertinent to the proposed plat.
- (4) The Administrator shall give the applicant written notice of time and date when the sketch plan is scheduled to be reviewed by the Planning Commission. The applicant or a duly authorized representative shall attend the Commission meeting at which time the proposed sketch plan is scheduled for consideration.

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12. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (5) The Planning Commission shall review the sketch plan and the Engineer's report and shall determine whether the plan is in compliance with the Comprehensive Plan and Chapter 255, Zoning, of the City Code and examine other pertinent information the Commission may wish to consider. The Commission shall advise the applicant of the extent to which the plan conforms to the requirements of the City and the ability of the City to provide essential services and may discuss possible modifications necessary to secure approval of the subdivision.
- (6) If a petition for rezoning has been filed with the sketch plan and a public hearing has been held concerning such proposed rezoning, the Commission shall forward a written report of its findings and recommendations in regard to the sketch plan and/or rezoning to the City Council. The City Council shall then act on the rezoning petition in accordance with § 255-69 of Chapter 255, Zoning, of the City Code. The Commission shall notify the applicant as to the land uses permitted in the sketch plan and may discuss possible modifications necessary to secure approval of the subdivision.<sup>13</sup>

**§ 225-28. Preliminary plat.**

- A. Filing. After the Planning Commission has approved of the sketch plan, the subdivider or owner shall submit the following items to the Administrator at least 30 calendar days before the next regularly scheduled meeting of the Planning Commission:
  - (1) Fifteen copies of the preliminary plat together with an application for approval of the preliminary plat.
  - (2) Other supplementary material enumerated in this chapter.
  - (3) The subdivider shall obtain written authorization from the Minnesota Department of Transportation or the Anoka County Highway Engineer, where required, stating that the proposed subdivision complies with applicable standards relating to street access, driveway access and right-of-way reservation. Plats abutting state or county rights-of-way shall not be approved without such certification.<sup>14</sup>
- B. Contents. A preliminary plat must cover all of the subdivider's or owner's contiguous land and include the following maps and data:
  - (1) Identification and description.
    - (a) Legal description of property to be subdivided.
    - (b) Names and addresses of the owner and subdivider or developer, if the developer is not the owner, and the names and addresses of the designer of the plat and the surveyor.
    - (c) Graphic scale, not less than one inch to 200 feet.

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13. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

14. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).



- (a) North point is to be designated as true north.
- (b) Date of preparation.
- (2) Existing conditions.
  - (a) Boundary line survey, certified by a registered land surveyor, including measured distances and angles, which shall close by latitude and departure with an error of closure not exceeding one foot in 7,500 feet.
  - (b) Total acreage in the preliminary plat computed to 1/100 of an acre.
  - (c) Location, right-of-way width, and names of existing or platted streets or other public ways, parks and other public open spaces, permanent buildings and structures, easements and section and municipal lines within the tract and to a distance of 350 feet of the plat.
  - (d) If the proposed subdivision is a rearrangement or a replat of any former plat, the lot and block arrangement of the original plat along with its original name shall be indicated by dotted or dashed lines. Also, any revised or vacated roadways of the original plat shall be so indicated.
  - (e) Location and size of existing paved streets, railroads, sewers, water mains, quarries, gravel pits, culverts or other underground facilities within the tract and to a distance of 350 feet beyond the tract. Also such data as grades, invert elevations and location of catch basins, manholes and hydrants.
  - (f) Boundary lines of adjoining platted or unplatted land within 350 feet of the tract as shown on the county records, and the owner's name and address.
  - (g) Complete topographic map with contour intervals not greater than two feet, watercourses and marshes, including their acreage, rock outcrops, floodplain, floodway, flood-fringe areas and other significant features, all superimposed on at least one print of the preliminary plat, and a reproducible copy of the topography shall be submitted to the City Engineer. United States Geological Survey (USGS) datum shall be used for all topographic mapping. High-water elevation and data thereof shall be shown if parts of the plat are wet or have been part of a wetlands area.
  - (h) Sufficient soil borings to determine soil classifications and water table elevation, down to and including the depth of proposed utilities.
  - (i) A separate copy of restrictive covenants, if any, of all adjoining subdivisions.
- (3) Design features.
  - (a) Layout of streets, showing right-of-way widths and names of streets. The street names shall follow the sequence established within the City and be consistent with the pattern that has been established by usage in the particular area under consideration. All dimensions shall be shown for streets and roadways, including horizontal curve data to be indicated by central angle, radii and arc length.

- (b) Locations and widths of alleys, pedestrianways and utility easements.
- (c) Proposed street and alley grades, if any, and a complete set of profiles showing both existing and proposed grade lines.
- (d) Location and size of storm sewer and sanitary sewer lines and water mains and approximate gradient of sewer lines.
- (e) Layout, lot and block numbers, and typical lot dimensions scaled to the nearest foot.
- (f) Areas other than those mentioned above intended to be dedicated for public use, including size.

C. Procedure on preliminary plat.

- (1) Upon receipt of the appropriate number of copies of a preliminary plat, the Administrator shall determine whether such plat substantially conforms to the approved sketch plan and shall determine whether the balance of the escrow deposit is sufficient to pay for estimated future expenses. If not, then the applicant shall pay the required additional amount to the City for the escrow deposit before further action is taken on the preliminary plat.
- (2) If the application is in order and the escrow deposit is sufficient, the Administrator shall forward the abstract of title or registered property abstract to the City Attorney for examination and shall distribute a copy of the plat to the following parties:
  - (a) The Mayor.
  - (b) One copy to each member of the Planning Commission.
  - (c) Two copies to the City Engineer.
  - (d) The City Building Official.<sup>15</sup>
- (e) The City Attorney.
  - (f) Each public utility which will be servicing the plat.
- (g) The school district.
  - (h) The Anoka County Soil and Water Conservation Service.
  - (i) If appropriate as deemed by the Administrator, a copy will be sent to the Commissioner of the Department of Natural Resources, a copy to the Metropolitan Council, a copy to the Anoka County Highway Engineer, and a copy to any adjacent community if a common boundary will be shared with the plat.

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15. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

- (3) Within 45 days after the application for approval of the preliminary plat has been filed and all certifications and required documentation and data have been received by the Administrator, the Administrator shall schedule a public hearing in compliance with Minnesota Statutes § 462.358, Subdivision 3b, and the Administrator shall give such notice of the public hearing as required by § 255-64 of Chapter 255, Zoning, of the City Code.
- (4) Prior to the public hearing, the City Engineer shall submit a report to the Planning Commission which shall deal with drainage, traffic, utilities, soils and other engineering matters pertinent to the proposed plat.
- (5) The Administrator shall give the applicant written notice of the time and date of the public hearing upon the preliminary plat and a second notice of when the preliminary plat is scheduled to be reviewed by the Planning Commission. The applicant or a duly authorized representative shall attend the public hearing and the Commission meeting at which the preliminary plat is scheduled for consideration.
- (6) The public hearing shall be held following publication in the City's official newspaper and service of notice of the time and place of the hearing at least 10 days before the day of the hearing. At the hearing, all persons interested shall be given an opportunity to make presentations. The Planning Commission may adjourn the public hearing to a later date if at the hearing there is insufficient information presented to make a determination or if there are persons present who are unable to be heard. After the public hearing has been completed, the Administrator shall place the preliminary plat on the agenda of the Planning Commission's next regular meeting.
- (7) After the public hearing, the Planning Commission shall review the preliminary plat at the scheduled regular meeting. The Planning Commission shall review the arguments presented at the public hearing and shall compare the preliminary plan with the approved sketch plan, the Engineer's report and other supporting documentation which is required to be submitted. The Planning Commission shall determine whether the plan is in compliance with the Comprehensive Plan and Chapter 255, Zoning, of the City Code and examine other pertinent information the Commission may wish to consider.
- (8) The Planning Commission will also take into consideration the requirements of the City and the best use of the land being subdivided. Particular attention will be given to the arrangement, location and widths of streets, the general drainage situation, lot sizes and arrangement, as well as Comprehensive Plan requirements such as parks, school sites, boulevards and highways, but the Commission is not limited to these considerations.<sup>16</sup>
- (9) The Planning Commission shall, within 90 days of submission of the application for approval of the preliminary plat and all certifications and required documentation and data have been received by the Administrator, approve or disapprove of the preliminary plat, or may conditionally approve with

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16. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

recommended changes to the plat. If changes are required, the Planning Commission shall list such conditions that need to be changed.

- (10) The Planning Commission's decision shall be given in writing to the City Council, such written report to state the findings of the Commission. A copy of the report shall be given to the applicant. In case of disapproval or conditional approval, the Planning Commission shall state the specific reasons for such recommendations in the written report.
- (11) The City Council shall then act on the application for approval of the preliminary plat. The Council shall consider the preliminary plat, the Engineer's report, all supporting certificates and documentation which have been included with the preliminary plat, and the Planning Commission's report. The City Council shall approve or disapprove of the preliminary plat within 120 days following submission of the application for approval of the preliminary plat and all certifications and required documentation and data have been received by the Administrator, unless an extension of the review period has been agreed to by the applicant.
- (12) If the Council disapproves of the preliminary plat, the Council shall set forth the findings and grounds for disapproval in the Council meeting's minutes and in a written report. A copy of the report shall be given to the applicant within 30 days of the Council's decision.
- (13) If the preliminary plat is approved, such approval shall constitute only acceptance of the design as a basis for the preparation of the final plat by the applicant.

**§ 225-29. Final plat.**

- A. Filing. After the Council has given approval of the preliminary plat, and within six months following such approval, the subdivider or owner shall submit the following items to the Administrator:
  - (1) Ten copies of the final plat.
  - (2) An up-to-date certified abstract of title or registered property certificate or abstract (RPA) showing title in the applicant. If the property is being acquired under option this should be included with the abstract.
  - (3) Other supplementary material enumerated in this chapter.
- B. Contents. The final plat shall include the following:
  - (1) All requirements that were contained in the preliminary plat which was submitted by the applicant, accurately shown, except topographic data.
  - (2) All changes as accepted or modified by the City Council as conditions of approval of the preliminary plat and as required by the Minnesota Department of

Transportation or the Anoka County Highway Engineer, the Minnesota Department of Natural Resources, or similar public agencies.<sup>17</sup>

- (3) Streets and roadways are to be named and the names indicated on the plat, as required on the preliminary plat or as required to be changed by the City Council in conditional approval of the preliminary plat.
- (4) Accurate location and the ties of all monuments, which shall be magnetic cast-iron permanent monuments of an accepted design, which shall be set at each corner or angle on the outside boundary of the final plat. The outside boundary lines of the plat shall be correctly designated on the plat and shall show bearings on all straight lines, or angles at all angle points; all monuments and surveyor's irons to be indicated; each angle point of the boundary perimeter to be so monumented.
- (5) Pipes or steel rods shall be placed at each corner of each lot, at each intersection of street center lines and all points of curvature on lot lines and center lines. All United States, state, county or other official bench marks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position and shall be recorded on the final plat. All lot and block dimensions shall be shown on the plat, and all necessary angles pertaining to the lots and blocks, as an aid to future surveys, shall be shown on the plat. No ditto marks will be permitted in indicating dimensions.
- (6) Lots are to be numbered in numerical order, and in tracts containing more than one block, the blocks are to be numbered in numerical order.
- (7) Accurate outlines and legal descriptions of any areas to be dedicated or reserved for public use or for the exclusive use of property owners within the subdivision, with the purposes indicated therein.
- (8) In case of a rearrangement or replat, the original platting of the subdivision shall be dotted.
- (9) Judicial and county ditches to be shown by dimensions and angles as determined from the records on file in the county.
- (10) Low land and water areas shall be indicated by the proper identification symbol.
- (11) All easements for utilities or drainage shall be indicated and dimensioned.
- (12) The names and platting of adjoining subdivisions shall be shown dotted to a distance from the boundaries of the plat under consideration of 350 feet minimum. Dimensions of such adjoining plats need not be shown, but the lot, block and street arrangement must be shown. Where adjacent land is not platted it shall be so indicated.
- (13) The name of the subdivision shall be lettered in prominent print at the top of the plat, together with the name of the City, county, tier, range and principal meridian wherein the subdivision lies. The name of the subdivision shall be simple in

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17. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

nature, easy to pronounce and shall not duplicate in exact name any plat of record in the county.

- (14) Notarized certification by a registered land surveyor to the effect that the plat represents a survey made by him and that the monuments and markers shown therein exist as located and that all dimensional and geodetic details are correct.
- (15) Notarized certification by the owner, and by any mortgage holder of record, and by any contract purchaser of record, of the adoption of the plat and the dedication of streets and other public areas.
- (16) Certifications showing that all taxes and special assessments due on the property have been paid in full.
- (17) Form of approval by the City Council is to be included on the final plat, as follows:

Approved by the City Council of Bethel, Minnesota, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

Signed: \_\_\_\_\_ Attest: \_\_\_\_\_  
 Mayor City Clerk

- (18) Form of approval by the Planning Commission is to be included on the final plat, as follows:

Approved by the Planning Commission of the City of Bethel, Minnesota, this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

Signed: \_\_\_\_\_ Attest: \_\_\_\_\_  
 Chair Secretary

- (19) Form of approval by county authorities as required by their standards.

C. Developer's agreement. Before a final plat may be approved by the City Council, the developer of land covered by the plat shall execute and submit to the City Council a developer's agreement.

- (1) The agreement shall be binding upon the owner and subdivider, its/his/her personal representatives, heirs and assigns.
- (2) The developer's agreement shall provide that the owner and subdivider will, at their sole expense, construct and furnish such improvements as are required by the City for the particular plat being proposed.
- (3) The improvements may include, but are not limited to, streets, sidewalks, public water systems, sanitary sewer systems, surface and storm drainage systems, and public utility services.

- (4) The installation of such improvements shall be in conformity with approved construction plans approved by the City and with all applicable ordinances, statutes and regulations.
- (5) The developer's agreement shall provide that all construction shall be supervised and approved by the City Engineer and that the City shall be reimbursed for all costs incurred by the City for engineering and legal fees and other expenses in connection with such improvements.
- (6) The developer's agreement shall provide for a completion date on which all required improvements shall be fully installed, completed and accepted by the City.

D. Procedure on final plat.

- (1) Upon receipt of the appropriate number of copies of a final plat, the Administrator shall determine whether such plat substantially conforms to the approved preliminary plat and shall determine whether the balance of the escrow deposit is sufficient to pay for estimated future expenses. If not, then the applicant shall pay the required additional amount to the City for the escrow deposit before further action is taken on the final plat.<sup>18</sup>
- (2) If the application is in order and the escrow deposit is sufficient, the Administrator shall forward the abstract of title or registered property abstract to the City Attorney for examination and shall distribute a copy of the plat to the following parties:
  - (a) The Mayor.
    - (b) One copy to each member of the Planning Commission.
    - (c) Two copies to the City Engineer.
    - (d) The City Building Official.<sup>19</sup>
    - (e) The City Attorney.
  - (3) The Administrator shall put the final plat on the agenda of the Planning Commission for a date no later than 30 days after the final plat is submitted.
  - (4) The developer shall also submit a proposed developer's agreement to the Administrator and construction plans for the required improvements prior to the Planning Commission's meeting. The developer shall also submit a copy of the construction plans to the City Engineer.
  - (5) The City Engineer shall review the proposed final plat and the proposed construction plans prior to the Planning Commission's meeting and submit a report to the Planning Commission. The Engineer's report shall determine whether the

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18. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

19. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

final plat conforms to the preliminary plat and any required changes to the preliminary plat and shall include an analysis of whether the proposed construction plans will be adequate to provide the required improvements. The Engineer shall also give an estimate of the total cost of such improvements, including the estimated expense of the City for engineering and legal fees and other expenses which would be incurred by the City in the event it would be necessary for the City to provide the necessary improvements.

- (6) No final plat shall be approved by the Planning Commission or by the City Council without first receiving a report from the City Engineer certifying that the improvements required to be made, together with the agreements and documents required under this chapter, meet the minimum requirements of all applicable ordinances.
- (7) The Planning Commission shall review the final plat and compare the final plat with the approved preliminary plat, the Engineer's report and other supporting documentation which is required to be submitted.
- (8) The Planning Commission shall approve or disapprove of the final plat or may conditionally approve with recommended changes to the plat. If changes are required, the Planning Commission shall list such conditions that need to be changed.
- (9) The Planning Commission's decision shall be given in writing to the City Council, such written report to state the findings of the Commission. A copy of the report shall be given to the applicant. In case of disapproval, the Planning Commission shall state the specific reasons for the disapproval in the written report.
- (10) The City Council shall then act on the application for approval of the final plat. The Council shall consider the preliminary plat, the Engineer's report, and all supporting certificates and documentation which has been included with the final plat, including the development agreement and the Planning Commission's report. The City Council shall approve or disapprove of the final plat within 60 days following submission of the final plat and all certifications and required documentation and data have been received by the Administrator, unless an extension of the review period has been agreed to by the applicant. No owner or subdivider that has previously defaulted on work or commitments upon any other subdivision within the City shall receive approval for any final plat unless such prior default is first completed or corrected.
- (11) If the Council disapproves of the final plat, the Council shall set forth the findings and grounds for disapproval in the Council meeting minutes and in a written report. A copy of the report shall be given to the applicant within 30 days of the Council's decision.
- (12) If the final plat is approved, the final plat and the development agreement shall be filed in the office of the Anoka County Recorder, at the expense of the applicant.
- (13) Within 30 days of recording, the owner or subdivider shall provide the City with five blackline prints and a reproducible drawing of the final plat showing evidence



of recording and a copy of the recorded developer's agreement. The Administrator shall provide one copy of the prints to the City Engineer and a copy of the final recorded plat to each of the affected public agencies.

- (14) The developer shall commence work on the required improvements as provided in the developer's agreement.

## ARTICLE V

### Required Improvements in Platted Subdivisions

#### § 225-30. Construction and installation.

All improvements which have been included in the final plat as approved by the City shall be constructed and installed at the sole expense of the developer, pursuant to the written developer's agreement.

#### § 225-31. Construction standards.

All improvements which are constructed and installed within the City shall be so constructed and installed in accordance with Article II of this chapter, all applicable City ordinances, county regulations and state laws, and in accordance with the approved construction plans for the particular plat.

#### § 225-32. Inspection.

The City Engineer shall inspect all required improvements during the course of construction and upon completion of construction.

#### § 225-33. Certificate of completion.

Upon completion of all required improvements, the developer shall provide the Administrator with reproducible tracings and two copies of plans and specifications showing all improvements as finally built. The developer shall also provide a copy of such plans to the City Engineer. After a final inspection of such improvements, the City Engineer shall issue a certificate of completion to the City Council, if the improvements have been completed according to the developer's agreement and in accordance with all other applicable laws and regulations.

#### § 225-34. Acceptance by City.

Upon receipt of the City Engineer's certificate of completion and of the as-built plans from the developer, the City Council shall, by resolution, accept such improvements on behalf of the City and shall cause such resolution to be filed in the office of the Anoka County Recorder. The resolution shall specify that the conditions and restrictions included in the developer's agreement have been completed by the developer and that the property dedicated to the City on the plat is accepted as City-owned property.

**§ 225-35. Maintenance.**

The City shall not cause any repairs or maintenance upon any street, easement, public sewer or public water system shown on any plat until such improvements have been completed and accepted by the City in total for any particular plat.

