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AN ORDINANCE ADOPTING A REVISION AND  
CODIFICATION OF ORDINANCES TO BE KNOWN AS THE  
TRUMAN CITY CODE

THE CITY COUNCIL OF TRUMAN ORDAINS:

SECTION 1. CODE ADOPTED. There is hereby adopted that certain revision and codification of the ordinances of the City contained in a printed compilations entitled “Truman City Code”. A copy of such code shall be marked “Official Copy” and filed as part of the official records of the City in the office of the City Clerk.

SECTION 2. REPEALS. The former Truman City Code, in effect as amended until adoption of this code is hereby repealed except those ordinances granting franchises and easements.

SECTION 3. COPIES. The Clerk shall provide a sufficient quantity of the Truman City Code for general distribution to the public and shall give notice in the official newspaper for at least two successive weeks that copies are available in the Clerk’s office for examination or purchase.

SECTION 4. PRIMA FACIE EVIDENCE. The Truman City Code shall be prima facie evidence of the law of the City.

SECTION 5. EFFECTIVE DATE. This ordinance becomes effective upon the passage and publication of this ordinance and a notice for two consecutive weeks stating that printed copies are available at the office of the City Clerk.

Approved by Truman City Council on March 17, 2014 – Ordinance #2014-1

Published in Truman Tribune on March 26, 2014

Effective April 2, 2014 (Second notice in Truman Tribune that copies are available)

TRUMAN ORDINANCE CODE

CHAPTER I. TRUMAN ORDINANCE CODE

SECTION 100.01. CITY CODE.

Subd. 1. How Cited. This code of ordinances shall be known as The Truman City Code and may be so cited.

Subd. 2. Additions. New ordinances proposing amendments or additions to the code shall be assigned appropriate code numbers and shall be incorporated into the code as of their effective date. Reference or citation to the code shall be deemed to include such amendments and additions. When an ordinance is integrated into the code, there may be omitted from the ordinance the title, enacting clause, section numbers, definitions of terms identical to those contained in this ordinance, the clause indicating date of adoption, and validating signatures and dates. In integrating ordinances into the code, the Clerk, in cooperation with the City Attorney, may correct obvious grammatical, punctuation, and spelling errors; change reference numbers to conform with sections, articles, and chapters; substitute figures for written words and vice versa; substitute dates for the words “the effective date of this ordinance”; and perform like actions to insure a uniform code of ordinances without, however, altering the meaning of the ordinances enacted.

Subd. 3. Numbering. Each section number of this code consists of two component parts separated by a decimal. The first digit of the number refers to the chapter number and the digits after the period refer to the position of the section within the chapter. If the chapter is divided into parts, the figure immediately to the left of the decimal corresponds to the part number.

Subd. 4. Title Headings; Cross References. Chapter, part, section, subdivision, and other titles shall not be considered part of the subject matter of this code but are intended for convenience only and not necessarily as comprehensive titles.

Subd. 5. Copies. Copies of this code shall be kept in the office of the Clerk for public inspection or sale for a reasonable charge.

SECTION 100.02. DEFINITIONS.

Subd. 1. General. Unless the context clearly indicates otherwise, the following words and phrases have the meaning given them in this section.

Subd. 2. City. “City” means City of Truman.

Subd. 3. State. “State” means State of Minnesota.

Subd. 4. Council. “Council” means the City Council.

Subd. 5. Clerk. “Clerk” means the City Clerk.

Subd. 6. Person. “Person” means 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.

#### SECTION 100.03. STATUTORY RULES ADOPTED.

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.

#### SECTION 100.04. EXISTING RIGHTS AND LIABILITIES.

The repeal of prior ordinances and adoption of this code are not to be construed to affect in any manner rights and liabilities existing at the time of repeal and the enactment of this code. Insofar as provisions in this code are substantially the same as pre-existing ordinances, they shall be considered as continuations thereof and not as new enactments. Any act done, offense committed, or right accruing, or liability, penalty, forfeiture or punishment incurred or assessed prior to the effective date of this code is not affected by the enactment of the code.

#### SECTION 100.05. HEARINGS.

Subd. 1. 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.

Subd. 2. 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 subdivision.

Subd. 3. 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 hearings, records to be made, and such other matters as it deems necessary.

Subd. 4. Record. Upon the disposition of any matter after hearing, the council shall have prepared a written summary of its finds and decisions and enter the summary in the official council minutes.

SECTION 100.06. PENALTIES.

Subd. 1. 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 provisions shall, upon conviction, be subject to a fine of not more than \$300.00.

Subd. 2. General Misdemeanors. Any other case, unless another penalty is expressly provided 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 \$700.00 or imprisonment for not more than 90 days or both.

Subd. 3. Separate Violations. Unless otherwise provided, each act of violation and every day on which a violation occurs or continues constitutes a separate offense.

Subd. 4. 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.

SECTION 110.07. SEPARABILITY.

If any ordinance or part thereof in the Truman City Code or hereafter enacted is held invalid or suspended, such invalidity or suspension shall not apply to any other part of the ordinance or any other ordinance unless it is specifically provided otherwise.

CHAPTER II. OPERATIONS AND ADMINISTRATION.

PART I. THE COUNCIL.

SECTION 201.01. MEETINGS.

Subd. 1. Regular Meetings. Regular meetings of the City Council shall be held as set by the City Council. Any regular meeting falling upon a holiday shall be held on the next following business day at the same time and place. All meetings including special and adjourned meetings, shall be held in the City Hall unless the City Council decides otherwise at a prior meeting, or meeting in the City Hall is impossible.

Subd. 2. Special Meetings. The Mayor or any two members of the City Council may call a special meeting of the City Council upon at least 24 hours written notice to each member of the City Council. This notice shall be delivered personally to each member and shall be left at the member's usual place of residence with some responsible person. Pursuant to M.S. Chapter 13D, as it may be amended from time to time, written notice of any special meeting shall be posted giving the date, time, place and purpose of the meeting at least three (3) days before the meeting. Written notice shall be mailed at least three (3) days before the meeting to anyone who has filed a written request for notice of special meetings. In calculating the three days, if the last day falls on a Saturday, Sunday, or legal holiday, the next regular business day shall be counted as the third day.

Subd. 3. Emergency Meetings. Notice of emergency meetings shall be given as required by M. S. Chapter 16D, as it may be amended from time to time. An emergency meeting is a meeting defined by M. S. Chapter 16D, as it may be amended from time to time.

Subd. 4. Initial Meetings. 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 Councilman as acting Mayor, who shall perform the duties of Mayor during the disability or absence of the Mayor from the City or, in the case of vacancy, the office of the Mayor, until a successor has been appointed and qualifies; (4) appoint such other officers and employees and such members of Boards, Commissions, and Committees as may be necessary.