**§ 225-36. Basic improvements.**

The following improvements shall be required to be installed and included on all plats within the City:

- A. Paved, all-weather streets, pursuant to the requirements of §§ 225-11 and 225-12.
- B. Street signs of a standard design approved by the City installed at each street intersection.
- C. Streetlighting installed as required by the City at street intersections.
- D. Sidewalks of six feet in width within the street right-of-way in front of each lot fronting on a public street.
- E. Sanitary sewers shall be installed to serve all properties in the subdivision where a connection to a City sewer system is available at or reasonably near the boundary of the subdivision.
  - (1) All sewer construction must conform to the standards of the City for such work.
  - (2) The City Planning Commission and Council may prohibit installation of sewage disposal facilities requiring soil absorption systems where such systems will not function due to high groundwater, flooding, or unsuitable soil characteristics. The developer may be required to clearly indicate on the face of the plat and in any deed of conveyance the areas in which soil absorption systems are not to be used.
- F. Storm drainage facilities, where required, shall be designed to convey the flow of surface waters without damage to persons or property.
  - (1) The system shall ensure drainage at all points along streets and provide positive drainage away from buildings and on-site waste disposal sites.
  - (2) All streets and lots shall be filled and graded as required to provide adequate storm drainage and to prevent the collection of stormwater in pools.
  - (3) The Planning Commission and City Council may require a primary underground system to accommodate frequent floods and a secondary surface system to accommodate less frequent floods.
  - (4) Drainage plans shall be consistent with local and regional drainage plans.
  - (5) The facilities shall be designed to protect against surface erosion and siltation of surface waters and to prevent the discharge of excess runoff onto adjacent properties.

- G. All lots in every subdivision shall conform to the standards found in § 225-18 of this chapter. Additionally, each lot shall be filled to an elevation not lower than one foot below the regulatory flood protection elevation for the particular area. Required fill areas must extend 15 feet beyond the limits of intended structures and, if the subdivision is not to be sewerred, must include areas for on-site waste disposal.

ARTICLE VI  
**Administration and Enforcement**

**§ 225-37. Building permits.**

No building permits shall be issued for any structure on any lot in the City of Bethel until all requirements of this chapter have been fully complied with.

**§ 225-38. Enforcement.**

Unless approved as a final plat as provided herein, no subdivision shall be entitled to record in the Anoka County Recorder's office, or have any validity, and the City shall not issue any building permits or certificates of occupancy for any structure on any lot in any such proposed subdivision. The City shall not permit any public improvements to be installed unless a preliminary plat is approved and shall not permit any services until approval and recording of the final plat.

**§ 225-39. Violations and penalties.**

Any person, persons, firm, partnership, corporation or other legal entity that violates any of the provisions of this chapter, or who sells, leases or offers for sale or lease any lot, block or tract of land regulated under this chapter before all of the requirements of this chapter have been complied with, shall be guilty of a misdemeanor as defined by state law. Each day that a violation is permitted to exist shall constitute a separate offense.

**§ 225-40. Amendments.**

- A. This chapter may be amended from time to time on motion of the City Council, or on petition from a property owner, or on recommendation of the Planning Commission. No amendment shall become effective until after a public hearing held in relation thereto at which interested parties and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the official newspaper used by the City at least 10 days before the day of the hearing.
- B. Every proposed amendment to this chapter shall be reviewed by the Planning Commission, which shall make a written report to the City Council concerning its recommendations on the proposed amendment.
- C. The City Council shall act on the proposed amendment according to the procedure set forth in § 9-6 of the City Code.

# Chapter 231

## TOBACCO

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| § 231-1. Findings and purpose.           | § 231-8. Self-service sales.                 |
| § 231-2. Definitions and interpretation. | § 231-9. Licensee responsible for employees. |
| § 231-3. License procedure.              | § 231-10. Compliance checks and inspections. |
| § 231-4. License fee.                    | § 231-11. Other illegal acts.                |
| § 231-5. Basis for denial of license.    | § 231-12. Violations and penalties.          |
| § 231-6. Prohibited sales.               | § 231-13. Exceptions and defenses.           |
| § 231-7. Vending machines.               |  |

**[HISTORY: Adopted by the City Council of the City of Bethel 1-20-2000 by Ord. No. 2000-05. Amendments noted where applicable.]**

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### § 231-1. Findings and purpose.

The City Council finds as follows: that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco-related devices, and that such sale, possession, and use are violations of both state and federal laws; that studies, which the City hereby accepts and adopts, have shown that most smokers begin smoking before they have reached 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and that smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government. This chapter therefore is intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco-related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco-related devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minnesota Statutes § 144.391.

### § 231-2. Definitions and interpretation.

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

**COMPLIANCE CHECKS** — The system the City uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco-related devices are following and complying with the requirements of this chapter. Compliance checks will involve the use of minors as authorized by this chapter. "Compliance checks" also means the use of minors who

attempt to purchase tobacco, tobacco products, or tobacco-related devices for educational, research, and training purposes as authorized by state and federal laws. Compliance checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state, or local laws and regulations relating to tobacco, tobacco products, and tobacco-related devices.

**INDIVIDUALLY PACKAGED** — The practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products include but are not limited to single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition will not be considered individually packaged.

**LOOSIES** — The common term used to refer to a single or individual packaged cigarette.

**MINOR** — Any natural person who has not yet reached the age of 18 years.

**MOVEABLE PLACE OF BUSINESS** — Refers to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address storefront or other permanent type of structure authorized for sales transactions.

**RETAIL ESTABLISHMENT** — Any place of business where tobacco, tobacco products, or tobacco-related devices are available for sale to the general public. Retail establishments include, but are not limited to, grocery stores, convenience stores, and restaurants.

**SALE** — Any transfer of goods for money, trade, barter, or other consideration.

**SELF-SERVICE MERCHANDISING** — Open displays of tobacco, tobacco products, or tobacco-related devices in any manner where any person has access to the tobacco, tobacco products, or tobacco-related devices without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention will entail the actual physical exchange of the tobacco, tobacco product, or tobacco-related device between the customer and the licensee or employee. "Self-service merchandising" will not include vending machines.

**TOBACCO or TOBACCO PRODUCTS** — Any substance or item containing tobacco leaf, including but not limited to cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; cavendish, shorts, plug, and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking.

**TOBACCO-RELATED DEVICES** — Any tobacco products as well as pipes, rolling papers, or other devices intentionally designated or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

**VENDING MACHINE** — Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco-related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco-related device.

**§ 231-3. License procedure.**

No person shall sell or offer to sell any tobacco, tobacco products, or tobacco-related device without first having obtained a license to do so from the City.

- A. **Application.** An application for a license to sell tobacco, tobacco products, or tobacco-related devices shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the City deems necessary. Upon receipt of a completed application, the City Clerk shall forward the application to the Council for action at its next regularly scheduled Council meeting. If the Clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.
- B. **Action.** The Council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the Council shall approve the license, the Clerk shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the Council's decision.
- C. **Term.** All licenses issued under this chapter shall be valid for one calendar year from the date of issue.
- D. **Revocation or suspension.** Any license issued under this chapter may be revoked or suspended as provided in § 231-12, Violations and penalties, of this chapter.
- E. **Transfers.** All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the Council.
- F. **Moveable place of business.** No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this chapter.
- G. **Display.** All licenses shall be posted and displayed in plain view of the general public on the licensed premises.
- H. **Renewals.** The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license. The issuance of a license issued under this chapter shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

**§ 231-4. License fee.**

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for license under this chapter shall be set by resolution by the Council.

**§ 231-5. Basis for denial of license.**

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

- A. The applicant is under the age of 18 years.
- B. The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products or tobacco-related devices.
- C. The applicant has had a license to sell tobacco, tobacco products or tobacco-related devices revoked within the preceding 12 months of the date of application.
- D. The applicant fails to provide any information required on the application, or provides false or misleading information.
- E. The applicant is prohibited by federal, state, or other local law, ordinance or other regulation from holding such a license.

**§ 231-6. Prohibited sales.**

- A. It shall be a violation of this chapter for any person to sell or offer to sell any tobacco product or tobacco-related device:
  - (1) To any person under the age of 18 years.
  - (2) By means of any type of vending machine, except as may otherwise be provided in this chapter.
  - (3) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premises in order to receive the tobacco, tobacco product, or tobacco-related device and whereby there is not a physical exchange of the tobacco, tobacco product or tobacco-related device between the licensee or the licensee's employee and the customer.
  - (4) By means of loosies as defined in § 231-2 of this chapter.
  - (5) Containing opium, morphine, jimson weed, belladonna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic, or controlled substances except nicotine and other substances naturally found in tobacco or added as part of an otherwise lawful manufacturing process.
  - (6) By any other means, to any other person, or in any other manner or form prohibited by federal, state, or other local law, ordinance provision, or other regulation.

- B. It is unlawful for any licensee, or any officer, associate, member, representative, agent, or employee of such licensee, to engage, employ or permit any person under the age of 18 years of age to sell tobacco products in any licensed premises.

**§ 231-7. Vending machines.**

It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco, tobacco products, or tobacco-related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

**§ 231-8. Self-service sales.**

It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products, or tobacco-related devices by any means whereby the customer may have access to such items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of tobacco, tobacco product or the tobacco-related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products and tobacco-related devices shall either be stored behind a counter or other area not freely accessible to customers or in case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products or tobacco-related devices at the time this chapter is adopted shall comply with this section within 30 days following the effective date of this chapter.

**§ 231-9. Licensee responsible for employees.**

All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco-related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.

**§ 231-10. Compliance checks and inspections.**

All licensed premises shall be open to inspection by the City law enforcement officers or other authorized City officials during regular business hours. From time to time, but at least once per year, the City shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years to enter the licensed premises to attempt to purchase tobacco, tobacco products or tobacco-related devices. Minors used for the purpose of compliance checks shall be supervised by City-designated law enforcement officers or other designated City personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco-related devices when such items are obtained as part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in compliance checks shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce



identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

### **§ 231-11. Other illegal acts.**

Unless otherwise provided, the following acts shall be a violation of this chapter:

- A. **Illegal sales.** It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco-related device to any minor.
- B. **Illegal possession.** It shall be a violation of this chapter for any minor to have in his or her possession any tobacco, tobacco product or tobacco-related device. This subsection shall not apply to minors lawfully involved in a compliance check.
- C. **Illegal use.** It shall be a violation of this chapter for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco-related device.
- D. **Illegal procurement.** It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product, or tobacco-related device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product or tobacco-related device. This subsection shall not apply to minors lawfully involved in a compliance check.
- E. **Use of false identification.** It shall be a violation of this chapter for any minor to attempt to disguise his or her true age by the use of a false form of identification, where the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

### **§ 231-12. Violations and penalties.**

- A. **Violations.**
  - (1) **Notice.** Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.
  - (2) **Hearings.** If a person accused of violating this chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.
  - (3) **Hearing officer.** The City Council shall serve as the hearing officer. Minors alleged to be in violation may request a hearing with the City Council serving as the hearing officer.
  - (4) **Decision.** If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officer's reasons for finding a violation

and the penalty to be imposed under § 231-12B of this chapter, shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such findings shall be recorded and a copy provided to the acquitted accused violator.

- (5) Appeals. Appeals of any decision made by the hearing officer shall be filed in the District Court.<sup>1</sup>
- (6) Misdemeanor prosecution. Nothing in this section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this chapter. If the City elects to seek misdemeanor prosecution against an individual in violation of this chapter, no administrative penalty shall be imposed against that individual.
- (7) Continued violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.
- (8) Minors. Minors alleged to be in violation of this chapter shall be entitled to the same process as other alleged violators. Unless waived, a minor charged under this chapter shall be entitled to all confidentiality protections under state law, including a private hearing to an appropriate hearing officer.

**B. Penalties.<sup>2</sup>**

- (1) Licensees. Any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative fine of \$75 for a first violation of this chapter, \$200 for a second offense at the same licensed premises within a twenty-four-month period, and \$250 for a third or subsequent offense at the same location within a twenty-four-month period. In addition, after the third offense, the license shall be suspended for not less than seven days.
- (2) Other individuals. Other individuals, other than minors regulated by Subsection B(3), found to be in violation of this chapter shall be charged an administrative fine of \$50.
- (3) Minors. Minors found in unlawful possession of or who unlawfully purchase or attempt to purchase tobacco, tobacco products or tobacco-related devices shall be charged an administrative fine of \$25 for any violation. In addition, a minor in violation of this chapter shall be ordered to attend the Anoka County Youth Tobacco Diversion Program.

**§ 231-13. Exceptions and defenses.**

Nothing in this chapter shall prevent the providing of tobacco, tobacco products, or tobacco-related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this chapter for a person reasonably relied on proof of age as described by state law.

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

# Chapter 236

## UTILITY RATES

§ 236-1. Definitions.

§ 236-4. Utility rate schedule.

§ 236-2. Accounts.

§ 236-5. Delinquent accounts.

§ 236-3. Billing.

§ 236-6. Other remedies.

[HISTORY: Adopted by the City Council of the City of Bethel at time of adoption of Code (see Ch. 1, General Provisions, Art. II). Amendments noted where applicable.]

### GENERAL REFERENCES

Sewers — See Ch. 196.

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#### § 236-1. Definitions.

For the purpose of this chapter, the following terms shall have the following meanings:

ACCOUNT — A record of utility services used by each property and the periodic costs for those utility services.

CITY — The City of Bethel, County of Anoka, State of Minnesota.

CITY UTILITY SYSTEM — Facilities used for providing public utility service owned or operated by the City or an agency thereof, including sewer and storm sewer service.

UTILITY RATE SCHEDULE — A schedule of all utility rates and charges set by ordinance of the City.

WATERWORKS SYSTEM — Sewer transmission pipes, lines, fixtures, meters and all necessary equipment and appurtenances owned or operated by the City utility system for the purpose of providing water and sewer services for public or private use.

#### § 236-2. Accounts.

All accounts shall be carried in the name of the owner who personally, or by his or her authorized agent, applied for such service. The owner shall be liable for sewer services supplied to the property, whether he or she is occupying the property or not, and any unpaid charges shall be a lien upon the property.

#### § 236-3. Billing.

All charges for sewer and other utilities, if any, shall be billed to the property owner. No utilities shall be billed to the renter, tenant, or occupant of the premises if he or she is someone other than the registered owner of record. Sewer and other utility service, if any, charges shall be billed on one bill as applicable to each account. All charges for sewer and

other utility service, if any, shall be due upon receipt and considered delinquent after the 10th day of the following month. All bills shall contain the title, address and telephone number of the official in charge of billing; the title, address and phone number shall be clearly visible and easily readable. Bills shall be mailed to the customer monthly and specify the sewer and other utility service, if any, charges in accordance with the current rate schedule set by ordinance of the City Council.

**§ 236-4. Utility rate schedule.**

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

**§ 236-5. Delinquent accounts.**

- A. Penalties. A late payment penalty of 10% shall be assessed on all accounts with a past due balance.
- B. Certification for collection with taxes. Unpaid charges on sewer and water accounts shall not be certified to the County Auditor until notice and an opportunity for a hearing have been provided to the owner of the premises involved. The notice shall be sent by first-class mail and shall state that if payment is not made before the date for certification, the entire amount unpaid plus penalties will be certified to the County Auditor for collection as other taxes are collected. The notice shall also state that the occupant may, before such certification date, attend or schedule a hearing on the matter to object to certification of unpaid utility charges. In addition to any penalties provided for in this chapter if any person, firm or corporation fails to comply with any provision of this chapter, the Council or any City official designated by it may institute appropriate proceedings at law or at equity to procure payment.
- C. The owner of the property shall have the option of paying the balance due on the account until the date the notice of the certification hearing is mailed. After the date the notice of the certification hearing is mailed, payments will still be accepted but will include unpaid penalties.
- D. A hearing shall be held on the matter by the City Council. Property owners with unpaid utility charges shall have the opportunity to object to the certification of unpaid charges to be collected as taxes are collected. If, after the hearing, the City Council finds that the amounts claimed as delinquent are actually due and unpaid and that there is no legal reason why the unpaid charges should not be certified for collection with taxes in

accordance with this chapter, the City may certify the unpaid charges to the County Auditor for collection as other taxes are collected.

- E. For each certification sustained, the property owner shall have the following options after the hearing:
- (1) To pay the delinquent amount listed on the preliminary roll, but without additional interest after the hearing, within 10 days of the hearing date.
  - (2) To pay the certified delinquent amount after the hearing date, but before the county certification deadline, with interest at the rate set in the adopted rate schedule, accrued beginning on 11th day following the hearing date through the date of payment.
  - (3) To pay the certified charges as billed to the property owner by Anoka County on the property tax statement with a collection term of one year.
- F. Fifteen days after the hearing, the certified roll, minus any payments, shall be delivered to Anoka County.

**§ 236-6. Other remedies.**

In addition to any procedures or penalties provided for this chapter, if any person, firm or corporation fails to comply with any provision of this chapter, the Council or any City official designated by it may institute appropriate proceedings at law or at equity to procure payment and/or enforce the provisions of this chapter.

# Chapter 240

## VEHICLES AND TRAFFIC

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| § 240-1. Definitions.                      | § 240-6. Establishment of safety zones, lanes of traffic and stop intersections. |
| § 240-2. Through streets; one-way streets. | § 240-7. Removing keys.  |
| § 240-3. Seasonal weight restrictions.     | § 240-8. Exhibition driving; noise from vehicles.                                |
| § 240-4. Parking regulations.              | § 240-9. Enforcement.  |
| § 240-5. Truck parking.                    | § 240-10. Violations and penalties.  |

[HISTORY: Adopted by the City Council of the City of Bethel 3-2-1989 by Ord. No. 89-508 as Ch. VII, Part 1, of the 1989 City Code. Amendments noted where applicable.]

### GENERAL REFERENCES

Recreational vehicles — See Ch. 192.

Snowmobiles — See Ch. 207.

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#### § 240-1. Definitions. <sup>1</sup>

Any term used in this chapter and defined in Minnesota Statutes § 169.011 has the meaning given it by that section.<sup>2</sup>

#### § 240-2. Through streets; one-way streets. <sup>3</sup>

The Council by resolution may designate any street or portion of street as a through highway or a one-way roadway where necessary to preserve the free flow of traffic or to prevent accidents. The City Maintenance Department shall post appropriate signs at the entrance to such street.<sup>4</sup>

#### § 240-3. Seasonal weight restrictions.

The City Maintenance Department may prohibit the operation of vehicles upon any street under its jurisdiction or impose weight restrictions on vehicles to be operated on such street whenever the street, by reason of deterioration, rain, snow or other climatic conditions, will be seriously damaged or destroyed unless the use of vehicles on the street is prohibited or the

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1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

2. Editor's Note: Original § 701.02, Turning, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

4. Editor's Note: Original § 701.04, Speed limit in school zones, which immediately followed this section, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

permissible weights thereof reduced. It shall erect and maintain signs plainly indicating the prohibition or restriction at each end of that portion of the street affected. No person shall operate a vehicle on a posted street in violation of the prohibition or restriction.