Subd. 5. Public Meetings. All Council meetings, including special and adjourned meetings and meetings of the Council committees, shall be open to the public.

SECTION 201.02. PRESIDING OFFICER.

Subd. 1. 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 as presiding officer.

Subd. 2. 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.

Subd. 3. 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.

Subd. 4. Rights of Presiding Officer. The presiding officer may make motions, second motions, or speak on any question except that on demand of any councilman, he shall vacate the chair and designate a Councilman to preside temporarily.

#### SECTION 201.03. MINUTES.

Subd. 1. Who Keeps. Minutes of each council meeting shall be kept by the Clerk or, in his 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.

Subd. 2. Approval. The minutes of each meeting shall be reduced to typewritten form, shall be signed by the Clerk, and copies thereof shall be delivered to each Council member and the City Attorney as soon as practicable after the meeting. At the next regular Council meeting following such delivery, approval of the minutes shall be considered by the Council. The minutes need not be read aloud, but the presiding officer shall call for any additions or corrections. If there is no objection to a proposed addition or correction, it may be made without a vote of the Council. If there is an objection, the Council shall vote upon the addition or correction. If there are no additions or corrections, the minutes shall stand approved.

#### SECTION 201.04. ORDER OF BUSINESS.

Subd. 1. Order Established. Each meeting of the Council shall convene at the time and place appointed therefore. Council business shall be conducted in the following order:

- (1) Call to order
- (2) Roll call
- (3) Approval of minutes
- (4) Public hearings

- (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

Subd. 2. 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.

Subd. 3. Agenda. An agenda of business for each regular council meeting shall be prepared and filed in the office of the clerk not later than two (2) 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 publicly posted two (2) days in advance of the meeting.

#### SECTION 201.05. QUORUM AND VOTING.

Subd. 1. Quorum. At all Council meetings a majority of all Council members elected shall constitute a quorum for the transaction of business.

Subd. 2. 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."

Subd. 3. 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 proved by statute, a majority vote of a quorum shall prevail in all other cases.

#### SECTION 201.06 ORDINANCES, RESOLUTIONS, MOTIONS, PETITIONS, AND COMMUNICATIONS.

Subd. 1. 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.

Subd. 2. 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.

Subd. 3. Repeals and Amendments. Every ordinance or resolution repealing a previous ordinance or resolution or a section or subdivision 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 subdivision as it will read with the amendment.

Subd. 4. Motions, Petitions, 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.

#### SECTION 201.07. COMMITTEES.

Subd. 1. Committees Designated. The Council may create such committees, standing or special, as it deems necessary. Committees shall consist of as many members, and perform such duties, as the Council may require.

Subd. 2. Referral and Reports. Any matter brought before the Council for consideration may be referred by the presiding officer to the appropriate committee or to a special committee appointed by him/her for a written report or appear in person with an oral report and recommendation before it is considered by the Council as a whole. Each committee shall act promptly and faithfully on any matter referred to it.

#### SECTION 201.08. SUSPENSION OR AMENDMENT OF RULES.

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

#### SECTION 201.09. SALARIES OF MAYOR AND COUNCILMEN.

Effective January 1<sup>st</sup> following the next election of City Council member compensation of Mayor and City Council members shall be as follows:

City Council members shall be paid \$35.00 per city council meeting, the Mayor shall be paid \$58.00 per city council meeting attended. In addition, each Council member and Mayor

shall be paid a per diem for non-city council meetings at the rate of \$50.00 for a half day and \$75.00 for a full day. Each City Council member and the Mayor shall receive \$80.00 per year for mileage.

## PART II. POLICE DEPARTMENT

### SECTION 202.01. ESTABLISHMENT.

A police department is hereby continued. The head of the department shall be known as the chief of police and the number of additional members of the department, together with their ranks and titles, shall be determined by the Council by resolution. The compensation to be paid members of the police department shall be fixed by the Council. Members of the department shall be appointed by the Council.

### SECTION 202.02. CHIEF OF POLICE.

The chief of police shall have supervision and control of the police department and its members. He shall be responsible to the Council for law enforcement and for property of the city used by the department. He shall be responsible for the proper training and discipline of the members of the department. He shall be responsible for the keeping of adequate records and he shall report to the Council on the needs of the department and its work. Every member of the department subordinate to the chief shall obey the instructions of the chief and any superior officer. The Council shall designate one of the police officers as acting chief, who shall have all the powers and duties of the chief during his absence or disability.

### SECTION 202.03. DUTIES OF THE POLICE.

Members of the Police Department shall enforce the ordinances and laws applicable to the City, bring violators before the District Court of Martin County and make complaints for offenses coming to their knowledge. Members of the Police Department shall serve as process servers on behalf of the City and shall service such notices as may be required by the Council or other authority.

### SECTION 202.04. UNIFORM AND BADGE.

Each member of the department shall, while on duty, wear a suitable badge and uniform, except that the chief may authorize the performance of specific duties while not in uniform. When a member terminates his membership in the department, he shall immediately deliver to the City his badge, and all other property of the City in his possession.

### SECTION 202.05. EXTRA POLICE.

In case of riot or other law enforcement emergency, the Mayor may appoint for a specified time as many special policemen as may be necessary for the maintenance of law and order. During such term of appointment, the special policemen shall have only those powers and perform only those duties as shall be specifically assigned by the chief of police.

### PART III. FIRE DEPARTMENT

#### SECTION 203.01. FIRE DEPARTMENT CONTINUED.

There is hereby continued in this City a volunteer Fire Department consisting of a chief, and two (2) assistant chiefs, a fire marshal, and not fewer than twenty (20) nor more than twenty-six (26) firefighters.

#### SECTION 203.02. SELECTION.

The Chief of the Fire Department, the two Assistant Chiefs, shall be elected annually by the members of the department, subject to confirmation by the Council. Each shall hold office for one year and until his successor has been duly elected, except that he may be removed by the Council for cause after a public hearing. Firefighters and probationary firefighters shall be appointed by the members of the department, subject to confirmation by the Council. Firefighters shall continue as members of the department during good behavior and may be removed by the Council only for cause after a public hearing.

#### SECTION 203.03. DUTIES OF FIRE MARSHAL.

The Office of the Fire Marshal may be held by the Chief or by the Assistant Chief, if the Council by resolution approves. 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.

#### SECTION 203.04. 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 semi-annual report to the Council at its meeting 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 such 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.

#### SECTION 203.05. RECORDS.

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.

SECTION 203.06. PRACTICE DRILLS.

This section has been repealed.

SECTION 203.07. 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.

SECTION 203.08. FIREFIGHTER.

The assistant chief and firefighters shall be able bodied and not less than eighteen (18) years of age. They shall become members of the fire department only after a one (1) year 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.

SECTION 203.09. 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.

SECTION 203.10. COMPENSATION.