**§ 240-4. Parking regulations.**

- A. Parallel parking. On all streets within the City where parking is permitted, all vehicles shall be parked parallel to the curb or edge of the roadway in accordance with law, except on the south side of Main Street which shall be diagonal parking. **[Amended 6-18-1992]**
- B. No parking, stopping or standing zones. The City Council may, by resolution, designate certain streets or portions of streets as no parking or no stopping or standing zones and may limit the hours in which the restrictions apply. The City Maintenance Department shall mark by appropriate signs each zone so designated. Except when necessary to avoid conflict with other traffic or in compliance with the directions of a law enforcement officer or a traffic control device, no person shall stop or park a vehicle in an established no stopping or standing zone when stopping or standing is prohibited. No vehicle shall be parked in a no parking zone during hours when parking is prohibited, except that a vehicle may be parked temporarily in such zone for the purpose of forming a funeral procession, and a truck may be parked temporarily between the hours of 8:00 a.m. and 4:00 p.m. of any business day for the purpose of loading or unloading where access to the premises is not otherwise available.
- C. Time limit parking zones. The City Council may, by resolution, designate certain areas where the right to park is limited during hours specified. The City Engineer shall mark by appropriate signs each zone so designated. During the hours specified on the sign, no person shall park a vehicle in any limited parking zone for a longer period than is so specified.
- D. Parking prohibitions.
- (1) General. No motor vehicle shall be parked on any public street for more than 24 continuous hours.
  - (2) Winter parking.
    - (a) Nighttime. No motor vehicle shall be parked on any public street between the hours of 2:00 a.m. and 7:00 a.m. on any day between November 1 and April 1 of any year.
    - (b) Daytime. No motor vehicle shall be parked on any public street between the hours of 8:00 a.m. and 6:00 p.m. on any day when there has been an accumulation of snow to a depth of two or more inches during the preceding twenty-four-hour period commencing at 8:00 a.m. on the day of the parking restriction. The Maintenance Department shall determine whether there has been a snowfall requiring such parking restriction.

E. Impoundment.

(1) At the direction of the Sheriff's Office, a citation may be issued in connection with any motor vehicle parked in violation of this chapter, and if the vehicle is unoccupied and deemed to be a hazard to traffic or an interference to snow removal operations, it shall be towed away to a place of safekeeping for impoundment. The Sheriff's Office is hereby empowered to request any private garage or towing service to tow away and impound any vehicle in violation hereof.

(2) Any vehicle towed and impounded under this chapter may be claimed and recovered from the garage or towing company after payment to the garage or company of all towing and storage charges. The City does not assume any responsibility for any damage done to any motor vehicle towed and impounded under this chapter.

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

**§ 240-5. Truck parking.**

It is unlawful to park any truck (other than a truck of 12,000 pounds gross vehicle weight or less), truck tractor or semitrailer:

- A. On any City street located in any area zoned other than residential in the City of Bethel for longer than two hours, except for the purpose of loading or unloading the same, and then only during such additional time as is reasonably necessary for such activity.
- B. On any City street located in any area zoned for residential purposes in the City of Bethel, except for the purpose of loading or unloading the same, and then only for such time as is reasonably necessary for such activity.
- C. On any public school lands or the lands and areas owned by any public governing body or agency, including the City of Bethel.
- D. On any private property located within the City of Bethel, or upon any area developed as an off-street parking facility, without the consent of the owner, lessee, or person in charge of such property or facility.

**§ 240-6. Establishment of safety zones, lanes of traffic and stop intersections.**

To assist in the direction and control of traffic, to improve safe driving conditions at any intersection or dangerous location, and to warn pedestrians or drivers of motor vehicles of dangerous conditions or hazards, the Council may establish safety zones, lanes of traffic, and stop intersections, and it may order installation by the City Engineer of stop signs, yield signs, warning signs, signals, pavement markings, or other devices. No regulation may be established on a trunk highway unless the consent of the Commissioner of Transportation is first secured.



**§ 240-7. Removing keys.**

No person shall leave a motor vehicle, except a truck which is engaged in loading or unloading, unattended on any street, used car lot, or unattended parking lot without first stopping the engine, locking the ignition, and removing all ignition keys from the vehicle. Whenever any law enforcement officer finds any motor vehicle standing in violation of this provision, he shall remove the keys from the vehicle and deliver them to the Sheriff's office.

**§ 240-8. Exhibition driving; noise from vehicles.**

No person shall turn, accelerate, decelerate or otherwise operate a motor vehicle within the City in a manner which causes unnecessary engine noise or backfire, squealing tires, skidding, sliding, swaying, or throwing of sand or gravel or in a manner simulating a race. Unreasonable squealing or screeching sounds emitted by tires or the throwing of sand or gravel by the tires is prima facie evidence of a violation of this section.

**§ 240-9. Enforcement.**

The Sheriff's Office shall enforce the provisions of this chapter and the state traffic laws. Law enforcement officers are authorized to direct all traffic within the City, either in person or by means of visible or audible signal, in conformity with this chapter and the state traffic laws. During a fire or other emergency or to expedite traffic or safeguard pedestrians, officers of the Sheriff's Office may direct traffic as conditions require, notwithstanding the provisions of this chapter and the state traffic laws. Officers of the Fire Department may direct or assist law enforcement officers in directing traffic at the scene of a fire or in the immediate vicinity.

**§ 240-10. Violations and penalties. <sup>5</sup>**

Except where another penalty is prescribed by state law, any person convicted of violating any provision of this chapter is guilty of a petty misdemeanor.

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5. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

# Chapter 255

## ZONING

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[HISTORY: Adopted by the City Council of the City of Bethel 3-2-1989 by Ord. No. 89- 508 as Ch. IX, Part 2, of the 1989 City Code; amended in its entirety at time of adoption of Code; see Ch. 1, General Provisions, Art. II. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Planning Commission — See Ch. 41.  
Building construction — See Ch. 80.

Subdivision regulations — See Ch. 225.

ARTICLE I  
**General Provisions**

**§ 255-1. Title.**

This chapter shall be known as the "Bethel Zoning Ordinance" except as referred to herein, where it shall be known as "this chapter."

**§ 255-2. Purpose.**

This chapter is enacted for the purpose of promoting the health, safety, comfort, convenience, order and general welfare; preventing overcrowding of land; avoiding undue concentration of population; providing adequate light and air and public facilities and preventing undue encroachments; conserving the value of buildings and encouraging the most appropriate use of land; encouraging the industrial, commercial and residential growth of the City; and promoting the development of Bethel in accordance with the Comprehensive Plan.

**§ 255-3. Interpretation.**

- A. Interpretation and application. The interpretation and application of the regulations and provisions of this chapter shall be reasonably and uniformly applied to all property within the jurisdiction of Bethel.
- B. Validity of other laws. Where this chapter imposes a greater restriction than is imposed by other ordinances, laws or regulations, the provisions of this chapter shall govern. However, nothing in this chapter shall be construed to prevent the enforcement of other ordinances, laws or regulations which prescribe more restrictive limitations.
- C. Ambiguity. If ambiguity arises concerning the content or application of this chapter, it shall be the duty of the Planning Commission to ascertain all pertinent facts and by formal resolution set forth its findings and interpretation, and such resolution shall be forwarded to the City Council. The City Council shall consider the findings and interpretation of the Planning Commission and render a final decision and interpretation on the matter, and thereafter such interpretation of the City Council shall govern.

**§ 255-4. Scope; jurisdiction.**

- A. Application. This chapter shall be applicable to all of the areas within the corporate limits of Bethel. The use of all land and any buildings or structures located upon the land and the construction, reconstruction, alteration, expansion or relocation of any building or structure upon or in the land shall conform to all regulations applicable to the zone in which the land is located, except as otherwise provided in this chapter.
- B. Effect on public lands. Property owned, based, or operated by the City of Bethel, or any other public or governmental body or agency, shall be subject to the terms of this chapter.

- C. Completion of approved buildings. Nothing herein shall require any change in the plans, construction or designated use of a building or structure for which a building permit has been issued prior to the effective date of this chapter or an amendment to this chapter, provided that actual construction of such building or structure commences in accordance with those provisions in effect at the time of the permit issuance, and provided further that such construction and proposed use of such building or structure are not in violation of any other ordinance or law on the effective date of this chapter.

**§ 255-5. Word usage and definitions.**

- A. Usage. For the purpose of these regulations, words used in the present tense shall include the future tense, words in the singular number include the plural, and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory.
- B. Words and terms defined. As used in this chapter, the following terms shall have the meanings indicated:

ABUTTING — Making contact with or separated only by a public thoroughfare, railroad or public right-of-way.

ACCESS — A way of approaching or entering a property.

ACCESSORY BUILDING OR STRUCTURE — A building customarily incidental and appropriate and subordinate to the main building or use and located on the same lot with the main building.

ACCESSORY USE — See "use, accessory."

ADDITION — An extension or increase in floor area or height of a building or structure.

ALLEY — A public passage or way affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

AMENITY — Esthetic or other characteristics of a development that increase its desirability to a community or its marketability to the public.

APARTMENT HOUSE — A multiple-family dwelling. (See "dwelling, multiple-family.")

BASEMENT — A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story when more than 1/2 of its height is above the average level of the adjoining ground or when subdivided and used for commercial or dwelling purposes.

BUILDING — Any structure intended for shelter, housing or enclosure of persons, animals or chattels. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate structure.

**BUILDING COVERAGE** — The percentage of the lot area covered by the building, excluding all overhanging roofs.

**BUILDING HEIGHT** — The vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of the coping of a flat roof or the declivity of a mansard roof or to the average height of the highest gable of a pitch or hip roof.

**BUILDING, MAIN** — A building in which is conducted the principal use of the lot on which it is situated. In any residential district any dwelling shall be deemed to be a main building on the lot on which it is situated.

**BUILDING SITE** — A single parcel of land occupied or intended to be occupied by a building or structure.

**CERTIFICATE OF OCCUPANCY** — Official certification that a premises conforms to provisions of the regulations, ordinances and codes of the City and, thus, may be used or occupied.

**CHURCH** — A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which buildings and uses are maintained and controlled by a religious body organized to sustain regular public worship.

**CITY COUNCIL** — The governing or legislative authority of the City of Bethel, Minnesota.

**COMPREHENSIVE PLAN** — An official document, or parts thereof, of the City of Bethel containing policies concerning present conditions and future growth of Bethel as adopted and as amended by the City Council.

**DENSITY** — The average number of housing units per unit of land, generally expressed as "dwelling units per acre."

**DWELLING** — A building or one or more portions thereof occupied or intended to be occupied for residence purposes, but not including rooms in motels, hotels, nursing homes, or boardinghouses, mobile homes, tents, cabins or recreational vehicles.

**DWELLING, ATTACHED** — A dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

**DWELLING, DETACHED** — A single dwelling unit not attached to another dwelling or structure.

**DWELLING, MULTIPLE-FAMILY** — A building designed with three or more dwelling units exclusively for occupancy by three or more families living independently of each other, but sharing hallways and main entrances and exits.

**DWELLING UNIT** — A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

FAMILY — One or more persons living together in a single dwelling unit as a traditional family or the functional equivalent of a traditional family. It shall be a rebuttable presumption that four or more persons living together in a single dwelling unit who are not related by blood, adoption or marriage do not constitute the functional equivalent of a traditional family. In determining the functional equivalent of a family, the following criteria shall be present:

- (1) The group shares the entire dwelling unit.
- (2) The group lives and cooks together as a single housekeeping unit.
- (3) The group shares the costs for food, housing, utilities or other household expenses.
- (4) The group is permanent and stable and not transient or temporary in nature.
- (5) Any other factor determined by the City to be reasonably related to whether the group is the functional equivalent of a traditional family.

GARAGE, PRIVATE — An accessory building or a part of a main building used for storage purposes only for automobiles used solely by the occupants and their guests of the building to which it is accessory.

GRADE — The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five feet from the building, between the building and the line five feet from the building.

HOME OCCUPATION — Any gainful occupation meeting all of the following requirements when engaged in only by persons residing in their dwelling: when that occupation is conducted within the principal or accessory structures, when evidence of the occupation is not visible from the street, when no signs are present other than those permitted in the specific zoning district, no stock-in-trade is stored on the premises, over-the-counter retail sales are not involved, and entrance to the home occupation is gained from within the structure. A professional person may use his residence for consultation, emergency treatment or performance of religious rites but not for the general practice of his profession when such general practice will involve the need for more than three parking spaces for the occupant and visitors. Home occupations include professional offices, minor repair services, photo or art studio, dressmaking, teaching limited to three students at any one time and similar uses. The conducting of a beauty or barber shop, tearoom or restaurant, rest home, clinic, doctor or dentist office, child-care center, tourist home, real estate office, or cabinet, metal or auto repair shop shall not be deemed a home occupation.

HOMEOWNERS' ASSOCIATION — An incorporated nonprofit organization operating under recorded land agreements through which:

- (1) Each lot and/or homeowner in a planned unit or other described land area is automatically a member;

- (2) Each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property; and
- (3) The charge if unpaid becomes a lien against the property.

**INTENSITY** — The degree to which land is used, referring to levels of concentration or activity in uses.

**LOADING BERTH** — An unobstructed area provided and maintained for the temporary parking of trucks and other motor vehicles for the purpose of loading and unloading goods, wares, materials and merchandise.

**LOT** — A parcel of land of sufficient size to meet minimum zoning requirements for use, coverage and area and to provide such yards and other open spaces as are required in this chapter. Such lot shall have frontage on an approved street.

**LOT AREA** — The area of a lot in a horizontal plane bounded by the lot lines, but not including any area occupied by the waters of a duly recorded lake or river, or area which has been dedicated as a public thoroughfare or road.

**LOT, CORNER** — A lot abutting upon two or more streets at their intersection.

**LOT, DEPTH OF** — The average horizontal distance between the front and rear lot lines.

**LOT, DOUBLE FRONTAGE** — A lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

**LOT, INTERIOR** — A lot other than a corner lot and bounded by a street on only one side.

**LOT LINES** — The lines bounding a lot.

**LOT OF RECORD** — A lot which is a part of an approved plat or metes and bounds subdivision, the map of which has been recorded in the office of the appropriate county clerk.

**LOT WIDTH** — The mean horizontal distance between the side lot lines of a lot measured at right angles to the depth.

**METES AND BOUNDS** — A system of describing and identifying land by measures (metes) and direction (bounds) from an identifiable point of reference, such as a monument or other marker, the corner of intersecting streets, or, in rural areas, a tree or other permanent fixture.

**NONCONFORMING STRUCTURE** — Any structure permitted by existing City ordinance upon the effective date of its construction which would not conform to the applicable regulations if the structure had been erected under the provisions of subsequent ordinance(s).



**NONCONFORMING USE** — Use of land, building or structure which does not comply with all the regulations of City ordinances governing the zoning district in which such use is located adopted subsequent to the initiation of said use.

**PARCEL** — A lot, or contiguous group of lots, in single ownership or under single control and usually considered a unit for purposes of development.

**PARKING SPACE** — A suitable surfaced or permanently maintained area on privately owned property of sufficient size to store one motor vehicle either within or outside of a building.

**PERFORMANCE STANDARD** — Criteria established to control noise, odor, toxic or noxious matter, vibration, fire or explosive hazards, or glare or heat generated by or inherent in uses of land or buildings.

**PLANNED UNIT DEVELOPMENT** — A zoning designation which allows a mixing of buildings and uses which cannot be otherwise addressed under this chapter and/or whereby internal site design standard deviations from this chapter may be allowed to improve site design and operation.

**PLANNING COMMISSION or COMMISSION** — The Planning Commission of the City of Bethel, unless the context indicates otherwise.

**PUBLICATION** — Notice placed in the official City newspaper stating time, location and date of meeting and description of topic.

**PUBLIC HEARING** — Whenever the term "public hearing" is used in this chapter, unless otherwise specifically redefined, it shall mean a public hearing pursuant to a notice published once in the official newspaper of the City at least 10 days prior to the date of such hearing, which notice shall specify the general purpose, time and place of such hearing. Any such hearing after such publication may be continued, recessed or adjourned from time to time without any further publication or notice thereof.

**REZONING** — An amendment to or change in the zoning of a lot, tract or parcel of land.

**RIGHT-OF-WAY** — A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on the final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels.

**RIGHT-OF-WAY LINE** — A dividing line between a lot, tract or parcel of land and a contiguous street. Also known as "property line."

**ROADWAY** — That portion of a street intended for the accommodation of vehicular traffic.

SETBACK — The required distance between structures and a lot line measured perpendicularly in a horizontal plane extending across the complete length of said lot line or lines.

SIGHT-PROOF SCREENING — Decorative fencing, evergreen vegetation or landscaped earth berms maintained for the purpose of concealing from view the property or structure behind such fence, evergreen vegetation, or berms which is sought to be screened from the abutting property.

SIGN — Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

- (1) ABANDONED SIGN – Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one year or more. Any sign remaining after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of "abandoned sign."
- (2) BALLOON SIGN – A sign consisting of a bag made of lightweight material supported by helium or hot or pressurized air which is greater than 24 inches in diameter.
- (3) CHANGEABLE COPY SIGN – A sign or portion thereof that has a reader board for the display of text information in which each alphanumeric character, graphic or symbol is defined by objects not consisting of an illumination device and may be changed or rearranged manually or mechanically with characters, illustrations, letters or numbers that can be changed or rearranged without altering the face or surface of the sign structure.
- (4) CHANGEABLE COPY SIGN, ELECTRONIC – A sign or portion thereof that displays electronic, nonpictorial text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light-emitting diodes (LEDs), fiber-optics, light bulbs or other illumination devices within the display area. Electronic changeable copy signs include computer programmable, microprocessor controlled electronic displays. Electronic changeable copy signs include projected images or messages with these characteristics onto buildings or objects. Electronic changeable copy signs do not include official signs.
- (5) COMMERCIAL SPEECH – Speech advertising a business, profession, commodity, service or entertainment.

- (6) DYNAMIC DISPLAY – Any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure or any other component of the sign. This includes displays that incorporate technology or methods allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components as well as any rotating, revolving, moving, flashing, blinking or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, digital ink or any other method or technology that allows the sign face to present a series of images or displays.
- (7) ELECTRONIC GRAPHIC DISPLAY SIGN – A sign or portion thereof that displays electronic, static images, static graphics or static pictures, with or without text information, defined by a small number of matrix elements using different combinations of light-emitting diodes (LEDs), fiber-optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of fade, repixelization or dissolve modes. Electronic graphic display signs include computer programmable, microprocessor controlled electronic or digital displays. Electronic graphic display signs include projected images or messages with these characteristics onto buildings or other objects.
- (8) FLASHING SIGN – A directly or indirectly illuminated sign or portion thereof that exhibits changing light or color effect by any means, so as to provide intermittent illumination that changes light intensity in sudden transitory bursts and creates the illusion of intermittent flashing light by streaming, graphic bursts showing movement, or any mode of lighting which resembles zooming, twinkling or sparkling.
- (9) FREESTANDING SIGN – Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.
- (10) MULTIVISION SIGN – Any sign composed in whole or part of a series of vertical or horizontal slats or cylinders that are capable of being rotated at intervals so that partial rotation of the group of slats or cylinders produces a different image and when properly functioning allows on a single sign structure the display at any given time one of two or more images.
- (11) NONCOMMERCIAL SPEECH – Dissemination of messages not classified as commercial speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.
- (12) OFFICIAL SIGN – Signs of a public noncommercial nature, including public notification signs, safety signs, traffic signs, and direction to public facilities, when erected by or on behalf of a public official or employee in the performance of official duty.

- (13) OFF-PREMISES SIGN – A commercial speech sign, including billboards, which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located. For purposes of Article VII, Signs, of this chapter, easements and other appurtenances shall be considered to be outside such lot, and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premises sign.
- (14) PORTABLE SIGN – Any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground, since this characteristic is based on the design of such a sign.
- (15) PROJECTING SIGN – Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two feet beyond the surface of such building or wall face.
- (16) ROOF SIGN – Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
- (17) ROTATING SIGN – A sign or portion of a sign which turns about on an axis.
- (18) SHIMMERING SIGN – A sign which reflects an oscillating sometimes distorted visual image.
- (19) SIGN FACE – The surface of the sign upon, against, or through which the message of the sign is exhibited.
- (20) SIGN STRUCTURE – Any structure, including the supports, uprights, bracing and framework, which supports or is capable of supporting any sign.
- (21) VIDEO DISPLAY SIGN – A sign that changes its message or background in a manner or method of display characterized by motion or pictorial imagery, which may or may not include text, and depicts action or a special effect to imitate movement, the presentation of pictorials or graphics displayed in a progression of frames that gives the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes, not including electronic changeable copy signs. Video display signs include projected images or messages with these characteristics onto buildings or other objects.
- (22) WALL SIGN – Any building sign attached parallel to but within two feet of a wall, painted on the wall surface of or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one sign surface.
- (23) WINDOW SIGN – Any building sign, picture, symbol, or combination thereof designed to communicate information about an activity, business, commodity,

event, sale, or service that is placed inside a window or upon the windowpanes or glass and is visible from the exterior of the window.