Members and officers of the Truman Fire Department shall receive compensation as established by resolution of the Truman City Council.

SECTION 203.11. 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.

SECTION 203.12. PRESENT MEMBERS.

This section has been repealed.

SECTION 203.13. RELIEF ASSOCIATION.

The members and officers of the fire department may organize themselves into a

firemen's relief association in accordance with law.

SECTION 203.14. INTERFERENCE WITH 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 chief at a fire, or interfere with the Fire Department in the discharge of its duties.

PART IV. BOARD OF HEALTH

SECTION 204.01. BOARD OF HEALTH.

The City Board of Health is hereby continued. The Board shall consist of members who shall be appointed by the Council at the first meeting of the year for terms of three (3) years. At least one member shall be a physician who shall be designated as Health Officer and shall serve as the executive officer of the Board. The Truman Police Chief shall also be a member of the Board. A vacancy on the Board shall be filled by Council appointment for the remainder of the term.

SECTION 204.02. DUTIES OF BOARD.

The Board of Health shall have the following powers and duties:

- (1) To investigate and make such reports and obey such directions concerning communicable diseases as the State Board of Health may require or give.
- (2) To cause all laws and regulations relating to the public health, including all health regulations included in this code, to be obeyed and enforced.
- (3) To make recommendations to the City Council with respect to ordinances and programs to promote the public health.

SECTION 204.03. DUTIES OF HEALTH OFFICER.

Subd. 1. General. The Health Officer shall have the powers and duties prescribed in the following subdivisions.

Subd. 2. Board Orders. He shall execute the lawful orders of the State and City Boards of Health.

Subd. 3. Health Ordinances. With the advice and consent of the Board of Health, he shall enforce all statutory and ordinance provisions relating to public health.

Subd. 4. Communicable Diseases. He shall employ at the expense of the City such medical and other help as may be necessary in the control of communicable disease. The City Clerk shall see that statements of expense incurred in establishing, enforcing, and releasing quarantine are, after payment, certified to the County Auditor for allowance of one-half the amount as a payment by the County to the City as provided by law; but no such expense shall be paid by the City unless payment is refused by the person liable therefore under the statutes.

Subd. 5. Orders. The health office may issue and serve, or have served, written individual orders requiring the owner or occupant of any premises to clean cesspools, septic tanks, dry wells, leaching pits, vaults, sheds or barns or to remove refuse from the premises or any street or alley adjacent thereto or to place and keep such premises in a clean and wholesome condition. He may also issue and serve, or have served, written individual orders and cease to use any cesspool, dry well, leaching pit, or vault which does not function in a proper manner and requiring the owner or occupant to provide satisfactory arrangements to take the place of those whose use is discontinued.

Subd. 6. Water Samples. This subdivision was repealed.

Subd. 7. Inspection of Various Establishments. The Health Officer may inspect all premises engaged in the manufacture, processing, distribution, storage or sale of food, beverages, drugs, liquors, milk, ice, or any other produce intended for human consumption, as well as the utensils, dishes, containers used in the cleaning, preparation, serving or eating of any such produce to insure its purity and cleanliness or the sanitation and cleanliness of the premises, personnel, and facilities, and to recommend to the owner or proprietor such changes as he deems necessary.

Subd. 8. Right of Entry. For the purpose of inspection at any reasonable hour and during an emergency at any hour, the Health Officer may enter any building, conveyance, or place where contagion, infection, filth, or other source or cause of preventable disease exists or is reasonably suspected.

Subd. 9. Arrest. The Health Officers shall have the power of arrest for violation of this or any other ordinance of the City, or of any State law or regulation of the State Board of Health.

Subd. 10. Sanitary Inspection. In accordance with regulations of the State Board of Health, the Health Officer shall make a thorough sanitary inspection of the City in the month of May each year and present a written report of such inspection, together with his recommendations, to the Council on or before the first day of June. He shall make additional inspections during the year if deemed necessary

#### SECTION 204.04. INTERFERENCE WITH HEALTH BOARD OR OFFICER.

No person shall obstruct, interfere with, or impede the Health Officer of the Board of Health in the performance of official duties or remove any sign posted by order of the Health Officer in any area or on any building.



PART V. PLANNING COMMISSION

SECTION 205.01. ESTABLISHMENT OF COMMISSION.

A city planning commission for the City of Truman is hereby established. The commission shall be the city planning agency authorized by Minnesota Statutes, Section 462.354, Subdivision 1.

SECTION 205.02. COMPOSITION.

Subd. 1. Membership. The city planning commission shall consist of eight (8) members. The City Engineer and the City Attorney shall be members ex-officio. The other six (6) members shall be appointed and may be removed by the Council.

Subd. 2. Terms, Vacancies, Oath. Of the members of the Commission first appointed, two shall be appointed for a term of one year, two for a term of two years, two for a term of three 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. A pre-appointed member shall, before entering upon the discharge of his duties take an oath that he will faithfully discharge the duties of his office. Members of the Planning Commission shall be compensated as determined by resolution of the Truman City Council.

SECTION 205.03. ORGANIZATION, MEETINGS, ETC.

Subd. 1. 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.

Subd. 2. Meetings, Records, Reports. 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<sup>th</sup>, 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

SECTION 205.04. POWERS AND DUTIES OF THE COMMISSION.

The Planning Commission shall have the powers and duties given planning agencies generally by law. The Commission shall also exercise the duties conferred upon it by this ordinance and by the Council. After the Commission has prepared and adopted a comprehensive plan, the Commission shall periodically but at least once every five (5) years, review the

comprehensive plan, 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, adopt the amendments or the new 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.

SECTION 205.05. ZONING ORDINANCES: PUBLIC HEARINGS.

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, Section 462.357, Subdivision 3.

SECTION 205.06. PLATS: APPROVAL.

Any subdivision plat submitted to the Council for approval shall, prior to final approval, be referred to the Planning Commission for review and recommendation. Any plat so referred shall be returned to the Council by the Commission with its recommendations within 30 days, and failure of the Commission to report within that period is deemed to have satisfied the requirements of this section.

## PART VI. EMERGENCY MANAGEMENT

### SECTION 206.01. EMERGENCY MANAGEMENT POLICY AND PURPOSE.

Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds, or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps of catastrophic measure; and in order to ensure that preparations of this City will be adequate to deal with those disasters, and generally, to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this City, it is hereby found and declared to be necessary.

- A. To establish a city emergency management organization responsible for city planning and preparations for emergency government operations in time of disasters.
- B. To provide for the exercise of necessary powers during emergencies and disasters.
- C. To provide for the rendering of mutual aid between this city and other political subdivisions of this state and of other states with respect to the carrying out of emergency preparedness functions, and
- D. To comply with the provisions of M.S. Section 12.25, as it may be amended from time to time, which requires that each political subdivision of the State shall establish a local organization for emergency management.

### SECTION 206.02. DEFINITIONS.

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

**EMERGENCY.** An unforeseen combination of circumstances which calls for immediate action to prevent from developing or occurring.

**EMERGENCY MANAGEMENT.** The preparation for and the carrying out of **ALL** emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters caused by fire, flood, tornado, and other acts of nature, or from sabotage, hostile action, or from industrial hazardous material mishaps. These functions include, without limitation, firefighting services, police

services, emergency medical services, engineering, warning services, communications, radiological, and chemical, evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protections, temporary restoration of public utility services and other functions related to civil protection, together with all activities necessary or incidental for carrying out the foregoing functions. **EMERGENCY MANAGEMENT** includes those activities sometimes referred to as **CIVIL DEFENSE** functions.

**EMERGENCY MANAGEMENT FORCES.** The total personnel resources engaged in city-level emergency management functions in accordance with the provisions of this chapter or any rule or order thereunder. This includes personnel from city departments, authorized volunteers, and private organizations and agencies.

**EMERGENCY MANAGEMENT ORGANIZATION.** The staff responsible for coordinating city-level planning and preparation for disaster response. This organization provides city liaison and coordination with federal, state, and local jurisdictions relative to disaster preparedness activities and assures implementation of federal and state program requirements.

**SECTION 206.03. ESTABLISHMENT OF EMERGENCY MANAGEMENT ORGANIZATION.**

There is hereby created within the city government an emergency management organization which shall be under the supervision and control of the City Emergency Management Director, call the Director. The Director shall be appointed by the Mayor with approval of the City Council for an indefinite term and may be removed by him or her at any time. The Director shall serve with a salary as established by the City Council and shall be paid his or her necessary expenses. The Director shall have direct responsibility for the organization, administration, and operation of the emergency preparedness organization, subject to the direction and control of the Mayor.

**SECTION 206.04. POWERS AND DUTIES OF DIRECTOR.**

- A. The Director, with the consent of the Mayor, shall represent the City on any regional or state conference for emergency management. The Director shall develop proposed mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present these agreements to the Council for its action. These arrangements shall be consistent with the State Emergency Plan.
- B. The Director shall make studies and surveys of the human resources, industries, resources, and facilities of the City as deemed necessary to determine their adequacy, for emergency management and to plan for their most efficient use in time of an

emergency or disaster. The Director shall establish the economic stabilization systems and measures, service staffs, boards, and sub-boards required, in accordance with state and federal plans and directions subject to the approval of the Mayor.

- C. The Director shall prepare a comprehensive emergency plan for the emergency preparedness of the city and shall present the plan to the Council for its approval. When the Council has approved the plan, it shall be the duty of all city agencies and all emergency preparedness forces of the City to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The Director shall coordinate the emergency management activities of the City to the end that they shall be consistent and fully integrated with the emergency plans of the federal government and the state and correlated with emergency plans of the county and other political subdivisions within the state.
- D. In accordance with the State and City Emergency Plan, the Director shall institute training programs, public information programs, and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the City Emergency Plan when a disaster occurs.
- E. The Director shall utilize the personnel, services, equipment, supplies, and facilities of existing departments and agencies of the city to the maximum extent practicable, cooperate with and extend services and facilities to the city's emergency management organization and to the Governor upon request. The head of each department or agency in cooperation with the Director shall be responsible for the planning and programming of those emergency activities as will involve the utilization of the facilities of the department or agency.
- F. (1) The Director shall, in cooperation with those city departments and agencies affected, assist in the organizing, recruiting, and training of emergency management personnel, which may be required on a volunteer basis to carry out the emergency plans of the city and state.  
  
(2) To the extent that emergency personnel are recruited to augment a regular city department or agency for emergencies, they shall be assigned to the department or agencies and shall be under the administration and control of the department or agency.
- G. Consistent with the state emergency services law, the Director shall coordinate the activity of municipal emergency management organizations within the city and assist in establishing and conducting training programs as required to assure emergency

operational capability in the several services as provided by M. S. Section 12.25, as it may be amended from time to time.

- H. The Director shall carry out all orders, rules and regulations issued by the Governor with reference to emergency management.
- I. The Director shall prepare and submit reports on emergency preparedness activities when requested by the Mayor.

SECTION 206.05. LOCAL EMERGENCIES.

- A. A local emergency may be declared only by the Mayor or his or her legal successor. It shall not be continued for a period in excess of 3 days except by or with the consent of the Council. Any order or proclamation declaring, continuing or terminating a local emergency shall be given prompt and general publicity and shall be filed in the office of the City-Clerk-Treasurer.
- B. A declaration of the local emergency shall invoke necessary portions of the response and recovery aspects of applicable local or inter-jurisdictional disaster plans, and may authorize aid and assistance thereunder.
- C. No jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an inter-jurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions.

SECTION 206.06. EMERGENCY REGULATIONS.

- A. Whenever necessary to meet a declared emergency or to prepare for an emergency for which adequate regulations have not been adopted by the Governor or the Council, the Council may by resolution promulgate regulations, consistent with applicable federal or state law or regulations, respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance and safeguarding of essential public services, emergency health, fire and safety regulations, drills or practice periods required for preliminary training and all other matters which are required to protect public safety, health, and welfare in declared emergencies.
- B. Every resolution of emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the office of the City-Clerk-Treasurer. A copy shall be kept posted and available for public inspection during business hours. Notice of the existence of

these regulations and their availability for inspection at the City-Clerk-Treasurer's office shall be conspicuously posted at the front of the City Hall or other headquarters of the city or at other places in affected area as the Council shall designate in the resolution. By resolution, the Council may modify or rescind a regulation.

C. (1) The Council may rescind any regulation by resolution at any time. If not sooner rescinded, every regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first.

(2) Any resolution, rule, or regulation inconsistent with an emergency regulation promulgated by the Council shall be suspended during the period of time and to the extent conflict exists.

D. (1) During a declared emergency, the city is, under the provisions of M.S. Section 12.31, as it may be amended from time to time and notwithstanding any statutory or charter provision to the contrary, empowered through its Council, acting within or without the corporate limits of the city to enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of a disaster.

(2) The City may exercise these powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds, including, but not limited to publication of resolutions, publication of calls for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirement for bids.

#### SECTION 206.07. EMERGENCY MANAGEMENT A GOVERNMENT FUNCTION.

A. All functions and activities relating to emergency management are hereby declared to be governmental functions.

B. The provisions of this section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled under this resolution or under the workers compensation law, or under any pension law, nor the right of any person to receive benefits or compensation under any act of Congress.

#### SECTION 206.08 PENALTY.

Any person who violates any provision of this chapter or any regulation adopted

thereunder relating to acts, omissions, or conduct other than official acts of city employees or officers is guilty of a misdemeanor.