**STORY** — That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

**STORY, HALF** — A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level and in which space not more than 2/3 of the floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.

**STREET** — Any public thoroughfare which affords the principal means of access to abutting property.

**STREET, INTERSECTING** — Any street which joins another street at an angle, whether or not it crosses the other.

**STREET WIDTH** — The shortest distance between the lines delineating the right-of-way of a street.

**STRUCTURE** — Anything constructed or erected, the use of which requires permanent location on the ground or which is attached to something having a permanent location on the ground.

**USABLE OPEN SPACE** — Area intended for common use by occupants or residents of a development, either privately owned or maintained or dedicated to a public agency, normally including swimming pools, recreation courts, patios, open landscaped areas and greenbelts with pedestrian walkways and equestrian and bicycle trails, but not including off-street parking and loading areas or driveways.

**USE** — The purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied.

**USE, ACCESSORY** — A subordinate building or use which is located on the same lot on which the principal building or use is situated and which is reasonably necessary and incidental to the conduct of the principal building or use.

**USE, PRINCIPAL** — The main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or conditional.

**USE UNIT, PERMITTED** — A use unit which may be lawfully established in a particular district or districts, provided that it conforms to all requirements, regulations and performance standards (if any) of such districts.

**VARIANCE** — A procedure by which the Planning Commission may modify or alter this chapter under certain conditions for a specific piece of property.

**YARD** — An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except where it is otherwise specifically provided in this chapter that an accessory building may be located in a portion of a yard required for a main building. In measuring

a yard for the purpose of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used.

**YARD, FRONT** — A yard located in front of the front elevation of a building and extending across a lot between the side lot lines and being the minimum horizontal distance between the front property line and the principal building or any projections thereof other than steps.

**YARD, REAR** — A yard extending across the rear of a lot measured between lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

**YARD, SIDE** — A yard between the building and the side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the side of the main building or any projections other than steps.

**ZONING DISTRICT** — A section of the City designated in this chapter and usually delineated on the Zoning Map in which requirements for the use of land and building and development standards are prescribed.

## ARTICLE II Use Classifications

### **§ 255-6. General intent of use classifications.**

The use classification is a grouping of individual uses having similarities in characteristics of function, product and/or performance which provide a basis for systematic classifications of uses in accordance with criteria directly relevant to the health, safety and welfare of Bethel residents.

### **§ 255-7. Interpretation.**

Questions of the inclusion or exclusion of a particular principal use within a use classification shall be decided by the City Attorney with the right of appeal to the City Council. A use, if specifically listed in a use classification, shall not by interpretation be included as a principal use within any other classification.

### **§ 255-8. Listing of use classifications.**

All uses are hereby classified into the following use classifications, which are listed and described in §§ 255-9 through 255-13, inclusive. Use units are also listed under each appropriate use classification.

## A. Residential use classifications.

- (1) Single-family residential use unit.
- (2) Two-, three- and four-family residential use unit.
- (3) Multiple-family residential use unit.
- (4) Group residential use unit.

## B. Civic use classifications.

- (1) Light public protection and utility use unit.
- (2) Heavy public protection and utility use unit.
- (3) Low-impact institutional use unit.
- (4) Day-care center use unit.
- (5) Library services and community centers use unit.
- (6) Community recreation use unit.

## C. Commercial use classifications.

- (1) Administrative and professional service use unit.
- (2) General office use unit.
- (3) Agricultural supplies and services use unit.
- (4) Animal sales and services:
  - (a) Grooming use unit.
  - (b) Kennels and veterinary, restricted use unit.
  - (c) Kennels and veterinary, general use unit.
- (5) Automotive and equipment:
  - (a) Cleaning and repairs, light equipment use unit.
  - (b) Repairs, heavy equipment use unit.
  - (c) Sales/rentals, farm and heavy equipment use unit.
- (6) Building maintenance services use unit.
- (7) Business support services use unit.
- (8) Construction sales and services use unit.
- (9) Convenience sales and personal services use unit.

- (10) Eating and drinking establishments:
    - (a) Restricted use unit.
    - (b) General use unit.
  - (11) Finance, insurance and real estate service use unit.
  - (12) Food and beverage retail sales use unit.
  - (13) Alcoholic beverage retail sales use unit.
  - (14) Funeral services use unit.
  - (15) Gasoline sales use unit.
  - (16) Medical services use unit.
  - (17) Participant recreation and entertainment use unit.
  - (18) Personal services use unit.
  - (19) Repair services, consumer use unit.
  - (20) Research services use unit.
  - (21) Retail sales and services:
    - (a) General use unit.
    - (b) Swap meet use unit.
  - (22) Wholesaling, storage and distribution:
    - (a) Restricted use unit.
    - (b) General use unit.
    - (c) Personal storage use unit.
  - (23) Signs, freestanding advertising signs use unit.
- D. Industrial use classifications.
- (1) Restricted light industrial use unit.
  - (2) Light industrial use unit.
  - (3) Personal wireless communications antennas and towers.
- E. Agricultural use classifications.
- (1) Horticulture use unit.
  - (2) Row and field crop use unit.



- (3) Animal raising: personal use unit.
- (4) Agricultural processing:
  - (a) Limited use unit.
  - (b) General use unit.

#### **§ 255-9. Residential use classifications.**

Residential use classifications include the occupancy of living accommodations on a nontransient basis.

- A. Single-family residential use unit. One dwelling unit that is a freestanding and structurally separated building used exclusively for residential purposes and located on a lot or building site which is unoccupied by any other dwelling unit or main building. A typical use is a single detached dwelling.
- B. Two-, three- and four-family residential use unit. Two, three or four dwelling units placed so that some structural parts are touching one another, but freestanding and structurally separated from any other dwelling unit or building, each of which dwelling units is located on a lot or building site which is unoccupied by any other dwelling unit or main building, and which is connected to City sewer. A typical use is a townhouse, duplex, triplex, or a fourplex residence.
- C. Multiple-family residential use unit. A structure containing at least five dwelling units in any vertical or horizontal arrangement, located on a lot or building site which is unoccupied by any other dwelling unit or main building, and which is connected to City sewer. Typical uses include townhouses and apartments.
- D. Group residential use unit. The residential occupancy of living units by a number of occupants not constituting a family or otherwise related but occupying the structure on a nontransient basis. Typical uses include occupancy of nursing homes and extended care facilities.

#### **§ 255-10. Civic use classifications.**

Civic use classifications include the performance of utility, educational, recreational, cultural, medical, protective, governmental and other uses which are strongly vested with public or social importance.

- A. Light public protection and utility use unit. Public contact services that deal directly with the citizen, together with incidental storage and maintenance of necessary equipment or vehicles, including public protection or essential utility services which may have technical locational requirements necessitating proximity to the area served but which have a minor impact on surrounding uses. Typical uses include directional warning, safety, historical and informational signs, fire protection facilities, utility facilities, elevated water tanks, gas or water pressure control station, storage or service garages, civil defense shelters and facilities, water or sewage pumping stations, or stormwater control facilities.

- B. Heavy public protection and utility use unit. Public services and utilities which may have substantial impact due to attendant hazards, nuisance characteristics, traffic generation characteristics, or maintenance and operational characteristics. Such may be permitted when public welfare supersedes the usual limitations placed on land use and transcends the usual restraints of zoning of necessary location and community-wide interest. Typical uses include police stations, ambulance service, transmitting towers excluding amateur radio towers, sewer disposal facilities, water treatment plants, refuse transfer stations and solid waste disposal facilities excluding sanitary landfills.
- C. Low-impact institutional use unit. Public, quasi-public or private activities of an educational or religious nature which may have a minor impact on surrounding uses and are occupied on an intermittent basis. Such uses are necessary to serve common functions within a residential area and are not designed to provide lodging. Typical uses include elementary schools, kindergartens, churches and family day-care centers.
- D. Day-care center use unit. Public or quasi-public institutional activities which may have moderate impact on surrounding use but are required to properly support and serve the immediate area. Other than family day-care centers, typical uses include children's nurseries caring for three or more children.
- E. Library services and community centers use unit. Uses that directly serve a residential neighborhood or a cluster of neighborhoods and provide a gathering and collecting site for residents to meet, read, study and partake of book collections, manuscripts, lessons, etc.
- F. Community recreation use unit. This use unit includes recreational, social and multipurpose uses that involve primary open space use and generally available for public use. Typical uses include tennis courts, playgrounds, play fields and public parks.

#### **§ 255-11. Commercial use classifications.**

Commercial use classifications include the distribution, sale or rental of goods and the provision of services other than those classified as civic uses.

- A. Administrative and professional service use unit. Offices of firms or organizations providing professional and executive management or administrative services. Typical uses include abstract companies, advertising agencies, artist studios, data processing services, copying services, drafting services, employment agencies, legal offices, and architectural and engineering offices.
- B. General office use unit. Establishments utilized by firms and organizations for management and administrative functions and limited to facilities that generate insignificant use other than by office employees. Typical uses include general business offices (excluding on-premises sale of merchandise) and administrative offices.
- C. Agricultural supplies and services use unit. Establishments or places of business primarily engaged in the retail or wholesale sale from the premises of feed, grain,

fertilizer, pesticides and similar goods, as well as the provision of agriculturally related services, with incidental storage on lots other than where the service is rendered. Typical uses include feed and grain stores, crop dusting supply and tree service firms.

D. Animal sales and services:

- (1) Grooming use unit. Grooming of dogs, cats, and animals. Typical uses include dog bathing and clipping salons or pet grooming shops.
- (2) Kennels and veterinary, restricted use unit. Kennel and veterinary services for domestic animals, with all operations and storage conducted within an enclosed building. Typical uses include animal or veterinary hospitals, boarding kennels, pet motels and animal training centers.
- (3) Kennels and veterinary, general use unit. Kennel and veterinary services for domestic animals with incidental outdoor storage permitted. Typical uses include animal and veterinary hospitals, boarding kennels, pet motels and animal training centers.

E. Automotive and equipment:

- (1) Cleaning and repairs, light equipment use unit. Establishments or places of business engaged in the repairing of automobiles and the sale, installation and servicing of automobile equipment and parts and body repairs and painting. Typical uses include muffler shops, auto repair garages or auto glass shops.
- (2) Repairs, heavy equipment use unit. Repair of motor vehicles such as boats, recreational vehicles and trucks, as well as the sale, installation and servicing of automotive equipment and parts, together with body repairs, painting and steam cleaning. Typical uses include truck transmission shops, body shops or motor freight maintenance facilities.
- (3) Sales/rentals, farm and heavy equipment use unit. Sales, retail or wholesale, and rental from the premises of heavy farm construction equipment, trucks and construction equipment, together with incidental maintenance. Typical uses include boat dealers, farm equipment dealers or construction equipment dealers.

F. Building maintenance services use unit. Establishments or places of business primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional and service establishments to the firms themselves rather than to individuals, but excluding automotive, construction and farm equipment. Typical uses include office equipment and supply firms, janitorial services, disinfecting and exterminating services, and vending machine sales and service.

G. Business support services use unit. Establishments primarily engaged in the provision of services of a clerical, employment, protective or minor processing nature to firms rather than individuals, and where the storage of goods other than as samples or as necessary for daily operation is prohibited. Typical uses include secretarial services, telephone answering services, blueprint services and reproduction services.

- H. Construction sales and services use unit. Establishments or places of business primarily engaged in construction activities and incidental storage on lots other than construction sites, as well as the retail or wholesale sale from the premises of materials used in the construction of buildings or other structures, but excluding those uses classified as one of the automotive and heavy equipment use types. Typical uses include building material stores, tools and equipment rental or sales, electrical supplies, plumbing supplies, and air-conditioning or heating shops.
- I. Convenience sales and personal services use unit. Establishments or places primarily engaged in the provision of frequently needed, day to day retail commercial goods and services. Typical uses include small grocery stores, drugstores, candy stores, ice cream parlors, dry-cleaning establishments, barbershops, shoe repair shops and newstands.
- J. Eating and drinking establishments:
  - (1) Restricted use unit. Establishments or places of business primarily engaged in the sale of prepared food and beverages for on-premises consumption. Typical uses include restaurants, short-order eating places, cafeterias and coffee shops where liquor, beer, wine or spirits are not served or sold.
  - (2) General use unit. Establishments or places of business primarily engaged in the sale of food and alcoholic beverages, including liquor, beer, wine or spirits, for on-premises consumption. Typical uses include short-order eating places, cafeterias, coffee shops and bars.
- K. Finance, insurance and real estate service use unit. Establishments primarily engaged in the provision of financial, insurance, real estate or securities brokerage services. Typical uses include banks, insurance agencies, real estate firms and savings and loan institutions.
- L. Food and beverage retail sales use unit. Establishments or places of business primarily engaged in the retail sale of food and nonalcoholic beverages for home consumption. Typical uses include grocery stores and take-out restaurants.
- M. Alcoholic beverage retail sales use unit. Establishments or places of business primarily engaged in the retail sale of prepared food and beverages for home consumption, including alcoholic beverages. Typical uses include liquor stores.
- N. Funeral services use unit. Undertaking services such as preparing the dead for burial and arranging and managing funerals. Typical uses include funeral homes or mortuaries.
- O. Gasoline sales use unit. Establishments or places of business primarily engaged in the retail sale from the premises of petroleum products with incidental sale of tires, batteries and replacement items, lubricating services and minor repair services. Typical uses include automobile service stations.
- P. Medical services use unit. Establishments primarily engaged in the provision of personal health service, including prevention, diagnosis and treatment or rehabilitation services provided by physicians, dentists, nurses and other health personnel, as well as the provision of medical testing and analysis services, but excluding those classified as any civic use type. Typical uses include medical offices, dental laboratories, clinics or health maintenance organizations.

- Q. Participant recreation and entertainment use unit. Establishments or places primarily engaged in the provision of sports or recreation by and for participants within an enclosed building. Any spectators would be incidental and on a nonrecurring basis. Typical uses include bowling alleys and billiard parlors, dance halls, gymnasiums, health clubs, skating rinks and arcades.
- R. Personal services use unit. Establishments primarily engaged in the provision of informational, instructional, personal improvement and similar services of a nonprofessional nature. Typical uses include photography studios, travel agencies, driving schools, reducing salons, business or commercial schools, and dancing and music academies.
- S. Repair services, consumer use unit. Establishments primarily engaged in the provision of repair services to individuals and households rather than firms. Typical uses include appliance repair shops, apparel repair shops, musical instrument repair shops, electrical repair shops, shoe repair shops, and jewelry repair establishments.
- T. Research services use unit. Establishments primarily engaged in research of an industrial or scientific nature which is provided as a service, but excluding medical testing and analysis and product testing. Typical uses include electronics research laboratories, energy research and development firms, and pharmaceutical research labs.
- U. Retail sales and services:
- (1) General use unit. The retail sale or rental from the premises of goods and merchandise for personal or household use. Typical uses include department stores, apparel stores or furniture stores, painting or decorating shops, sales or showrooms, stores or shops for conducting retail business, tailor shops, antique shops, bicycle shops, bookstores, cosmetic shops, dry good stores, garden supply, hardware stores, hobby shops, jewelry stores, leather goods and luggage stores, paint stores, pet stores, radio or television sales, shoe stores, sporting goods stores, stationery stores, toy shops, variety stores, wallpaper stores, wig shops, costume rentals, gunsmiths, pawnshops, printing and publishing establishments and catering sales.
  - (2) Swap meet use unit. The display, exchange, barter or sale of new or used common household items or office equipment and furnishings, provided that such activity is carried on in a swap lot. Typical uses include flea markets where clothing, personal effects, household furnishings and household appliances are sold or otherwise exchanged.
- V. Wholesaling, storage and distribution:
- (1) Restricted use unit. Wholesaling, storage and warehousing services within enclosed structures. Typical uses include wholesale distributors, storage warehouses or moving and storage firms.

- (2) General use unit. Open-air storage, distribution and handling of materials and equipment. Typical uses include monument or stone yards, grain elevators or open storage yards.
  - (3) Personal storage use unit. Storage facilities within an enclosed structure that are available on a rental basis. Typical uses include mini storage facilities and storage for recreational vehicles, boats, trailers, etc.
- W. Signs, freestanding advertising signs use unit.

### **§ 255-12. Industrial use classifications.**

Industrial use classifications include the on-site manufacture, assembly or processing of products and goods not otherwise classified as agricultural.

- A. Restricted light industrial use unit. Establishments engaged in the manufacture, assembly or processing of products and goods with all operations and processes entirely within an enclosed structure, generating no industrial wastewater or airborne emissions, and producing no objectionable noise, glare, vibration, smoke or dust associated with the industrial operation, but with no outdoor storage of raw materials and products.
- B. Light industrial use unit. Establishments engaged in the manufacture, assembly or processing of products and goods with all operations and processes entirely within an enclosed structure, generating no industrial wastewater or airborne emissions, and producing no objectionable noise, glare, vibration, smoke or dust associated with the industrial operation, but with outdoor storage of raw materials and products.
- C. Personal wireless communications antennas and towers, provided that:
  - (1) All antenna and towers shall be in compliance with all City Building and Electrical Code requirements and as applicable shall require related permits.<sup>1</sup>
  - (2) Structural design, mounting and installation of the antenna shall be in compliance with the manufacturer's specifications and shall be verified and approved by a registered professional engineer.
  - (3) Unless the antenna/antenna support structure and land are under the same ownership, written authorization for antenna erection shall be provided by the property owner.
  - (4) No advertising message shall be affixed to the antenna structure.
  - (5) The height of the antenna shall be the minimum necessary to function satisfactorily, as verified by an electrical engineer or other appropriate professional.
  - (6) Antennas shall not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety.

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1. Editor's Note: See Ch. 80, Building Construction.

- (7) When applicable, proposals to erect new antenna shall be accompanied by any required federal, state, or local agency licenses.
- (8) If a new antenna support structure is to be constructed, it shall be designed so as to accommodate other users, including but not limited to other personal wireless service communication companies and local police, fire and ambulance companies.
- (9) Antenna support structures under 200 feet in height shall be painted silver or have a galvanized finish to reduce visual impact, unless otherwise required by federal law.
- (10) Antennas and support structures for federally licensed amateur radio stations and used in the amateur radio service are exempt from these provisions, except that support structures (towers) must be installed in accordance with the instructions furnished by the manufacturer of that tower model.
- (11) Personal wireless service antenna located upon public structures may be approved by the Zoning Administrator and shall comply with the following standards:
  - (a) The applicant shall demonstrate by providing a coverage/ interference analysis and capacity analysis prepared by a registered professional engineer that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the personal wireless service system and to provide adequate portable personal wireless service coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district.
  - (b) Transmitting, receiving and switching equipment shall be situated in the rear yard of the principal use and shall be screened from view by landscaping.
- (12) Personal wireless service antenna not located upon a public structure shall require the processing of a conditional use permit and shall comply with the following standards:
  - (a) The applicant shall demonstrate by providing a coverage/ interference analysis and capacity analysis prepared by a registered professional engineer that location of the antennas as proposed is necessary to meet the frequency reuse and spacing needs of the personal wireless service system and to provide adequate portable personal wireless service coverage and capacity to areas which cannot be adequately served by locating the antennas in a less restrictive district.
  - (b) The antennas shall be located on an existing nonresidential structure, if possible, and shall not extend more than 15 feet above the structural height of the structure to which they are attached.
  - (c) If no existing nonresidential structure which meets the height requirements for the antennas is available for mounting purposes, the antennas may be allowed by conditional use permit to be mounted on a single ground-mounted pole, provided that:

- (1) The pole does not exceed 75 feet in height.
- (2) The setback of the pole from the nearest property line is not less than the height of the antenna.
- (3) Transmitting, receiving and switching equipment shall be situated in the rear yard of the principal use and shall be screened from view by landscaping.
- (4) A security fence not greater than eight feet in height with a maximum opacity of 50% shall be provided around the support structure.