PART VII. PERSONNEL POLICY

SECTION 207.01. Existing Code Sections 207.01 through 207.20 are hereby repealed.

SECTION 207.02. The Personnel Policy of the City of Truman shall be a Personnel Policy which is adopted by separate Resolution and not a policy which is created by Ordinance.

SECTION 207.03. The Personnel Policy of the City of Truman shall be amended from time to time by separate Resolution and not by Ordinance.

The Personnel Policy for the City of Truman shall be maintained at City Hall in the care of the City Clerk. Any Amendments to the City Employee Policy may be made directly to the policy itself and need not be done via Ordinance or Ordinance Amendment.

SECTION 207.21. CRIMINAL HISTORY BACKGROUND FOR APPLICANTS  
FOR CITY EMPLOYMENT.

Subd. 1. Applicants for City Employment.

Purpose: The purpose and intent of this section is to establish regulations that will allow law enforcement access to Minnesota's computerized criminal history information for specified non-criminal purposes of employment background checks for the positions described in subdivision 2.

Subd. 2. Criminal History Employment Background Investigations. The Truman Police Department is hereby required, as the exclusive entity within the City, to do a criminal history background investigation on applications for the following positions within the City, unless the City's hiring authority concludes that a background investigation is not needed.

Employment Position: All regular, part-time, or fulltime employees of the City of Truman, or other positions that work with children or vulnerable adults.

In conducting the criminal history background investigation in order to screen employment applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions computerized history information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the Chief Law Enforcement official, or his or her designee. A summary of the results of the computerized criminal history data may be released by the Police Department to the hiring authority including the City Council of the City of Truman or other staff involved in the hiring process.

Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Chapter 13 regarding the collection, maintenance and use of information. Except for the position set forth in M.S. 364.09, the City will not reject an applicant for employment on the basis of the applicant's prior conviction unless the conviction is directly related to the position of employment sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

- A. The grounds and reason or the denial;
- B. The applicant complaint and grievance procedure set forth in M.S. 364.06;
- C. The earliest date the applicant may reapply for employment;
- D. That all competent evidence of rehabilitation will be considered upon reapplication.

PART VIII. ABANDONED PROPERTY

SECTION 208.01. ABANDONED MOTOR VEHICLES.

Subd. 1. Impoundment and Sale. The city police department shall take into custody and impound any abandoned motor vehicle as defined by Minnesota Statutes, Section 168B.02, Subdivision 2. It shall give notice of the taking as provided by law and if the owner or any lien holder 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.

Subd. 2. Summary Action in Certain Cases. When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in Minnesota or any other state or foreign country, it shall immediately be eligible for sale under Subdivision 1 and shall not be subject to the notification, reclamation, or title provisions of Minnesota Statutes 168B.01 to 168.13.

Subd. 3. 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.

SECTION 208.02. OTHER ABANDONED PROPERTY.

Subd. 1. Procedure. All other property lawfully coming into the possession of the city shall be disposed of as provided in this section.

Subd. 2. 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.

Subd. 3. 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.

Subd. 4. Sale. If the property remains unclaimed in the possession of the city for 60 days, the property shall be sold to the highest bidder at a public auction conducted by the Chief of Police of the city after two weeks' published notice setting forth the time and place of the sale and the property to be sold.

Subd. 5. 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.

PART IX. AMBULANCE DEPARTMENT

SECTION 209.01. AMBULANCE DEPARTMENT.

There is hereby established in the City a volunteer ambulance department consisting of an ambulance director, an assistant ambulance director, and up to 20 ambulance department members.

SECTION 209.02. SELECTION.

The ambulance director and the assistant director shall be elected annually by members of the department, subject to confirmation by the City Council. Each shall hold office for one year and until his/her successor has been duly elected, except that he/she may be removed by the Council for cause after a public hearing. Ambulance members and probationary ambulance members shall be appointed by the members of the department subject to confirmation by the Council. Ambulance members shall continue as members of the ambulance department during good behavior and may be removed by the Council only for cause after a public hearing.

SECTION 209.03. DUTIES OF THE AMBULANCE DIRECTOR.

The ambulance director shall have control of all ambulance equipment and apparatus and shall be solely responsible for its care and condition. He/she shall make a report to the Council on an as needed basis on the condition of the equipment, and the needs of the ambulance department. He/she may submit additional reports and recommendations at any meeting of the Council, and he/she shall report each suspension by him/her of a member of the Ambulance Department at the first meeting of the Council following such suspension. He/she shall be responsible for the proper training and discipline of the members of the ambulance department and may suspend any member for refusal or neglect to obey orders pending final action by the Council on his/her discharge or retention.

SECTION 209.04. RECORDS.

The ambulance director shall keep in convenient form a complete record of all ambulance calls. Such a record shall include the time of the call, location and other pertinent information as determined by the Department.

SECTION 209.05. ASSISTANT DIRECTOR.

In the absence or disability of the ambulance director, the Assistant Director shall perform all of the functions and exercise of all of the authority of the Ambulance Director.

SECTION 209.06. COMPENSATION.

Compensation for members of the Ambulance Department shall be set, from time to time, by the City Council.

CHAPTER III. STREET, PARKS, AND PUBLIC PROPERTY  
AND IMPROVEMENTS

PART I. STREET EXCAVATIONS.

SECTION 301.01. 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 therefore from the City Clerk. The fee for such permit shall be established by resolution of the Truman City Council. No fee shall be required for an excavation made pursuant to a permit for sewer or water construction.

SECTION 301.02. APPLICATION AND REGULATIONS.

The Council shall prepare the necessary application forms and permits required under Section 301.01. They shall also prepare such rules and regulations with respect to excavations as they find necessary to protect the public from injury, prevent damage to public or private property, and minimize interference with the public use of streets, alleys, sidewalk, and public grounds. Any person making an excavation covered by this section shall comply with such rules and regulations.

SECTION 301.03. BOND.

Any permittee except a public utility corporation or a bonded plumber shall file with the City a corporate surety bond in the amount of \$1,000.00 conditioned that the permittee will:

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.

The bond shall be approved as to form and legality by the City Attorney.

Any permittee except a public utility corporation shall furnish proof that the permittee has in existence an insurance policy protecting him 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.

SECTION 301.04. 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 one-half 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.

SECTION 301.05. REFILLING EXCAVATIONS.

Every street excavation shall be refilled as soon as possible after 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 Street Commissioner. 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 permit tee.

SECTION 301.06. MAP OF SUBSURFACE INSTALLATIONS.

The Public Utilities Department shall maintain a map showing the location of all utility and other installations made beneath the surface of any public street, grounds or right of way. The information on the map shall be sufficiently complete and accurate to permit anyone making an excavation in a public place having any underground installation to avoid damage to any existing underground installation and to properly locate any new underground facilities shall be recorded on the map as soon as practicable upon the issuance of an excavation permit or the completion of a contract for the installation of City underground installations.



PART II. ASSESSABLE CURRENT SERVICES:  
OBLIGATION OF PROPERTY OWNERS AND OCCUPANTS

SECTION 302.01. DEFINITION.

The term “current service” as used in this ordinance means one or more of the following: snow, ice, or rubbish removal from the sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in Minnesota Statutes, Section 463.15 to 463.26; installation or repair of water service lines; street sprinkling, street flushing, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infested trees from the public streets or private property.

SECTION 302.02. SNOW, ICE, DIRT AND RUBBISH.

Subd. 1. Duty of Owners and Occupants. The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep such walk safe for pedestrians. No such owner or occupant shall allow snow, ice, dirt, or rubbish to remain on the walk longer than 24 hours after its deposit.

Subd. 2. Removal By City. The Street Department shall remove from all public sidewalks all snow, ice, dirt, and rubbish as soon as possible beginning 24 hours after any such matter has been deposited thereon or after the snow has ceased to fall. He shall keep a record showing the cost of such removal adjacent to each separate lot and parcel and shall deliver such information to the City Clerk.

SECTION 302.03. WEED ELIMINATION.

Subd. 1. Weeds As A Nuisance. Any weeds, whether noxious as defined by law or not, growing upon any lot or parcel of land outside the traveled portion of any street or alley in the City of Truman to a greater height than six inches or which have gone or are about to go to seed are a nuisance. The owner and the occupant shall abate or prevent such nuisance on such property and on land outside the traveled portion of the street or alley abutting on such property.

Subd. 2. Notice. On or before June 1<sup>st</sup> of each year, and at such other times as ordered by resolution of the Council, the City Clerk shall publish once in the official newspaper a notice directing owners and occupants of property within the City to destroy all weeds declared by Subdivision 1 to be a nuisance and stating that if not so destroyed within ten days after publication of the notice, the weeds will be destroyed by the Weed Inspector at the expense of the owner and that if not paid, the charge for such work will be made a special assessment against the property concerned.

Subd. 3. Removal By City. If the owner or occupant of any property in the City fails to comply with the notice within ten days after its publication, the Weed Inspector shall cut and remove such weeds. He shall keep a record showing the cost of such work attributable to each separate lot and parcel and shall deliver such information to the City Clerk.

SECTION 302.04. 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 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, Sections 463.15 to 463.26.

SECTION 302.05. INSTALLATION AND REPAIR OF WATER SERVICE LINES.

Whenever the City installs or repairs water service lines serving private property under Chapter IV of this code, the Public Utility Superintendent shall keep a record of the total cost of the installation or repair against the property and deliver such information to the City Clerk annually by August 15<sup>th</sup> as to each parcel of property on which the cost has not been paid.

SECTION 302.06. REPAIR OF SIDEWAKS AND ALLEYS.

Subd. 1. Duty of Owner. The owner of any property within city abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the Council and on file in the office of the City Clerk.

Subd. 2. Inspections; Notice. The Street Commissioner shall make such inspections as are necessary to determine that public sidewalks and alleys within the City are kept in repair and safe for pedestrians or vehicles. If he finds that any sidewalk or alley abutting on private property is unsafe and in need of repairs, he shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property and the occupant, if the owner does not reside within the City or cannot be found therein ordering such owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so the Street Commissioner will do so on behalf of the City, that the expense thereof must be paid by the owner, and that if unpaid it will be made a special assessment against the property concerned.

Subd. 3. Repair by City. If the sidewalk or alley is not repaired within 30 days after receipt of the notice, the Street Commissioner shall report the facts to the Council and the

Council shall by resolution order the Street Commissioner to repair the sidewalk or alley and make it safe or order the work done by contract in accordance with law. The Street Commissioner shall keep a record of the total cost of the repair attributable to each lot or parcel of property and report such information to the City Clerk.

SECTION 302.07. STREET SPRINKLING, STREET FLUSHING, TREE CARE, ETC.

Subd. 1. Proposed Projects. The Council shall each year determine by resolution what streets and alleys shall be sprinkled or flushed, or given other dust treatment during the year and the kind of work to be done on each. The Council shall also determine by resolution from time to time the streets on which trees shall be trimmed and cared for, the kind of work to be done, and what unsound trees shall be removed. Before any work is done pursuant to either of these resolutions, the Clerk shall, under the Council's direction, publish notice that the Council will meet to consider such projects. Such notice shall be published in the official newspaper at least once no less than two weeks prior to such meeting of the Council and shall state the date, time, and place of such meeting, the streets affected and the particular projects proposed, and the estimated cost of each project, either in total or on the basis of the proposed assessment per front foot or otherwise.

Subd. 2. Hearing; Order. At such hearing or at any adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed projects. The Council shall thereupon adopt a resolution confirming the original projects with such modifications as it considers desirable and shall provide for the doing of the work by day labor through the Street Commissioner or by contract.

The Street Commissioner shall keep a record of the cost and the portion of the cost properly attributable to each lot and parcel of property abutting on the street or alley on which the work is done and shall report such information to the City Clerk.

SECTION 302.08. PERSONAL LIABILITY.

The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of such service. As soon as the service has been completed and the cost determined, the City Clerk, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Clerk.

SECTION 302.09. ASSESSMENT.

On or before September 1<sup>st</sup> of each year, the Clerk shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable

under this ordinance. The Council may then spread the charges against property benefited as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the Council may determine in each case.

SECTION 302.10. FEES FOR EMERGENCY PROTECTION FIRE SERVICES.

Subd. 1. This ordinance is adopted for the purpose of authorizing the City of Truman to charge for fire service as authorized by M.S. Section 366.011, 366.012, and 415.01.

Subd. 2. Definitions.

- (a) “Fire Service” means any deployment of fire fighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area threatened by fire. It also includes the deployment of fire fighting personnel and/or equipment to provide fire suppression, rescue, extrication, and any other services related to fire and rescue as may occasionally occur.
- (b) “Fire Service Charge” means the charge imposed by the City for receiving fire service.
- (c) “Motor Vehicle” means any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks. It includes semi-trailers. It does not include snowmobiles, manufactured homes, all terrain vehicles, or park trailers.
- (d) “Fire Protections Contract” means a contract between the City and a town or other city for the City’s fire department to provide assistance to the fire department of a town or other city.
- (e) “Mutual Aid Agreement” means an agreement between the City and a town or other city.

Subd. 3. Parties Affected.

- (a) Owners of property within the City who receive fire service.
- (b) Anyone who receives fire service as a result of a motor vehicle accident or fire.
- (c) Owners of property in towns or cities to which the City provides fire service pursuant to a fire protection contract.