### **§ 255-13. Agricultural use classifications.**

Agricultural use types include the on-site production, harvesting and processing of plant and animal products by agricultural methods.

- A. Horticulture use unit. Such uses are primarily devoted to the cultivation and storage of horticultural and floricultural specialties such as flowers, shrubs and trees intended for ornamental or landscaping purposes on a wholesale sales basis. Typical uses include plant nurseries.
- B. Row and field crop use unit. Premises primarily devoted to the cultivation of agricultural products grown in regular or scattered patterns, such as wheat, field, forage and other plant crops intended to provide food or fiber.
- C. Animal raising: personal use unit. Premises where animals are fed or kept for personal use and for agricultural-related projects by the owner or occupant of the premises.
- D. Agricultural processing:
  - (1) Limited use unit. Packing or processing of agricultural crops and their by-products grown on the premises entailing more than picking, cutting, sorting, boxing and crating, but does not include canning, rendering, tanning or reduction of meat.
  - (2) General use unit. Packing or processing of crops or their by-products regardless of where they were grown or raised entailing more than picking, cutting, sorting, boxing and crating, but does not include canning, rendering, tanning or reduction of meat.

## **ARTICLE III Zoning Districts**

### **§ 255-14. Districts established; Official Zoning Map.**

- A. Establishment of zoning districts. In order to classify, regulate and restrict the location of trade and industry, and the location of buildings designated for specific uses, to protect residential uses, to regulate and limit the height and bulk of buildings hereafter erected or altered, to regulate and limit the intensity of the use of lot areas, and to regulate and determine the areas of yards and open space within and surrounding such buildings, the



City is hereby divided into zoning districts. The use, height and area regulations shall be uniform in each zoning district, and said zoning districts shall be known as:

- POS Public-Open Space District
- RSF Single Family Residential District
- RMF Multi-Family Residential District
- DB Downtown Business District
- GB General Business District
- I Industrial District
- PUD Planned Unit Development District W  
Wetlands Protection District
- L Lake Protection District

- B. Official Zoning Map established. The locations and boundaries of the various districts as defined herein shall be established by ordinance and shall be shown and delineated on the Official Zoning Map of the City of Bethel. Said map and all the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and thereby made a part of this chapter by reference. It is the responsibility of the City Clerk to maintain the Zoning Map, and amendments thereto shall be recorded on said map. The Official Zoning Map shall be kept on file in the City Hall.
- C. Zoning district boundaries. District boundary lines shall be described by legal description or by the Official Zoning Map of the City of Bethel. When a legal description is used, the boundary line shall be deemed to extend to the center line of abutting streets and shall be so designated on the Official Zoning Map. When a map is used, district boundary lines shall be established by dimensions, property lines, recorded lot lines, or the center line of abutting street, alley, or railroad right-of-way.

**§ 255-15. Park & Open Space (POS).**

- A. Title and purpose. The purpose of this district is to provide space for park and open space uses.
- B. Permitted use units.
  - (1) Single-family residential.
- C. Height regulations. No building shall exceed 2 1/2 stories or 35 feet in height.
- D. Area regulations.
  - (1) Front yard. There shall be a front yard having a depth not less than 40 feet.
  - (2) Side yard. There shall be a side yard on each side of a building which shall have a width of not less than 15 feet or 10% of the average width of the lot, whichever is smaller.

- (3) Rear yard. There shall be a rear yard having a depth of not less than 40 feet.
- E. Intensity of use. There shall be a lot area of not less than one acre.
- F. Accessory uses permitted. Accessory uses and structures, which are customarily associated with, incidental to, and subordinate to a permitted principal use shall be permitted.
- G. Accessory use yard utilization.
  - (1) There shall be no building permit issued for any accessory structure larger than 720 square feet in size in this district without issuance of a conditional use permit by the City Council.

**§ 255-16. Residential-Single Family District (RSF).**

- A. Title and purpose. The purpose of this district is to accommodate and preserve the existing single-family residential area of the City. These provisions are designed to:
  - (1) Encourage and protect single-family residential use;
  - (2) Accommodate uses and activities which support and strengthen the neighborhood;
  - (3) Encourage living environments which meet or exceed state and local health and safety regulations; and
  - (4) Obtain economy in the public expenditures required to support existing residential environments.
- B. Permitted use units.
  - (1) Single-family residential.
- C. Height regulations. No building shall exceed 2.5 stories or 35 feet in height.
- D. Area regulations.
  - (1) Front yard. There shall be a front yard having a depth of not less than 25 feet.
  - (2) Side yard. For buildings on interior lots, there shall be a side yard on each side of a building which shall have a depth of not less than 10 feet. For buildings on corner lots, there shall be a side yard setback from the intersecting street of not less than 15 feet.
  - (3) Rear yard. There shall be a rear yard for the main building having a depth of not less than 20 feet.
  - (4) Lot width. There shall be a minimum lot width of 75 feet.
- E. Intensity of use.
  - (1) There shall be a lot area of not less than 20,000 square feet.

- (2) Where a lot has less area than herein required and all the boundary lines of that lot touch lands under other ownership on the effective date of this section (May 2004), that lot may be used for single-family residential-provided that the health and safety requirements of this chapter are met.
- F. Coverage. Main and accessory buildings shall not cover more than 40% of the lot area. Accessory buildings shall not cover more than 20% of the lot area.
- G. Accessory uses permitted. Accessory uses and structures which are customarily associated with, incidental to, and subordinate to a permitted use shall be permitted, including but not limited to:
  - (1) Attached and detached accessory buildings.
  - (2) Fences.
  - (3) In-home day care serving 14 or fewer persons in a single-family detached dwelling.
  - (4) Off-street parking of passenger vehicles, recreational vehicles and equipment.
  - (5) Outdoor recreation equipment.
- H. Accessory uses.
  - (1) Accessory uses, including swimming pools, shall be permitted in the rear yard or in the interior side yard, but not in between a public right-of-way and the principal structure. Accessory uses may be placed within 10 feet of a rear lot line or 5 feet from an interior side lot line. No accessory building shall be greater in size than the footprint of the principal structure nor shall be greater than 12 feet in height.
  - (2) No accessory building shall be constructed upon a lot until the construction of the principal building has been actually commenced, and no accessory building shall be used unless the principal building is also being occupied.

**§ 255-17. Residential-Multi-Family District (RMF).**

- A. Title and purpose. The purpose of this district is to provide for areas that are appropriate for multi-family housing.
- B. Permitted use units.
  - (1) Two-, three-, and four-family residential.
  - (2) Multiple-family residential.
- C. Height regulations. No building shall exceed 3 stories or 35 feet in height.
- D. Area regulations.
  - (1) Front yard. There shall be a front yard having a depth of not less than 25 feet.
  - (2) Side yard. For buildings on interior lots, there shall be a side yard on each side of a building which shall have a depth of not less than 10 feet. For buildings on

corner lots, there shall be a side yard setback from the intersecting street of not less than 15 feet.

- (3) Rear yard. There shall be a rear yard for the main building having a depth of not less than 20 feet.
- (4) Lot width. There shall be a minimum lot width of 100 feet.

E. Intensity of use.

- (1) There shall be a lot area of not less than 40,000 square feet.

F. Coverage. Main and accessory buildings shall not cover more than 50% of the lot area. Accessory buildings shall not cover more than 20% of the lot area.

G. Accessory uses permitted. Accessory uses and structures which are customarily associated with, incidental to, and subordinate to a permitted use shall be permitted, including but not limited to:

- (1) Attached and detached accessory buildings.
- (2) Fences.
- (3) Off-street parking of passenger vehicles, recreational vehicles and equipment.
- (4) Outdoor recreation equipment.

H. Accessory uses yard utilization.

- (1) Accessory uses, including swimming pools, shall be permitted in the rear yard or in the interior side yard, but not in between a public right-of-way and the principal structure. No accessory building shall be greater in size than the footprint of the principal structure nor shall be greater than 12 feet in height, except with a conditional use permit.
- (2) No accessory building shall be constructed upon a lot until the construction of the principal building has been actually commenced, and no accessory building shall be used unless the principal building is also being occupied.

**§ 255-18. Planned Unit Development District (PUD).**

A. Title and purpose. The provisions of this section shall be known as the "Planned Unit Development District (PUD)." The purpose of this district is to accommodate new residential development in the City. These provisions are designed to:

- (1) Encourage an orderly transition to residential use;
- (2) Encourage development with higher residential density provided that certain conditions are met;
- (3) Encourage living environments which meet or exceed state and local health and safety regulations;

- (4) Obtain economy in the public expenditures required to support new residential environments;
- (5) Allow for the mixing of land uses within a development when such mixing of land uses could not otherwise be accomplished under this chapter; and
- (6) Provide for variations to the strict application of the land use regulations in this chapter in order to improve site design and operation, while at the same time incorporating design elements (e.g., construction materials, landscaping, lighting, etc.) that exceed the City's standards to offset the effect of any variations.

B. Permitted use units.

- (1) Single-family residential.
- (2) Light public protection and utility.
- (3) Community recreation.
- (4) Horticulture.
- (5) Row and field crop.

C. Use units permitted with approved planned unit development.

- (1) Two-, three- and four-family residential.
- (2) All permitted use units allowed in the various zoning districts established by this chapter shall be treated as potentially allowable uses within a PUD District, provided that they would be allowable on the site under the Comprehensive Plan.

D. Height regulations. No building shall exceed two stories or 30 feet in height unless specifically modified in the approved development plan as provided for in Subsection K.

E. Area regulations. Unless specifically modified in the approved development plan as provided for in Subsection K, the following regulations shall apply:

- (1) Front yard. There shall be a front yard having a depth of not less than 40 feet.
- (2) Side yard. There shall be a side yard on each side of a building which shall have a width of not less than 15 feet or 10% of the average width of the lot, whichever is smaller.
- (3) Rear yard. There shall be a rear yard having a depth of not less than 40 feet.
- (4) Lot width. There shall be a minimum lot width of 75 feet at the front building line and 75 feet as measured at the street.

F. Intensity of use. Lot sizes shall be determined by the underlying zoning district. All PUDs shall be required to be connected to the sanitary sewer system.

G. Parking and loading. Parking and loading requirements of Article VI of this chapter shall be met.

H. Accessory uses permitted. Accessory uses and structures, including swimming pools, which are

customarily associated with, incidental to, and subordinate to a permitted principal use shall be permitted.

I. Accessory use yard utilization.

- (1) Accessory uses, including swimming pools, shall be permitted in the rear yard or in the interior side yard, but not in the front half of the lot or the front 50 feet of the side yard measured along a side lot line, and no accessory uses shall be permitted in the front yard or exterior side yard. Accessory buildings and swimming pools which are not a part of the principal building may be built in the rear or interior side yard, as provided herein, with a setback of 10 feet from the rear lot line and five feet from an interior side lot line and shall not occupy more than 20% of the rear yard or 720 square feet, whichever is less, and shall not exceed 12 feet in height.
- (2) No accessory building shall be constructed upon a lot until the construction of the principal building has been actually commenced, and no accessory building shall be used unless the principal building is also being occupied.
- (3) There shall be no building permit issued for any accessory structure larger than 720 square feet in area in this district without issuance of a conditional use permit.

J. Home occupations. General home occupations, as defined in § 255-5 herein, shall be permitted as determined by the Planning Commission subject to the following conditions:

- (1) The home occupation shall be an occupation or profession carried on by a member of the family residing on the premises.
- (2) No sign shall be used other than one nonilluminated nameplate attached to the building which is not more than four square feet in area.
- (3) No person is employed other than a member of the immediate family residing on the premises.
- (4) No mechanical equipment is used which creates a disturbance such as noise, dust, odor, or electrical disturbance.
- (5) The home shall not be altered to attract business.

K. Modification of district provisions with planned unit development permitted. A planned unit development may be authorized provided that all of the following provisions are complied with:

- (1) Design characteristics. The proposed planned unit development shall be designed to provide for the unified development of the area and in accordance with the spirit and purposes of the PUD District. The design may provide for modification of yard, setback, height, use, density, intensity and coverage requirements up to the standards of the R District, provided that the development will be connected to City sewer facilities or the developer submits a plan which is approved by the City for a sewer system to serve the development.
- (2) Site development plan. The developer shall submit a site development plan of the proposed development in support of the application for a planned unit development permit. This application shall be considered the same as a rezoning request and the same

procedures shall be followed concerning application, Planning Commission review and public hearings. Upon approval by the City Council, the site development plan shall become a part of the Official Zoning Map. The plan may provide for staged development of the project and shall so indicate on the plan.

- (3) Plan changes. Any substantial deviation from the plans submitted at the time of rezoning shall constitute a violation of the rezoning, and a substantial change in plans shall be resubmitted for review following the same procedure required in the original adoption of the plan. The Building Official shall interpret what constitutes a substantial deviation or change in the plan.
- (4) Time limit. The construction of the planned unit development shall be started within two years of the effective date of approval of the plan by the City Council. Failure to begin the development within said two years shall automatically void the development plan, and the land shall revert to the same zoning classification which existed immediately preceding the approval of the planned unit development.
- (5) Homeowners' association. A homeowners' association shall be created if other satisfactory arrangements have not been made for improving, operating, and maintaining common facilities, including private drives, service and parking areas and recreation areas.
- (6) Minimum site size. It is intended that if a planned unit development is used that it include the entire PUD District. A smaller planned unit development may be considered; however, in no case shall a planned unit development include less than five acres of land.

**§ 255-19. Downtown Business District (DB).**

- A. Title and purpose. The provisions of this section shall be known as the "Downtown Business District (DB)." The purpose of this district is to provide for the conduct of personal and business services and the general retail business of the community.
- B. Permitted use units.
  - (1) Administrative and professional service.
  - (2) General office.
  - (3) Animal sales and services: grooming.
  - (4) Business support services.
  - (5) Convenience sales and personal services.
  - (6) Eating and drinking establishments: general.
  - (7) Eating and drinking establishments: restricted.
  - (8) Finance, insurance and real estate service.
  - (9) Food and beverage retail sales.
  - (10) Medical services.
  - (11) Personal services.

- (12) Repair services, consumer.
  - (13) Retail sales and services: general.
- C. Height regulations. No building shall exceed 35 feet in height.
- D. Area regulations.
- (1) Front yard. All buildings shall be placed on the front lot line.
  - (2) Side yard. There are no specific side yard requirements for uses other than dwellings.
  - (3) Rear yard. There are no specific rear yard requirements.
  - (4) Minimum lot size. The minimum lot size is 2,800 square feet.
  - (5) Minimum lot width. The minimum lot width for an interior lot is 20 feet. The minimum lot width for a corner lot is 25 feet.
- E. Accessory uses permitted. Accessory buildings and uses necessarily and customarily associated with, incidental to, and subordinate to the Business District shall be permitted, including but not limited to:
- (1) Buildings and structures for a use accessory to the principal use, but such use shall not exceed 30% of the gross floor space of the principal use.
  - (2) Fences.
  - (3) Off-street parking.
  - (4) Off-street loading.
  - (5) Signs.
- F. Accessory use yard utilization. Accessory uses shall meet the minimum building setback lines of the Business District. An accessory building erected as an integral part of the principal building shall be made structurally part thereof, shall have common walls therewith, and shall comply with the requirements applicable to the principal building. § 255-18 ZONING § 255-19
- G. Conditional uses.
- (1) Residential units if structurally connected to a business and if the residential units are above or behind the business. The business entrance must be on the main level.

**§ 255-20. Highway Business District (HB).**

- A. Title and purpose. The provisions of this section shall be known as the “General Business District (GB).” The purpose of this district is to provide for the convenience conduct of personal and business services in the community and surrounding trade territory. Uses in this district will be primarily automobile oriented and places of assembly.



## B. Permitted use units.

- (1) Light public protection and utility
- (2) Heavy public protection and utility.
- (3) Agricultural supplies and services.
- (4) Animal sales and services: grooming.
- (5) Animal sales and services: kennels and veterinary, restricted.
- (6) Automotive and equipment: cleaning and repairs, light equipment.
- (7) Construction sales and services.
- (8) Convenience sales and personal services.
- (9) Eating and drinking establishments: restricted.
- (10) Eating and drinking establishments: general.
- (11) Food and beverage retail sales.
- (12) Alcoholic beverage retail sales.
- (13) Gasoline sales.
- (14) Participant recreation and entertainment.
- (15) Retail sales and services: general
- (16) Wholesaling, storage and distribution: restricted.
- (17) Funeral services.
- (18) Community Recreation.
- (19) Library services and community centers.
- (20) Day care center.
- (21) Low-impact institutional use.
- (22) Group residential.
- (23) Theaters.

## C. Height regulations. No building shall exceed 35 feet in height.

## D. Area regulations.

- (1) Front yard. All buildings shall be set back from the street right-of-way line to provide a front yard having not less than 35 feet in depth.
  - (2) Side yard. No building shall be located closer than 35 feet to the side lot line.
  - (3) Rear yard. No building shall be located closer than 20 feet to the rear lot line.
  - (4) Coverage. Main and accessory buildings shall not cover more than 40% of the lot area, and in no case shall the gross floor area of the building exceed the area of the lot.
  - (5) Buildings shall be provided with a yard adequate to meet the off-street parking requirements set forth in Article VI of this chapter.
- E. Accessory uses permitted. Accessory buildings and uses necessarily and customarily associated with, incidental to, and subordinate to the Highway Business District shall be permitted, including but not limited to:
- (1) Buildings and structures for a use accessory to the principal use, but such use shall not exceed 40% of the gross floor space of the principal use.
  - (2) Fences.
  - (3) Off-street parking.
  - (4) Off-street loading.
  - (5) Signs.
- F. Accessory use yard utilization. Accessory uses shall meet the minimum building setback lines of the Highway Business District, and such incidental uses shall not contain more than 40% of the floor area devoted to purposes incidental to the principal use.

**§ 255-21. Industrial District (I).**

- A. Title and purpose. The provisions of this section shall be known as the "Industrial District (I)." This district is intended primarily for the conduct of light manufacturing, assembling and fabrication, and for warehousing, wholesale and service uses. The uses permitted under this section shall be conducted in such a manner that no noxious odor, fumes or dust will be emitted beyond the property line on the lot on which the use is located. Uses in this district do not depend primarily on frequent personal visits of customers or clients.
- B. Permitted use units.
- (1) Light public protection and utility.
  - (2) Heavy public protection and utility.
  - (3) Animal sales and services: kennels and veterinary, general.
  - (4) Automotive and equipment: repairs, heavy equipment.