Subd. 4. Rates. Fees for fire protection services shall be as established by resolution of the City Council.

Subd. 5. Billing and Collection.

- (a) Parties requesting and receiving fire services may be billed directly by the City. Additionally, if the party receiving fire services did not request services, but a fire or other situation exists, which, at the discretion of the fire department personnel in charge requires fire service, the party will be charged and billed. All parties will be billed whether or not the fire service is covered by insurance. Any billable amount of the fire charge not covered by a party's insurance remains a debt of the party receiving the fire service.
- (b) Parties billed for fire service will have 60 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the city will send a notice of delinquency.
- (c) If the fire service charge remains unpaid for 30 days after this notice of delinquency is sent, the City will use all practical and reasonable legal means to collect the fire service charge. The party receiving fire service shall be liable for all collection costs incurred by the City including, but not limited to, reasonable attorney fees and court costs.
- (d) If the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the City Council may also, on or before October 15<sup>th</sup> of each year, certify the unpaid fire service charge to the County Auditor in which the recipient of the service owns real property for collection with property taxes. The County Auditor is responsible for remitting to the City all charges collected on behalf of the City. The City must give the property owner notice of its intent to certify the unpaid fire service charge by September 15<sup>th</sup>.
- (e) False alarms may be billed as a fire call at the discretion of the Fire Chief.

Subd. 6. Mutual Aid Agreement. When the City fire department provides fire service to another fire department pursuant to a Mutual Aid Agreement, the billing will be determined by the Mutual Aid Agreement.

Subd. 7. Application of Collections to Budget. All collected fire charges will be city funds and assigned to the fire truck replacement equity fund.

PART III. LOCAL IMPROVEMENT POLICY

SECTION 303.01. CUT-OFF DATE FOR PETITIONS.

No petition for construction of any capital improvements shall be accepted or acted upon by the Council unless it is filed with the City Clerk on or before August 1<sup>st</sup> of the year prior to the year of requested construction.

SECTION 303.02. CLASSIFICATION OF PROJECTS.

Subd. 1. In General. Public improvements are divided into the three classes specified in the following subdivisions according to their respective benefit to the whole city and to property specially served by the improvement and taking into account past city practice.

Subd. 2. Class A. Class A improvements are those which are of general benefit to the city at large, including (1) Public buildings, except a building which is part of an improvement described in one of the following subdivisions; (2) any public park, playground, or recreational facility; (3) the installation and maintenance of street lighting systems; and (4) any improvement not described in Minnesota Statutes, Section 429.021, Subd. 1. Any such improvement shall be financed from general city funds and not from special assessments.

Subd. 3. Class B. Class B improvements are those which are of both general benefit and special benefit to abutting or nearby property. Class B improvements includes: (1) trunk water mains larger than 1 inch; (2) trunk sanitary sewer mains larger than 8 inches; (3) permanently surfacing arterial streets; (4) storm sewers; (5) the construction of off-street parking facilities.

Subd. 4. Class C. Class C improvements are those which are primarily if not exclusively of benefit to property abutting or in the area of the improvement, including (1) the construction of sidewalks; (2) the construction of water mains no larger than 2 inches in diameter; (3) the construction of sanitary sewer mains no larger than 6 inches in diameter; (4) the construction of curbs and gutters; (5) grading, graveling, and applying non-permanent surfacing to streets; (6) permanently surfacing residential streets; (7) the abatement of nuisances and the draining of swamps, marshes and ponds on public or private property and filling the same.

SECTION 303.03. FINANCING CLASS B AND C IMPROVEMENTS.

It is the policy of the City to finance Class B and C improvements by the methods prescribed in Sections 303.04, 303.05, and 303.06. The apportionment of the cost between benefited property and the City at large and the method of levying assessments prescribed in

those sections shall be followed in each case unless the Council, by resolution, finds that because of special circumstances stated in the resolution, a different policy is necessary or desirable in the particular case. Any local improvement described in Minnesota Statutes, Section 429.02 and not placed in Class A, B, or C by Section 303.02 shall be financed as the Council determines to be most feasible and equitable in each case.

SECTION 303.04. ASSESSMENT REGULATIONS FOR CLASS B IMPROVEMENTS.

Sub. 1. Trunk Water Mains and Sanitary Sewers. When a water or sewer main is laid across or adjacent to unplatted property, the City shall not defer the assessment against the unplatted property if the assessment would be made for such an improvement in the case of platted property, but the City shall make the assessment at the time the assessment against other property is made, apportioning the assessment against the unplatted property on the basis of area. When a trunk sewer or water main is constructed and is to serve also as a lateral sewer or water main for abutting property, the abutting property shall be assessed for the cost of a lateral sewer or water main plus its proportional share of costs of the excess capacity. Other property benefited by the trunk sewer or water main but unable to utilize it until a lateral connected to the trunk sewer or water main has been built to serve the property shall not be assessed for its share of the cost of the trunk sewer or water main until the lateral is built. The assessment for the lateral shall then include the property's share of the trunk sewer or water main. The cost of the trunk sewer or water main in excess of the lateral assessment shall be assessed on the basis of frontage against all properties benefited. The cost of a lift station shall be assessed on the basis of frontage against that property actually benefited by the lift station.

Subd. 2. Arterial Street Surfacing. The following are arterial streets: Ciro Street and Central Avenue. When an arterial street is paved with concrete, bituminous mat, or other permanent surface, the cost of the pavement on a 36-foot roadway shall be assessed against the benefited property on the basis of frontage on the abutting street. When the standards for such paving are higher than those the City would use for a residential street, the cost to be assessed shall be based on the cost of paving a residential street of the same width. The rest of the cost shall be paid from general funds.

Subd. 3. Storm Sewers. 100 percent of the cost of constructing storm sewers shall be paid by the City from storm sewer funds, except where special conditions such as a lift station may be required, the cost may be assessed against the property in the area served by the sewer on the basis of the square footage of the property. The area to be assessed shall be determined on the basis of topographic maps and other pertinent data.

SECTION 303.05. ASSESSMENT RULES FOR CLASS C IMPROVEMENTS.

Subd. 1. Sidewalks. The cost of the construction of sidewalks shall be assessed on the

basis of frontage against property abutting the side of the street on which the sidewalk is located. Cost of sidewalk construction from the property line to the curb shall be paid by the City.

Subd. 2. Water and Sewer. The cost of lateral water mains not exceeding 8 inches in diameter and of lateral sanitary sewer mains not exceeding 10 inches in diameter shall be assessed against abutting property on the basis of frontage. The cost of water mains to be assessed includes the service lines if furnished, hydrants, and valves. The cost of sewer mains includes lines, if furnished.

Subd. 3. Streets. The cost of construction of curbs and gutters on any street shall be assessed on the basis of frontage.