- (5) Automotive and equipment: sales/rentals, farm and heavy equipment.
  - (6) Building maintenance services.
  - (7) Construction sales and services.
  - (8) Research services.
  - (9) Retail sales and services: swap meet.
  - (10) Wholesaling, storage and distribution: restricted.
  - (11) Wholesaling, storage and distribution: general.
  - (12) Wholesaling, storage and distribution: personal storage.
  - (13) Restricted light industrial.
  - (14) Light industrial.
  - (15) Horticulture.
  - (16) Agricultural processing: general.
- C. Height regulations. No building shall exceed 45 feet in height.
- D. Area regulations.
- (1) Front yard. All buildings shall be set back from the street right-of-way line to provide a front yard having not less than 35 feet in depth.
  - (2) Side yard and rear yard. There are no specific side or rear yard requirements for uses in this district; however, where a building is to be serviced from the side or rear, there shall be provided an alleyway, service court, yard or combination thereof of not less than 30 feet in width, or of adequate area and width to provide for maneuvering of service vehicles, whichever is greater.
  - (3) Buildings shall be provided with a yard area adequate to meet the off-street parking requirements set forth in Article VI of this chapter.
- E. Accessory uses permitted. Accessory structures and uses necessarily and customarily associated with and appropriately incidental and subordinate to uses allowed in the Industrial District shall be permitted as determined by the Planning Commission.
- F. Outdoor storage regulations. No article or material shall be kept, stored or displayed outside the confines of the building unless it is surrounded by sight-proof screening (fences, walls or planting) so that it cannot be seen from a public street.
- G. Accessory use yard utilization. Accessory uses shall meet the minimum building setback lines of this district. An accessory building erected as an integral part of the principal building shall be made structurally a part thereof, shall have common walls therewith, and shall comply with the requirements applicable to the principal building.

ARTICLE IV  
**Special Regulations.**

**§ 255-22. General provisions.**

- A. Title and purpose. The provisions of this article shall be known as the "Special Regulations." The purpose of these provisions is to set forth specialized regulations which have limited applicability within the City of Bethel and which assure that consideration is provided areas of special interest or concern.
- B. Modifications imposed by special regulations. The provisions of individual special area regulations shall be in addition to regulations imposed by the use unit regulations or zoning district regulations. When more than one regulation is applicable to the same subject within a district, the most restrictive shall apply.
- C. Application. A special regulations district shall be deemed applicable when conditions or purposes specified within individual special area regulations are found present and a special regulations designator is included within a district.
- D. Special regulations designator. The following shall be used as appropriate:

<b>Designator</b>	<b>Special Area</b>
W	Wetlands Protection District
L	Lake Protection District

- E. Modification to special regulations. Modifications or changes to the regulations specified within the special regulations shall be subject to the provisions of § 255-69, Amendments, of this chapter.

**§ 255-23. Wetlands Protection District (W).**

- A. Title and purpose. The provisions of this section shall be known as the "Wetlands Protection District (W)." The Wetlands Protection District is intended to promote the health, safety and general welfare of the public by providing standards for limiting land uses and preserving the general environment of an area. The purpose of the district is to protect and maintain wetlands.
- B. Description of the Wetlands Protection District. The "W" District and its regulations may be applied to property located in any other zoning district in accordance with the provisions of this section. The "W" District is designed to be an overlay zoning district, and the regulations imposed by such district shall be in addition to the regulations of the underlying zoning district applicable to the subject parcel of land.
- C. District identification. Areas and locations designated as being within the "W" District shall be identified on the Official Zoning Map of the City and in other official writings by the suffix "W."
- D. District regulations.

- (1) Sewer system location. No private individual or collective on-site sewer system shall be constructed or maintained in the "W" District.
  - (2) Garbage and manure. No garbage, manure or putrescible matter shall be placed upon the ground or buried in the "W" District.
  - (3) Refuse; waste products. No refuse or other waste products and materials shall be placed upon the ground or buried in the "W" District.
  - (4) Structures. No structures or buildings of any kind shall be placed in the "W" District.
- E. Wetlands Protection District designation. The City of Bethel may designate areas for inclusion within the Wetlands Protection District in the same manner prescribed for the designation of other zoning districts by this chapter and subject to compliance with this section.
- F. Wetlands must not be drained or filled, wholly or partially, unless replaced by either restoring or creating wetland areas of at least equal public value or compensating for the impact by replacing or providing substitute wetland resources or environments with those of at least equal public value. Compensation, including the replacement ratio and quality of replacement, shall be consistent with the requirements outlined in the rules adopted by the Board of Water and Soil Resources to implement the Wetland Conservation Act of 1991, as may be amended.

**§ 255-24. Lake Protection District (L).**

- A. Title and purpose. The provisions of this section shall be known as the "Lake Protection District (L)." The Lake Protection District is intended to promote the health, safety and general welfare of the public by providing standards for limiting water surface uses and land uses and preserving the general environment around lakes in accordance with Minnesota Department of Natural Resources regulations.
- B. Description of the Lake Protection District. The "L" District and its regulations may be applied to property located in any other zoning district in accordance with the provisions of this section. The "L" District is designed to be an overlay district, and the regulations imposed by such district shall be in addition to the regulations of the underlying zoning district applicable to the subject parcel of land.
- C. District identification. Areas and locations designated as being within the "L" District shall be identified on the Official Zoning Map of the City and in other official writings by the suffix "L." Land located within the "L" District shall be a minimum of 200 feet to a maximum of 1,200 feet from the ordinary high-water level of the lake.
- D. District regulations. All lots intended as residential building sites platted or created by metes and bounds description shall conform to the following:

- (1) Height regulations. No building shall exceed 35 feet in height.
  - (2) Intensity of use. All riparian lots (on the lake) served by the public sewer shall be a minimum of 40,000 square feet in area and at least 125 feet in width at the building line and at the ordinary high-water mark for all lots abutting the lake shore. All lots considered to be nonriparian (off the lake) and in the Lake Protection District shall maintain a minimum lot size of 20,000 square feet in area and be a minimum of 75 feet in width at the building line and at both ends of the lot.
  - (3) Setback from the water. All structures shall be set back a minimum of 150 feet from the ordinary high-water mark for all lots abutting the lake shore.
  - (4) Proximity to roads and highways. No structure shall be placed nearer than 50 feet to the right-of-way of any federal, state or county trunk highway or 20 feet to the right-of-way line of any other street.
  - (5) Maximum impervious surface. The total area of all impervious surfaces on a lot shall not exceed 25% of the total lot area.
- E. Water surface uses and restrictions (specific to Sandshore Lake).
- (1) Allowable types of watercraft. Small sailboats, canoes and paddle boats not exceeding 18 feet in overall length shall be permitted on the water.
  - (2) Allowable motors. Only electric motors with a size limit of two horsepower will be allowed. There shall be no allowable use of any gasoline or other fossil fuel burning motors on the lake, which would include all types of E85 ethanol burning motors.
  - (3) Allowable hours of use. The waters of Sandshore Lake may be used for limited recreational use between 9:00 a.m. and 6:00 p.m.
  - (4) Allowable and restricted dock usage. Approved types of docks are to be constructed of aluminum or stainless steel frame with treated wood decking. Docks shall be easily moveable utilizing permanently mounted wheels on one end. Docks shall be restricted to use in the waters from May 1 through October 15.
- F. Alterations of shoreland vegetation. Native vegetation in shoreline areas shall be maintained as practical and reasonable in order to retard surface runoff and soil erosion and to utilize excess nutrients. The removal of natural vegetation shall require a permit as specified in Subsection L herein and shall meet the following criteria:
- (1) Clear-cutting shall be prohibited, except as necessary for placing public roads, utilities, structures and parking areas.
  - (2) Native vegetation shall be restored insofar as feasible after any construction project.
  - (3) Selective cutting of trees and underbrush shall be allowed as long as sufficient cover is left to screen motor vehicles and structures when viewed from the water.

- G. Shore impact zone. On all riparian lots there shall be an area approximately 75 feet from the shore running the full width of the lot referred to as the shore impact zone (SIZ). In this area the following criteria must be met:
- (1) Only few and select trees can be removed or trimmed to provide for a lake view or access. No mass removal of trees or native shrubs or bushes shall be allowed.
  - (2) There shall be no mowing of grasses or native vegetation except as to provide an adequate access to the lake shore.
  - (3) There shall be no fertilizing or irrigation of the SIZ area allowed.
- H. Alteration of natural topography. Grading and filling in the shoreline areas or any other substantial alteration of the natural topography shall require a permit as specified in Subsection L herein and shall meet the following criteria:
- (1) The smallest amount of bare ground shall be exposed for as short a time as feasible.
  - (2) Temporary ground cover such as mulch shall be allowed and used with permanent native vegetative cover. The use of sod for lawns shall be allowed on all riparian and nonriparian lots. The use of seeding to provide for a lawn shall not allowed on any lots within the Lake Protection District.
  - (3) Methods to prevent erosion and trap sediment shall be utilized and must meet all applicable engineering standards.
  - (4) Marked buffer zones shall be incorporated and utilized for all riparian lots. The minimum width of the buffer zone shall be 75 feet.
- I. Lawn/yard maintenance. There shall not be any dumping or storage of grass clippings, leaves or other forms of lawn waste in or near the wetlands or lake shore. Only fertilizers having no or a low impact of contamination to the wetlands or lake shall be allowed. The use of pesticides (weed killers) shall not be allowed on any portion of the riparian lots at or below the ordinary high-water mark.
- J. Alteration of lake bed. Any work which will change or diminish the natural course or cross section of a public water shall be approved by the Commissioner of the Minnesota Department of Natural Resources (DNR) before any work is started. This would include but is not limited to the construction of channels and ditches, lagooning, dredging of lakes for removal of muck, silt or weeds and filling in the lake bed. Approval shall be construed and defined by the issuance of a permit by the DNR.
- K. Sewage and waste disposal.
- (1) The public and municipal wastewater treatment facility shall be the only type of sewage connection utilized for all approved lots abutting the lake shore.
  - (2) Wastewater treatment connections shall meet the setback of 150 feet from the normal high-water mark.

- L. Permits required. A conditional use permit shall be required for building construction and the installation of sewer and water facilities. Additional permits will be required for grading and filling in shoreline areas within the "L" District. All proposals would require a review by the Planning Commission utilizing and referring to all applicable DNR regulations that would apply. The final recommendations of the Planning Commission would be forwarded to the City Council for final approval. In no case shall a permit be issued unless all of the criteria and regulations herein are met.
- M. Lake Protection District designation. The City of Bethel may designate areas for inclusion within the Lake Protection District in the same manner prescribed for the designation of other zoning districts by this chapter and subject to compliance with this section.

#### **§ 255-25. Stormwater Management.**

Stormwater infiltration standards must comply with the MN Municipal Separate Storm Sewer System (MS4) permit minimum control measures 4 (construction site stormwater runoff control) and 5 (post-construction stormwater management).

#### **§ 255-26. Landlocked Basins.**

- A. Definitions.
  - (1) Landlocked Basins. Land areas without an inlet or discharge to a receiving waterbody such as a stream or lake.
- B. Purpose. The purpose is to prevent increases in flood elevations within landlocked basins not wholly owned by the entity proposing development and to prevent increases in discharge in the watershed by projects that provide outlets to areas that were landlocked (no discharge)
- C. Landlocked Basins Standards. For development or redevelopment projects >1 acre, it is prohibited to have new discharges to or from landlocked basins unless an engineering study is completed to evaluate the effects of the outlet and design to mitigate impacts. The study must include:
  - (1) Within the basin, hydrologic/hydraulic modeling certified by a licensed professional engineer to determine that storage is adequate for a 100-year precipitation event.
    - a. An outlet may be created to allow discharge above the 100-year event.
    - b. An outlet could also be considered below the 100-year High Water Level if additional retention and/or volume control measures are constructed such that the post-condition runoff rates and volumes for the site do not exceed the pre-condition runoff rates for 2-yr, 10-yr, and 100-yr storms and average annual volumes. Increases in rates and volumes may be allowable if compensatory BMPs have been designed and constructed in accordance with an approved Local Water Management Plan.
    - c. If the landowner controls the entire storage area of a land locked basin and any change in storage would not affect other landowners, then this analysis is not required.
  - (2) Downstream of the basin, hydrologic/hydraulic modeling analysis certified by a licensed professional engineer to determine no rise (>0.00ft) in downstream 100-yr flood elevations.



- a. A slight or negligible increase in downstream 100-year flood elevations can be allowed if easements were existing or obtained and if it does not create downstream nuisance conditions. Considerations should include size of the watershed, size of the landlocked basin and size of the receiving water, and mitigating practices installed elsewhere.
- (3) Hydrologic/hydraulic modeling analysis certified by a licensed professional engineer demonstrating stormwater volume and rate control within the site consistent with federal, state, WMO and local standards. Acceptable methodologies will be determined by the city.
  - (4) Identification of maximum practical on-site water retention and/or infiltration. Include identification of possible retention and/or infiltration sites, actual sites planned, and volume retained and/or infiltrated. For infiltration, include calculation of volume infiltrated. For retention, include discussion of the timing of discharge from the basin(s) in relation to the timing of other inflows to the receiving waterbody.
  - (5) Analysis considering how federal, state and local wetland laws, including the MN Wetland Conservation Act, impact possible actions.
  - (6) Consideration of risks and probability of the new outlet degrading downstream waters by conveying invasive species or pollutants. At a minimum the analysis must include:
    - b. Comparison of total phosphorus (TP) and total suspended solids (TSS) concentrations in the receiving waters and anticipated in the landlocked basin.
    - c. Calculation of additional TP and TSS, or other pollutants of concern as determined by the city, loading to the receiving waterbody if an outlet is added to the landlocked basin.
    - d. A search for invasive species in the landlocked basin.
  - (7) Consideration of alternatives and why they were not selected.
- D. Final permitting. The city will determine any critical elevations or boundaries of waterbodies needed for the engineering study. Development which results in quantifiable increases in 100-yr flood elevations may be allowed if appropriate financial agreements (and/or easements, as appropriate) are enacted with affected property owners.

#### **§ 255-27. Wetlands.**

A. Purpose. The purpose of this ordinance is to achieve the following goals:

- (1) Filter runoff through a vegetated buffer to wetlands.
- (2) Prevent disturbance within the wetland.

## B. Standards.

- (1) Applicability: These standards apply to:
  - a. Subdivision or development of three or more lots OR
  - b. >1 ac disturbance creating new impervious surfaces.
- (2) Buffer width: A minimum of 16.5 perennially vegetated buffer is required at the wetland boundary. Note that a 50 ft perennial vegetated buffer is required by State law for public waters.
- (3) Protections during construction: The delineated wetland, but not necessarily the buffer area, must be protected during construction with appropriate perimeter erosion control.
- (4) Buffer seeding: Any areas where vegetation is removed in the buffer area during construction must be reseeded with a native seed mix, and the applicant is responsible for maintenance or reseeded for three years through a legally enforceable agreement with the city/township. These requirements do not apply if the buffer area vegetation is not disturbed during construction.
- (5) Buffer vegetation: Buffer shall be a perennial, unmowed vegetation creating continuous cover. Existing vegetation may be used.
- (6) Buffer within an easement: For subdivisions of 3 or more lots, the buffer shall be within a drainage and utility easement with the community's restriction on structures and other activities in a drainage and utility easement.
- (7) Buffer averaging: For linear projects such as roadways or other special circumstances as determined by the city, the buffer width may vary if it achieves the minimum width on average.
- (8) Stormwater discharge to wetlands: Discharged stormwater must be treated to URRWMO stormwater standards.
- (9) Water level bounce: Allowable water level bounce in wetlands must follow MPCA guidance document – Stormwater and Wetlands: Planning and Evaluation Guidelines for Addressing Potential Impacts of Urban Stormwater and Snowmelt Runoff on Wetlands,” Minnesota Pollution Control Agency 1997, or subsequent updates.
- (10) Variances: Buffer variances may be granted in any of the following conditions:
  - a. Small wetlands where the entire wetland area is less than or equal to the area of wetland impact allowed without replacement as de minimis under the MN Wetland Conservation Act. It is acceptable to have no buffers in these cases.
  - b. Part of the required buffer is outside of the wetland's watershed. Due to topography near the wetland, runoff flows away from and never enters the wetland through surface flows. Variances should only be for that portion of the buffer that would be outside of the wetland's watershed.
  - c. If drainage is redirected to an area where a buffer is feasible.
  - d. If the site is not generating stormwater or is using stormwater minimizing

techniques that also provide habitat value such as rain gardens, vegetated swales, and other Best Management Practices (BMP's) replace the functions of buffers.

- e. If the applicant is protecting additional upland, beyond that required by other ordinances or control measures, to connect existing wildlife habitat.
- f. Undue hardship, as defined in MN Statutes 462.357, subd. 6, subpart 2.
- g. Others as determined by the permitting authority.
- h. Roads and other linear projects, except those created as part of a new residential or commercial development.

## ARTICLE V

### **Additional District Regulations**

#### **§ 255-28. Purpose.**

The following requirements are intended to qualify and supplement the specific district regulations set forth in Article III herein.

#### **§ 255-29. Reduction or joint use of open space or lot area.**

- A. Open space to serve one building. No open space or lot area required for a building or structure shall, during its life, be occupied by, or counted as open space for, any other building or structure.
- B. Projections into yards. Open eaves, cornices, windowsills and belt courses may project into any required yard a distance not to exceed two feet. Open porches may project into a front or rear yard a distance not to exceed five feet.

#### **§ 255-30. Street access for dwellings.**

No dwelling shall be erected on a lot which does not abut on at least one street for at least 35 feet and have a width of at least 50 feet at the building line. A street shall form the direct and primary means of ingress and egress for all dwelling units. Alleys, where they exist shall form only a secondary means of ingress and egress.

#### **§ 255-31. Lot size and open space for commercial and industrial uses.**

No minimum lot sizes and open spaces are prescribed for commercial and industrial uses. It is the intent of this chapter that lots of sufficient size be used by any business or industry to provide adequate parking and loading and unloading space required for operation of the enterprise.

**§ 255-32. Sight lines at intersections.**

- A. The following statements are definitions of the sight distance area:
- (1) Sight distance area at intersections of two public streets. On any corner lot, a triangle formed by measuring from the point of intersection of the front and exterior side lot lines a distance of 25 feet along said front and side lot lines and connecting the points so established to form a sight triangle on the area of the lot adjacent to the street intersection.
  - (2) Sight distance area at an intersection of a public street and private driveway leading to a parking lot of six or more vehicles. Triangles formed by measuring from the points of intersection of the front lot line and the exterior edges of the pavement of the driveway approach from the private property to the public thoroughfare a distance of 25 feet along said front lot line and said edges of pavement and connecting the points so established to form a sight triangle on the area on the lot adjacent to the driveway intersection, and including the area of the driveway between the two triangles.
- B. No parking, wall, fence, sign, structure or any plant growth other than grasses shall be placed or maintained within the sight distance area as herein defined from the ground elevation to a height of 10 feet above the elevation of the adjacent public street or private driveway, whichever is higher, except for traffic control signs and lighting standards, and except for private sign poles not exceeding one foot in diameter.

**§ 255-33. Height exemptions.**

Chimneys, elevators, poles, spires, tanks, towers and other projections not used for human occupancy may extend above the height limit. However, any structure which is proposed to exceed 200 feet in height must first be approved by the Aeronautics Division of the Minnesota Department of Transportation.

**§ 255-34. Parking and storage of commercial and recreational vehicles.**

- A. Commercial vehicles. Commercial vehicles and trailers of all types, including those used for hauling, shall not be parked or stored on any lot occupied by a dwelling or on any lot in any residential district except in accordance with the following provisions:
- (1) Not more than one commercial vehicle, which does not exceed 1.5 tons' rated capacity, per living unit on the premises shall be permitted.
  - (2) In no case shall a commercial vehicle used for hauling explosives, gasoline or liquefied petroleum products be permitted.
- B. Recreational vehicles. Recreational vehicles, which specifically include but are not limited to motorized homes, camping trailers, pickup campers, travel trailers, boats and boat trailers, shall not be parked or stored on any lot occupied by a dwelling or any lot in any residential district except in accordance with the following provisions:

- (1) Recreational vehicles shall be stored in the rear yard of a residential lot whenever reasonable access to said rear yard is available. If absolutely no access to the rear yard is available, recreational vehicles may be stored in the front yard of a residence, provided that no portion of the vehicle(s) extends over or into the street right-of-way.
- (2) Recreational vehicles shall not be parked or stored in any street right-of-way except for purposes of loading and unloading, and then not for a period to exceed 24 hours. Pickup campers that are in use daily shall be exempted from this requirement.
- (3) No recreational vehicle shall be stored in the front or side yard of a residence or a residential lot in a manner that would constitute a traffic hazard or would in any way obstruct vision within the sight triangle of a corner lot.
- (4) In no instance shall a recreational vehicle, either parked or stored, be occupied either permanently or temporarily.

**§ 255-35. Use of residential structures for commercial or industrial purposes.**

No structure or building designed for, intended for, or previously or presently used for either single-family or two-family residential purposes or dwelling shall be used for or occupied by any commercial or industrial use or district. Whenever a building or structure designed for residential or dwelling purposes is located in a commercial or industrial district, no commercial or industrial use shall be permitted on the lot on which the residence or dwelling is situated until said residence or dwelling building has been completely removed, and no residential structure, dwelling or building shall be used for any commercial or industrial use.

**§ 255-36. Design of residential structures.**

All residential structures within the City, regardless of which zoning districts they are located in, shall comply with the following provisions:

- A. All residential structures shall have permanent concrete or treated wood foundations which will anchor the structure, which comply with the Uniform Building Code as adopted in the State of Minnesota, and which are solid for the entire circumference of the house.
- B. No residential structure shall have a width of less than 22 feet for at least 70% of the structure. Width measurement shall not include overhangs or other projections beyond the principal exterior walls.
- C. All single-family dwellings other than approved earth-sheltered homes shall have at least a 3/12 roof pitch and shall have a shingled roof.
- D. All single-family dwellings shall have roof overhangs which extend a minimum of one foot from all walls of the structure.

- E. Any metal siding used upon a single-family residential structure shall have horizontal edges and overlapping sections no wider than 12 inches. Sheet metal siding shall not be permitted in residential districts. All siding to be utilized on residential structures must have a conventional appearance.
- F. Minimum floor area. All single-family dwellings that are one-story or split-level dwellings shall have a minimum floor area of 960 square feet excluding any garage. All single-family dwellings that are two or more stories shall have a minimum ground floor area of 960 square feet excluding any garage.

**§ 255-37. Architectural design and materials for principal structures in the DB District.**

- A. Exterior building materials are required to be brick, stone, wood, stucco, or similar materials. Metal is not permitted.
- B. The entry level front façade of all buildings shall have a minimum of 40% windows or doors.

**§ 255-38. Architectural design and materials of accessory buildings and fences.**

The architectural design and materials used for the construction of accessory buildings and fences shall harmonize with the main building to which said building or fence is accessory. Garages shall be made of the same exterior materials as the principal structure.

**§ 255-39. Fences.**

Fencing shall be permitted in all districts if in accordance with the following conditions and requirements:

- A. General. A fence shall be defined as a structure and shall be subject to the regulations for structures in the particular zoning district in which it is located, except that no front, side or rear yard setback shall be required. However, the entire fence and supporting structure must not encroach upon any street right-of-way or other property. All fences shall be kept in an attractive state, in good repair, and in a safe and sanitary condition at all times by the property owner. In no case shall a fence obstruct any public walkway or alley, even if such walkway or alley is on private property.
- B. Permit required. A building permit shall be required for the construction of a fence. A permit fee as provided for by § 80-6 of Chapter 80, Building Construction, of the Code of the City of Bethel shall be required.
- C. Front yard fence. A fence located within the otherwise required front yard setback area for all structures shall be defined as a front yard fence and shall meet the following requirements. The front yard fence shall be a decorative-type fence that is see-through and that does not exceed four feet in height. Barbed, hog or chicken wire or single-strand fences shall not be allowed except in the GR General Rural District. A front yard fence or front yard fence with a hedge or similar natural vegetation on any lot shall not cause a view obstruction for any private driveway and the pavement edge or maintained portion of a public or private street.

- D. Rear yard fence. A fence located anywhere on a lot except within the front yard setback area shall be defined as a rear yard fence. A rear yard fence shall not exceed eight feet in height and may be opaque. Barbed, hog or chicken wire or single-strand fences shall not be allowed except in the GR General Rural District.

**§ 255-40. Portable or temporary buildings.**

Portable or temporary buildings shall be permitted only in accordance with the provisions of these regulations and the regulations governing such buildings in the City Code. Residing in any portable or temporary building, including accessory buildings, mobile homes, recreational vehicles, or partially completed residences, is prohibited unless the City Council grants a temporary habitation permit for a maximum of 90 days. A maximum of one extension of a temporary habitation permit may be granted by the City Council for an additional 90 days maximum if substantial progress is being made.

ARTICLE VI  
**Parking and Access Regulations**

**§ 255-41. Title and purpose.**

The provisions of this article shall be known as the "Parking and Access Regulations." The purpose of these provisions is to provide functionally adequate, esthetically pleasing and secure off-street parking and access facilities.

**§ 255-42. Off-street parking requirements.**

For purposes of this article, there shall be provided at the time of the erection of any building or at the time any principal building is enlarged or increased in capacity, or before conversion from one type of use or occupancy to another, permanent off-street parking provided for as specified in this article. For purposes of this article, off-street parking does not include side yards, front yards or rear yards without providing for and adhering to all regulations of this article. Off-street parking of all motor and passenger vehicles under this article is limited to motor vehicles that are operational and able to move under their own power and meet all legal requirements for immediate road use by the State of Minnesota, including display of current plates and registration. Outdoor off-street parking of motor vehicles that display obvious defects not suitable for immediate road use, such as flat tires, broken windows, missing headlights, missing taillights, or other obvious defects making the vehicle not suitable for immediate road use, is not permitted. In addition, no outdoor off-street parking of motor vehicles found to be junk or disabled vehicles under Chapter 177, Nuisances and Offenses, of this Code is allowed.

- A. Compliance with off-street parking requirements. At the time the building permit is approved, the Building Official shall certify that the number, location and design of off-street parking space meet the requirements of this chapter. A certificate of occupancy shall not be issued until such off-street parking space has been constructed in accordance with the approved building permit.
- B. Questions of interpretation. Any aggrieved property owner may appeal the determination of parking requirements made by the Building Official to the City Council.
- C. Applicant to furnish required information. The applicant is required to furnish such

information as may be necessary for the Building Official to make a determination regarding the off-street parking requirements of this chapter. A plan showing the number, location and design of parking space shall accompany each building permit application. The applicant shall also furnish other data as appropriate for the determination of compliance with off-street parking requirements.

**§ 255-43. Exemption from off-street parking requirements.**

With the exception of residential units, the erection, expansion or change of any principal building and/or secondary structure located in DB Downtown Business District is not required to provide minimum off-street parking.

**§ 255-44. Responsibility to provide and maintain off-street parking space.**

Provision and maintenance of the off-street parking space herein required shall be the responsibility of the owner and/or operator of the use and the owner and/or operator of the land on which the structure or structures are located.

**§ 255-45. Design of parking area.**

- A. Off-street parking areas shall be designed to provide systematic and orderly circulation, traffic separation devices and parking spaces in accordance with this article and sound traffic engineering practices. All off-street parking spaces and means of ingress and egress shall be laid out on the parking surface with paint or plastic striping which shall provide a permanent delineation between spaces, aisles and surrounding structures and land. This provision shall not apply to single-family or two-family residences.
- B. All off-street parking spaces provided in compliance with the requirements of this article shall be at least nine feet in width and 20 feet in length.
- C. All parking spaces shall be designed at angles of 0° (parallel), 45°, 60° or 90°.
- D. Parking at an angle of 0° (parallel) shall have a minimum space of nine feet by 20 feet. The aisle shall be a minimum of 20 feet in width.
- E. No portion of any required off-street parking space shall occupy or use any public street, right-of-way, alley or other public property. Parking spaces which use any street or public right-of-way as a direct means of access without the intermediate use of service aisles and entrances shall be prohibited.
- F. At the time of building permit application, the applicant shall submit a parking plan for review.
- G. Drainage. Off-street parking spaces, aisles and access driveways as required by this article shall not concentrate and drain surface water onto or across a public right-of-way or onto any adjacent property except through a constructed facility (paved driveway,



storm sewer, surfaced drainageway, drainage swale, etc.) into a natural watercourse, drainage easement or public street. Drainage plans shall be provided for off-street parking areas and shall be reviewed and approved by the Building Official.

- H. All lighting equipment used in illumination of off-street parking areas shall not create a nuisance or hazard for streets or adjoining properties.
- I. Paving. All off-street parking areas, aisles and access driveways other than in the General Rural (GR) District shall be permanently paved with hard-surfaced pavement.

**§ 255-46. Minimum parking requirements.**

Wherever off-street parking is required, the following minimum spaces shall be provided:

<b>Specific Uses</b>	<b>Number of Spaces Required</b>
<b>Residential Use Units</b>	
Single-family	2 spaces per dwelling unit excluding garage plus 1 garage space for new construction or redevelopment
Two-, three- and four-family	2 spaces per dwelling unit excluding garage plus 1 garage space for new construction or redevelopment
Multiple-family	
Efficiency	1 space per dwelling unit
1-bedroom unit	1 1/2 spaces per dwelling unit
2-bedroom unit	2 spaces per dwelling unit
Each additional bedroom	1/2 space per additional bedroom
Group residential	1 space per 2 bedrooms
<b>Civic Use Units</b>	
Low-impact institutional	
Elementary and junior high schools	2.5 spaces per classroom or 1 space per 10 classrooms seats, whichever is greater
Churches, chapels, temples and synagogues	1 space for each 4 seats in main auditorium
Nursing homes, convents and orphanages	1 space for each 4 beds
Day-care center	
Day care and preschool	1 space for each 400 square feet of gross floor area, plus a storage reservoir accommodating 1 vehicle for every 300 square feet of gross floor area
Library services and community centers	10 spaces minimum, plus 1 space for each 400 square feet of floor area over 1,000 square feet of exhibit or public space

<b>Specific Uses</b>	<b>Number of Spaces Required</b>
Community recreation	
Golf courses	60 spaces for each 9 holes
Public swimming pools	1 space per 100 square feet of pool area (including the decking)
Private clubs	1 space per 100 square feet of floor area used for eating, drinking, dancing, recreation or health club purposes, plus 1 space per each 100 square feet of swimming pool area, plus 4 spaces for each racket, handball or tennis court
Tennis or racket courts	4 spaces per court
<b>Commercial Use Units</b>	
Administrative and professional services	1 space for each 200 square feet of net leasable area
General office	1 space for each 200 square feet of net leasable area
Agricultural supplies and services	1 space for each 200 square feet of net leasable area
Animal sales and services	
Grooming	1 space for each 300 square feet of net leasable area
Kennels and veterinary, restricted	1 space for each 300 square feet of gross floor area* if located in a nonagricultural district
Kennels and veterinary, general	1 space for each 300 square feet of gross floor area*
Automotive and equipment	
Cleaning and repairs, light equipment	1 space for each employee plus a storage reservoir 100 feet in length for each automatic stall and 40 feet for each self-cleaning stall
Repairs, heavy equipment	1 space for each 500 square feet of gross floor area*
Sales/rentals, farm and heavy equipment	1 space for each 500 square feet of gross floor area*
Building maintenance services	1 space for each 200 square feet of net leasable area
Business support services	1 space for each 200 square feet of net leasable area
Construction sales and services	1 space for each 200 square feet of gross floor area*
Convenience sales and personal services	1 space for each 200 square feet of gross floor area*

<b>Specific Uses</b>	<b>Number of Spaces Required</b>
Eating and drinking establishments	
Restricted	1 space for each 100 square feet of gross floor area
General	1 space for each 100 square feet of gross floor area
Finance, insurance and real estate service	1 space for each 200 square feet of gross floor area
Food and beverage retail sales	1 space for each 200 square feet of gross floor area
Alcoholic beverage retail sales	1 space for each 200 square feet of gross floor area
Funeral services	
Undertaking	1 space for each 200 square feet of gross floor area or 1 space per 3 seats in chapel, whichever is greater
Gasoline sales	2 spaces plus 1 space for each 200 square feet of gross floor area, plus a storage reservoir of 40 feet for each lane adjacent to a pump island
Medical services	1 space for each 200 square feet of gross floor area
Participant recreation and entertainment	
Bowling alley	5 spaces per lane
Skating rink	1 space per 200 square feet of rink area
Recreation hall	1 space per 200 square feet of public floor area
Billiard parlor	1 space per 200 square feet of public floor area
Dance hall	1 space per 200 square feet of public floor area
Personal services	1 space for each 200 square feet of gross floor area*
Repair services, consumer use	1 space for each 200 square feet of floor area
Research services	1 space for each 300 square feet of gross floor area up to 10,000 square feet; 1 space for each 1,000 square feet above 10,000 square feet
Retail sales and services	
General	1 space for each 200 square feet of gross floor area

<b>Specific Uses</b>	<b>Number of Spaces Required</b>
Swap meet, inside	1 space for each 200 square feet of gross floor area
Swap meet, outside	1 space for each 500 square of lot
Wholesaling, storage and distribution	
Distribution center	1 space for each 5,000 square feet of storage area
Warehouse storage	1 space for each 10,000 square feet of storage area
<b>Industrial Uses</b>	
All industrial uses	1 space for each 10,000 square feet of gross floor area up to 50, or 2 spaces for each 3 employees, whichever is greater. For buildings over 50,000 square feet, 2 spaces for each 3 employees on the 2 largest successive shifts. This provision can be waived to require only the largest shift if the applicant can substantiate a 15-minute separation between shifts.
<b>Agriculture</b>	
Horticulture	1 space for each 300 square feet of gross floor area
Row and field crop	N/A
Animal raising: personal	N/A
Agricultural processing: limited	
Limited	Same as industrial if located in nonagricultural district
General	Same as industrial if located in nonagricultural district

**§ 255-47. Definitions.**

As used in § 225-41, the following terms shall have the meanings indicated:

GROSS FLOOR AREA — All area within the structure excluding the outside walls. GROSS

FLOOR AREA\* — All area within the structure exclusive of storage and utilities.

NET LEASABLE AREA — Area measured from inside of exterior walls, excluding public space such as rest rooms, public hallways and mechanical space.

**§ 255-48. Off-street parking limits.**

- A. No person or property owner shall be permitted to utilize outdoor parking or storage of more than two motor vehicles per licensed driver per household up to a maximum of

eight motor vehicles or passenger vehicles per residence, which would include cars, trucks, vans, buses and motorcycles. This restriction shall not apply to classic or antique passenger motor vehicles, provided that they are over 20 years old and meet all Minnesota road requirements for proper and regular use.

- B. No person or property owner shall be permitted to provide for off-street parking or storage outdoors of motor vehicles on anything less than an improved surface which is equivalent to or better than that of the established driveway of the property.

## ARTICLE VII

### Signs

#### § 255-49. Findings, purpose and effect.

- A. The City finds that:

- (1) Exterior signs have a substantial impact on the character and quality of the environment.
- (2) Signs provide an important medium through which individuals may convey a variety of messages.
- (3) Signs can create traffic hazards and aesthetic concerns, thereby threatening the public health, safety and welfare.
- (4) This chapter regulates signs in an effort to provide adequate means of expression and to promote the economic viability of the business community, while protecting the City and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulation of the physical characteristics of signs within the City has a positive impact on traffic safety and the appearance of the community.

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

- (1) Regulate the number, location, size, type, illumination and other physical characteristics of signs within the City in order to promote the public health, safety and welfare.
- (2) Maintain, enhance and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community.
- (3) Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.

- (4) Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the City.
- C. Effect. A sign may be erected, mounted, displayed or maintained in the City if it is in conformance with the provisions of this article. The effect of this article, as more specifically set forth herein, is to:
- (1) Allow a wide variety of sign types in commercial districts and a more limited variety of signs in other zones, subject to the standards set forth in this article.
  - (2) Allow certain small, unobtrusive signs incidental to the principal use of a site in all districts when in compliance with the requirements of this article.
  - (3) Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety and welfare.
  - (4) Provide for the administration and enforcement of the provisions of this article.

**§ 255-50. Permit required; application for permit.**

No sign shall be erected or existing sign structure expanded without first securing a permit from the City, except when changing only the face of the sign without altering the area, height or location of the sign.

- A. The content of the message or speech displayed on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.
- B. Application for a sign permit shall be filed by the property owner or designated agent with the Zoning Administrator on forms to be provided by the City.
- C. The Zoning Administrator shall process and review the application and related materials and shall determine whether the proposal is in compliance with all applicable evaluation criteria, codes, ordinances, and applicable performance standards set forth in this chapter within 60 days of submission of a complete application.
- D. The application shall be accompanied by a fee as established by the fee schedule adopted by resolution of the City Council.
- E. The Zoning Administrator shall notify the applicant, in writing, of an incomplete application within 15 days of the date of submission.
- F. Application for a permit shall contain the following information unless waived by the City:
  - (1) Names and addresses of the applicant and owners of the sign and lot.
  - (2) The address at which any signs are to be erected.
  - (3) The lot, block and addition at which the signs are to be erected and the street on which they are to front.

- (4) Type and size of sign (e.g., wall sign, pylon sign).
- (5) A site plan to scale showing the location of lot lines, building structures, parking areas, existing and proposed signs and any other physical features.
- (6) Plans, location and specifications and method of construction and attachment to the buildings or placement method on the ground.
- (7) Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this chapter and all other laws and ordinances of the City.
- (8) Written consent of the owner or lessee of any site on which the sign is to be erected.
- (9) Any electrical permit required and issued for the sign.
- (10) A detailed description of any electronic or electrical components that are proposed to be added to the sign.
- (11) Other information to demonstrate compliance with this chapter and all other ordinances of the City.

#### **§ 255-51. Permit not required.**

The following signs shall not require a permit and are allowed in addition to those signs allowed by §§ 255-53 and 255-54 of this article. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility for its erection and maintenance and its compliance with the provisions of this article or any other law or ordinance regulating the same.

- A. The changing of the display surface on a painted or printed sign only. This exemption, however, shall apply only to poster replacement and/or on-site changes involving sign painting elsewhere than directly on a building.
- B. Not more than two signs two square feet or less in size per property, including at least one address sign identifying the correct property number as assigned by Anoka County, shall be required on each principal building in all districts. The number shall be at least three inches in height.
- C. One sign per property in residential districts not to exceed nine square feet.
- D. All noncommercial signs of any size posted in any number from 46 days before the state primary in a state general election year until 10 days following the general election, and 13 weeks prior to any special election until 10 days following the special election.
- E. Official signs.
- F. One sign shall be allowed per street frontage when a building is offered for sale or lease, provided that:

- (1) Within the R (Residential) Districts, no sign shall exceed 32 square feet in area or eight feet in height.
  - (2) Within all other districts and in those cases where a parcel of land exceeds 10 acres, regardless of its zoning, no sign shall exceed 64 square feet in area or 10 feet in height.
- G. Sandwich board signs are allowed within commercial districts, provided that:
- (1) Not more than one sign is allowed per principal building, except that one sign is allowed per tenant within a principal building having two or more tenants each with an exclusive exterior entrance.
  - (2) The sign shall only be displayed when the business is open to the public.
  - (3) The sign shall be placed only on the business property, except where the sign may be located upon public sidewalks directly abutting the business property or within required principal building setbacks, and not placed on any vehicle.
  - (4) The sign shall be located so as to maintain a minimum five-foot pedestrian walkway and so as not to obstruct vehicular traffic.
  - (5) The sign shall be set back a minimum of two feet from the back of curb of a public street or private drive aisle.
  - (6) The sign shall conform to the following maximum dimensions:
    - (a) Height: four feet.
    - (b) Width: three feet.

**§ 255-52. Substitution of copy.**

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

**§ 255-53. General regulations.**

- A. Accessory structures. All signs shall be accessory structures.
- B. Electrical signs. The installation of electrical signs shall be subject to the state's Electrical Code. Electrical service to such signs shall be underground.
- C. Illuminated signs. Illuminated signs shall be shielded to prevent lights from being directed at oncoming traffic in such brilliance that it impairs the vision of the driver and



may not interfere with or obscure traffic signs or signals. Lighting may not illuminate any adjacent properties, buildings, or streets.

D. Placement.

- (1) Freestanding signs shall be set back not less than 10 feet from any property line.
- (2) No sign or sign structure shall be erected or maintained that prevents free ingress or egress from any door, window or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.

E. Structure. A freestanding sign or sign structure constructed so that the faces are not back to back shall not have an angle separating the faces exceeding 20° unless the total area of both sides added together does not exceed the maximum allowable sign area for that district.

F. Square footage calculation. The area within the frame of a sign shall be used to calculate the square footage. Each surface utilized to display a message or to attract attention shall be measured as a separate sign and shall be calculated in the overall square footage. Symbols, flags, pictures, wording, figures or other forms of graphics painted on or attached to windows, walls, awnings, or freestanding structures, suspended by balloons or kites or on persons, animals, or vehicles are considered a sign and are included in calculating the overall square footage.

G. Height.

- (1) Freestanding signs. The height of the sign shall be measured from the ground at the base to the highest-most part of the structure.
- (2) Wall, canopy or marquee signs. The top of a sign, including its structure, if any, shall be no higher than the roof of the building to which such sign may be attached.

H. Motor fuel facilities. Signs for motor fuel facilities shall be regulated by the sign provisions for the zoning district in which the facility is located, except that within a freestanding sign, an area not to exceed 24 square feet shall be allowed for continuous display (no flashing, scrolling or other animation) of electronic or nonelectronic changeable copy identifying current fuel prices in accordance with Minnesota Statutes § 239.751.

I. Window signs. Window signs shall not exceed 25% of the total area of the window in which they are displayed.

J. Subdivisions.

- (1) Permanent signs. One sign shall be allowed for a subdivision having not fewer than three lots or principal buildings at its entrance from a major collector or arterial street defined by the Comprehensive Plan, provided that:
  - (a) The area of the face of each sign shall not exceed 100 square feet.
  - (b) Freestanding signs shall be limited to a maximum height of 10 feet.

- (c) The sign(s) shall be located to accommodate said sign and related landscaping to meet all setback requirements. If the sign(s) is to be located on outlots, the outlots shall be designated on the preliminary plat and detailed plans for the area identification signs shall be submitted with the final plat.
- (2) Temporary signs. A comprehensive signage plan for additional temporary signs shall be allowed upon approval of a final plat for a subdivision having not fewer than three lots or approval of site and building plans for one lot by the Zoning Administrator, provided that:
  - (a) One sign shall be allowed per project or subdivision or one sign for each frontage to a collector or arterial street, whichever is greater.
  - (b) The area of the sign face shall not exceed 64 square feet.
  - (c) Freestanding signs shall be limited to a maximum height of eight feet.
- (3) Model homes shall be allowed the following signs:
  - (a) One freestanding sign with a sign face not to exceed 32 square feet or a maximum height of eight feet.
  - (b) Not more than three flags with a maximum area of 16 square feet per face per flag and maximum height of 24 feet shall be allowed upon lots within the subdivision.
- (4) Unless extended by the Zoning Administrator, the temporary signs and flags allowed by this Subsection J shall only be displayed for a period not to exceed three years from the date a permit is issued for the sign or flag or until building permits have been issued for 100% of the lots within a final plat or subsequent phases of the same preliminary plat of a subdivision.

**§ 255-54. District regulations.**

The following additional signs shall be allowed within the respective zoning districts:

A. Business and Industrial Districts.

- (1) Freestanding signs.
  - (a) Not more than one double-sided freestanding sign shall be allowed, except that no freestanding sign shall be allowed within the B Business District.
  - (b) Sign area may not exceed 100 square feet each side.
  - (c) The maximum height of a freestanding sign shall not exceed 20 feet.
- (2) Wall signs.
  - (a) Wall signs shall be permitted on one facade fronting a public street, except in the case of a corner lot or through lot where wall signs may be installed on two facades fronting a public street.

- (b) The total area of all signs displayed on a lot shall not exceed 15% of the total wall area fronting not more than two public streets.
- (c) The area of individual signs shall not exceed 100 square feet.

**§ 255-55. Prohibited signs.**

The following signs are prohibited:

- A. Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signs, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.
- B. All signs over 100 square feet in area except official signs.
- C. All off-premises signs.
- D. Balloon signs.
- E. Electronic changeable copy signs, except as allowed by this article.
- F. Content classified as "obscene" as defined by Minnesota Statutes § 617.241.
- G. Dynamic display signs.
- H. Electronic graphic display signs.
- I. Flashing signs.
- J. Multivision signs.
- K. Portable signs.
- L. Roof signs.
- M. Rotating signs.
- N. Shimmering signs.
- O. Signs painted, attached or in any other manner affixed to trees or similar natural surfaces, or attached to utility poles, bridges, towers, or similar public structures.
- P. Video display signs.

**§ 255-56. Administration and enforcement.**

- A. Administration. This article shall be administered and enforced by the Zoning Administrator. The Zoning Administrator may institute in the name of the City appropriate actions or proceedings against a violator.

- B. Inspection. All signs for which a permit is required shall be subject to inspection by the Zoning Administrator.
- C. Sign removal. The City reserves the right to require the removal at the owner's expense of any sign when the requirements of this article are not completely followed and adhered to, or if a sign is not properly maintained or falls into a state of disrepair. The City shall not have any obligation or liability to replace any sign when removed by the City.
- D. Penalty. Any person who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this article shall, upon conviction thereof, be fined or penalized not more than the maximum levels established by the state for misdemeanor offenses.

## ARTICLE VIII Nonconformities

### § 255-57. Intent.

Within the districts established by this chapter or amendments that may later be adopted, there exist uses, structures or lots which were lawful prior to the adoption or amendment of this chapter but which would be prohibited under the terms of this chapter or future amendment to this chapter. These uses, structures and lots may continue as regulated by this article.

### § 255-58. General provisions.

- A. Conditional uses. Any legal nonconforming structure or use that is herein classified as a conditional use may be continued in like fashion and activity and shall automatically be considered as having received the applicable approval. Any change to such a use, including but not limited to building and/or site alteration, shall however require that a new permit be processed according to this chapter.
- B. Moving nonconforming buildings. No nonconforming building, structure or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the time it became a legal nonconformity, unless such movement will reduce the nonconformity.
- C. Subdivision. No parcel of land or portion thereof shall be subdivided if such action results in buildings and/or uses becoming nonconforming.
- D. Continuance of legal nonconformity. Any legal nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except as specifically provided in this chapter, unless the nonconformity or occupancy is discontinued for a period of more than one year or any nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its market value and no building permit has been applied for within 180 days of when the property is damaged. In this case, the City may impose reasonable conditions upon a building permit in order

to mitigate any newly created impact on adjacent property. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

E. Definitions. For the purposes of this section, the following terms shall be defined as follows:

**EXPANSION, ENLARGEMENT or INTENSIFICATION** — Any increase in a dimension, size, area, volume, or height, any increase in the area of use, any placement of a structure or part thereof where none existed before, any addition of a site feature such as a deck, patio, fence, driveway, parking area, or swimming pool, any improvement that would allow the land to be more intensely developed, any move of operations to a new location on the property, or any increase in intensity of use based on a review of the original nature, function or purpose of the nonconforming use, the hours of operation, traffic, parking, noise, exterior storage, signs, exterior lighting, types of operations, types of goods or services offered, odors, area of operation, number of employees, and other factors deemed relevant by the City.

**IMPROVEMENT** — Making the nonconforming use better, more efficient, or more aesthetically pleasing, including any change that does not replicate what preexisted, but does not include an expansion, enlargement, or intensification.

**REPLACEMENT, RECONSTRUCTION or RESTORATION** — Construction that exactly matches preexisting conditions.

#### **§ 255-59. Nonconforming uses.**

- A. When a legal nonconforming use of any structure or parcel of land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.
- B. A legal nonconforming use of a structure or parcel of land may be changed to reduce the nonconformity of use. Once a nonconforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.
- C. Normal maintenance. Maintenance of a building or other structure containing or used by a nonconforming use will be allowed when it includes necessary nonstructural repair and incidental alterations which do not extend or intensify the nonconforming building or use.

#### **§ 255-60. Nonconforming buildings and structures.**

- A. Proposed structure. Any proposed structure that will become nonconforming by amendment of this chapter but for which a building permit has been lawfully granted prior to the effective date of the amendment may be completed in accordance with the approved plans, provided that construction is started within 60 days of the effective date of the amendment, is not abandoned for a period of more than 120 days, and continues to completion within two years. The structure shall thereafter be a legal nonconforming structure.

- B. Alterations. Alteration and normal maintenance to a legal nonconforming building or structure may be made through the building permit process, provided that:
- (1) The alterations do not expand the foundation and/or building size (including deck additions), unless specifically allowed by this chapter.
  - (2) The alterations do not increase the building occupancy capacity or parking demand.
  - (3) The alterations do not increase the degree of the nonconforming condition of the building, site or the use.
- C. Expansion of legal nonconforming buildings or structures.
- (1) Building permit. The following expansions of legal nonconforming single- and two-family residential buildings may be approved through the building permit process by the Building Official: expansion of principal buildings found to be nonconforming only by reason of height and yard setback may be allowed, provided that the expansion complies with the performance standards of this chapter. Expansion of nonconforming detached accessory structures shall not be allowed.
  - (2) Conditional use permit. Legal nonconforming commercial, industrial, public, semipublic, and multiple-family residential principal structures may be expanded on the same lot by conditional use permit, provided that:
    - (a) The expansion will not increase the nonconformity of the building or site.
    - (b) The new building expansion will conform to all the applicable performance standards of this chapter. A conditional use permit shall not be issued under this chapter for a deviation from other requirements of this chapter unless variances are also approved.

**§ 255-61. Nonconforming lots.**

- A. Residential districts. In the residential districts and rural district, on any lot of official record prior to the effective date of the adoption of this chapter, or on any lot within an approved subdivision, a single-family detached dwelling may be erected without complying with the required yard area or width, or the required exterior side yard shall be less than five feet, and all other requirements of the district are complied with.
- B. Other districts. In districts other than residential and rural districts, any use permitted by right in the applicable district may be located on any lot of official record at the effective date of this chapter irrespective of its area or width, provided that the other requirements of the district are complied with.

ARTICLE IX  
**Administration and Enforcement**

**§ 255-62. Board of Appeals.**

- A. Members. The Board of Appeals for the City of Bethel shall consist of three individual members of the City Council and the Chairman and Secretary of the Planning Commission.
- B. Functions of the Board of Appeals.
  - (1) The Board shall make written recommendations to the City Council on variance petitions received under this chapter.
  - (2) The Board shall consider and advise the City Council on all appeals from decisions of the Building Official or other administrative officers in the enforcement of Chapter 80, Building Construction, this chapter, Chapter 225, Subdivision Regulations, and such other matters as may be directly referred to it by the Council.
- C. Procedures and organization of the Board of Appeals.
  - (1) The Board may establish its own rules of procedure which shall not be inconsistent with or contrary to the statutes of the State of Minnesota or City ordinances. The Board may appoint such officers as it deems necessary, including a Chairman and Secretary.
  - (2) The Board shall keep written records of its minutes, its proceedings and the findings and determinations made by it on all matters.
  - (3) All findings and determinations of the Board shall be advisory to the Council and shall have no binding effect. The City Council may take such action on the findings and recommendations of the Board as it deems proper under the circumstances.

**§ 255-63. Building permits.**

- A. Building permit required to build or alter. No land and no building shall be hereafter erected or structurally altered until a building permit has been issued by the Building Official.
- B. Plot plan required. Each application for a building permit shall be accompanied by a plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected, and any other information that may be necessary to provide for the enforcement of this chapter. A record of applications, plats and plot plans shall be kept by the City.

**§ 255-64. Certificates of occupancy.**

- A. Certificate required. No land and no building hereafter erected or structurally altered shall be used for any purpose, and no change in use of any such building shall be allowed, until a certificate is issued by the Building Official stating that the building and use comply with the provisions of this chapter and all building codes and housing and health ordinances.
- B. Authorized nonconforming use allowed. Nothing in this section shall prevent the continuance of an authorized nonconforming use unless a discontinuance is necessary for the safety of life and property.
- C. Occupancy certificates. Certificates of occupancy shall be applied for coincidentally with the application for a building permit. A certificate of occupancy shall state that the building or proposed use of a building or land complies with all laws and ordinances and with the provisions of these regulations. A record of all certificates shall be kept by the City.
- D. Occupancy prohibited without certificate. No building or premises shall be occupied until a certificate is issued by the City.

**§ 255-65. Conditional use permits.**

- A. Purpose. The purpose of a conditional use permit is to provide the City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is to be allowed, the City may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises or on any adjoining roads, and all other or further factors as the City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.
- B. Application. Application for a conditional use permit shall be filed with the City Clerk and shall be accompanied by:
  - (1) An application fee in an amount equal to that set by resolution of the City Council.
  - (2) Five copies of the site plan and supporting data which shows the size, location, and topography of the site, the use of adjacent land, the proposed site, bulk, use and location of buildings, the location and proposed function of all yards, open spaces, parking areas, driveways, storage areas, and accessory structures, the location of all utilities, the provisions for parking, moving or loading of vehicles, and the timing of construction proposed.
  - (3) Payment of an escrow amount to pay for the costs incurred by the City in engineering, legal or other professional consultants. Such escrow amount shall be set by resolution of the City Council. Any such fees incurred by the City shall be paid from this escrow. If the original escrow amount is insufficient to pay all such costs, the applicant shall pay such additional amounts which are incurred by the City before issuance of a permit. If the escrow amount exceeds the amounts



incurred by the City, the City shall refund the remaining escrow amount to the applicant, with no interest.

- C. Review and terms. The City Clerk shall forward copies of the application to the Planning Commission for review and to the City Engineer and/or other outside consultants that may be required.
- D. Action on application. Pursuant to Minnesota Statutes § 15.99, an application for a conditional use permit shall be approved or denied within 60 days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant.
- E. Criteria. The possible effects of the proposed use shall be considered, with the decision of the City Council based upon, but not limited to, the following factors:
  - (1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the Comprehensive Plan.
  - (2) The proposed use is or will be compatible with present and future land uses of the area.
  - (3) The proposed use conforms to all performance standards contained in this chapter and the City Code.
  - (4) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
  - (5) Traffic generation by the proposed use is within capabilities of streets serving the property.

#### **§ 255-66. Variances.**

- A. Purpose. The City Council may grant variances from the strict application of the provisions of this chapter and impose conditions and safeguards on the variances so granted where practical difficulties or particular hardships result from carrying out the strict letter of the regulations of this chapter.
- B. Petition. A petition for a variance shall be filed with the City Clerk and shall state the exceptional conditions and practical difficulties claimed as a basis for a variance. The petition shall also include the name and address of each owner of directly abutting property along each side of the property under consideration. Said property owners shall be notified by the City Clerk of the time and place said variance petition will be considered by the Board of Appeals at least 10 days prior to said consideration.
- C. Referral to Board of Appeals. Before authorization of any variance, the request therefor shall be referred to the Board of Appeals for study concerning the effect of the proposed variance upon the Comprehensive Plan and on the character and development of the neighborhood and for its recommendation to the Council in connection with such request. The Board shall make its recommendation within 30 days after the request is referred to it, and within that time the City Council may act without the recommendation. The Board

may recommend such conditions related to the variance regarding the location, character and other features of the proposed building, structure or use as it may deem advisable.

- D. **Issuance.** The Board may hold a public hearing in the same manner as the City Council if the Board deems it necessary or advisable. If the Council shall determine that the special conditions applying to the structures or land in question are peculiar to such property or immediately adjoining property and do not apply generally to other land or structures in the district in which said land is located, and that the granting of the application is necessary for the applicant, and that granting of the proposed variance will not be contrary to the intent of this chapter and the Comprehensive Plan, and that the granting of such variance will not merely serve as a convenience to the applicant but is necessary to alleviate demonstrable hardship or difficulty, the Council may grant such variance and impose conditions and safeguards therein.
- E. **Referral to Planning Commission.** The City Council may refer any variance petition to the Planning Commission for review and recommendation.
- F. **Denial.** Variances may be denied by the Council, and such denial shall constitute a finding and determination that the conditions required for approval did not exist.
- G. **Lapse of variance.** A variance shall become void one year after it was granted unless made use of within the year or such longer period as the Council may provide.
- H. **Action on application.** Pursuant to Minnesota Statutes § 15.99, an application for a variance shall be approved or denied within 60 days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant.

#### **§ 255-67. Fees.**

The required fees to be paid for each petition required under this chapter shall be established by separate resolution of the City Council, and the fee schedule may be revised from time to time. Where said fees do not cover costs incurred by the City in the processing of the petition, the petitioner shall be required to pay additional fees upon receipt of an itemized invoice from the City.

#### **§ 255-68. Violations and penalties.**

Any person who shall violate any provision of this chapter shall be deemed guilty of a misdemeanor and shall be punished as provided in § 1-4 of this Code. Each day of violation shall be considered a separate offense.

#### **§ 255-69. Amendments.**

The City Council may from time to time on its own motion, or on petition from a property owner, or on recommendation of the Planning Commission, amend the regulations and districts herein established. No change in regulations, restrictions, or district boundaries shall become effective until after a public hearing held in relation thereto, at which interested

parties and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the official notification paper used by the City.

- A. Passage by City Council. Every such proposed amendment shall be referred to the Planning Commission for report.
- B. Notice. Notice of such proposed amendment shall be given by mailing written notice by the City Clerk to all owners of property within a radius of 350 feet of the exterior boundary of the subject property. Said notice shall contain:
  - (1) Legal description of the property and the street address or approximate location.
  - (2) Present zoning and classification of the property and the classification sought by the applicant.
  - (3) The date, time and place of the public hearing.
- C. Consistency with Comprehensive Plan. No zoning amendment may be approved unless the amendment is consistent with the Comprehensive Plan. In the event that a proposed amendment is not consistent with the adopted Comprehensive Plan, the plan must be amended prior to approval of the zoning amendment.
- D. Criteria. The possible effects of the proposed amendment shall be considered, with the decision of the City Council based upon, but not limited to, the following factors:
  - (1) The proposed action has been considered in relation to the specific policies and provisions of and has been found to be consistent with the Comprehensive Plan.
  - (2) The proposed use is or will be compatible with present and future land uses of the area.
  - (3) The proposed use conforms to all performance standards contained in this chapter and the City Code.
  - (4) The proposed use can be accommodated with existing public services and will not overburden the City's service capacity.
  - (5) Traffic generation by the proposed use is within capabilities of streets serving the property.
- E. Action on application. Pursuant to Minnesota Statutes § 15.99, an application for an amendment shall be approved or denied within 60 days from the date of its official and complete submission unless extended by the City pursuant to statute or a time waiver is granted by the applicant.