Subd. 4. Nuisances. The cost of abating nuisances and draining of swamps, marshes and ponds on public or private property and filling the same shall be assessed in a manner determined by the Council in each case to measure most equitably the benefit received by property to be assessed. The assessment in any such case may be made against non-abutting property to the extent the property is benefited by the improvement.

#### SECTION 303.06. SPECIAL RULES.

Subd. 1. Corner Lots. In any assessment made on the basis of frontage, except one for water or sanitary sewer, corner lots shall be assessed for footage along the front, the corner, and the side footage. In the case of an assessment for a lateral water or sewer main, Class C, corner lots shall be assessed for the footage along the longest side of the lot.

Subd. 2. Intersections. The cost of water and sewer improvements in street intersections shall be included as part of the total assessable cost. In the case of any kind of street improvement, intersection costs shall be paid by the City.

Subd. 3. Adjusted Frontage. When the amount of an assessment is determined by frontage, an equivalent front footage shall be determined according to the following rules when an irregular lot requires such an adjustment to maintain fairness in the assessment:

- a. Front footage shall be measured at setback on cul-de-sacs and sharply curved streets and irregularly shaped lots.
- b. Equivalent front footage shall be determined by dividing the square footage of the lot by the general lot depth of the subdivision for pie-shaped lots and irregular shaped lots where other rules do not apply.
- c. Where frontage curves so greatly as to give a general appearance of a corner, the lot shall be considered a corner lot and equivalent front footage, as well as side footage where required, determined on the basis of an irregularly shaped lot.



- d. Where a lot consists of a combination of rectangular and pie-shaped or irregular portions, the equivalent front footage shall be determined as the sum of the straight front footage plus the remainder in accordance with applicable rules.

SECTION 303.07. FEDERAL, STATE, AND COUNTY AID USE.

If the City receives financial assistance from the federal government, the state, or the county to defray a portion of the cost of a street improvement project, such aid shall be used first to reduce the share of the project cost which would be met from general city funds according to the assessment formula contained in this ordinance. If such aid is more than the amount of the improvement cost to be borne by the City, the remainder of the aid so received shall be used to reduce each individual assessment proportionately.

SECTION 303.08. DEFERMENT OF SPECIAL ASSESSMENTS FOR SENIOR CITIZENS.

Subd. 1. When Deferred. The Council may defer the payment of any special assessment on homestead property owned by a person who is 65 years of age or older and has an annual income of \$6,000.00 or less. The deferment shall be granted upon a certification by the owner on a form prescribed by the County Assessor supplemented by the City Clerk to establish the qualification of the owner for such deferment. The application shall be made within 30 days after the adoption of the assessment roll by the Council and shall be renewed each following year upon the filing of a similar application not later than September 30<sup>th</sup>. The Council shall either grant or deny the deferment and, if it grants the deferment, it may require the payment of the interest due each year. If the Council grants the deferment, the Clerk shall notify the County Auditor and the County Assessor who shall, in accordance with Minnesota Statutes, Section 444.23, record a notice of the deferment with the County Recorder setting forth the amount of the assessment.

Subd. 2. When Deferment Ends. The option to defer the payment of special assessments shall terminate and all amounts accumulated plus applicable interest shall become due upon the occurrence of any one of the following events: (1) the death of the owner when there is no spouse who is eligible for deferment; (2) the sale, transfer or subdivision of all or any part of the property; (3) loss of homestead status on the property; (4) determination by the Council for any reason that there would be no hardship to require immediate or partial payment; or (5) failure to file a renewal application within the time prescribed by Subdivision 1.

Subd. 3. Procedure for Termination. Upon the occurrence of one of the events specified in subdivision 2, the Council shall terminate the deferment. Thereupon, the City Clerk shall notify the County Assessor and the County Auditor of the termination, including the amounts accumulated on unpaid installments plus applicable interest which shall become due and payable as a result of the termination.

SECTION 303.09. BRANCH SERVICE LINES.

Water and sewer lines shall be installed from the main to the front property line of property to be served before any permanent street surfacing is constructed in the street. If any property owner fails to put in such water and sewer service lines within 30 days after notice from the City Clerk, the City Council shall proceed to have water and sewer service installed and to assess the cost against the property.

SECTION 303.10. PARTIAL PREPAYMENT.

After the adoption by the City Council of the assessment roll in any local improvement proceeding, the owner of any property specially assessed in the proceeding may, prior to the certification of the assessment or the first installment to the County Auditor, pay to the City Treasurer any portion of the assessment not less than \$100.00. The remaining unpaid balance shall be spread over the period of time established by the Council for installment payment of the assessment.

SECTION 303.11. CERTIFICATION OF ASSESSMENTS.

After the adoption of any special assessment by the Council, the Clerk shall transmit a certified duplicate of the assessment roll with each installment, including interest, set forth separately to the County Auditor to be extended on the proper tax lists of the County.

SECTION 303.12. PERMANENT IMPROVEMENT REVOLVING FUND.

Subd. 1. Establishment. There is hereby established a permanent improvement revolving fund of the City to be held and administered by the City Treasurer separate and apart from all other funds of the City, for the purpose of financing local improvements.

Subd. 2. Source of Funds. The fund shall be a permanent fund of the City and the moneys necessary for its maintenance shall be provided by taxation, by the appropriation of available moneys from other funds of the City, and/or by the issuance and sale of permanent improvement revolving fund bonds of the City as deemed necessary from time to time by the Council.

Subd. 3. Disposition of Funds. Moneys in the fund shall be used only as directed by resolution of the Council for the purpose of advancing to local improvement funds the cost of improvements for which assessments are to be levied. All such moneys so advanced to an improvement fund shall be restored as soon as sufficient moneys are received in the improvement fund together with interest at a rate fixed by the Council at not less than 8 percent per annum during the time for which such moneys have been so furnished.

Subd. 4. Investment. Whenever there are moneys in the fund not immediately needed for local improvements, such moneys shall be invested by the City Clerk under the direction of the Council in any securities authorized for investment of municipal sinking funds by law.

Subd. 5. Transfer of Surplus. When the fund accumulates encumbered moneys in excess of any amounts reasonably anticipated to be needed for local improvement fund advances, the Council may, by resolution adopted by a four-fifths vote, declare any part of such excess to be surplus and transfer it to the general fund.

CHAPTER IV. PUBLIC UTILITIES

PART I. UTILITIES.

SECTION 400.01. UTILITIES AND UTILITIES COMMISSION.

Subd. 1. Minnesota Statutes Governing Municipal Utilities and Providing for the Establishment of a Utilities Commission. Minnesota Statutes Annotated Sections 412.321 through 412.481, as amended, provide for the establishment of municipal utilities and a municipal utilities commission, and these statutes are hereby adopted by reference as though set forth verbatim herein. This ordinance provides for the continuation of public utilities in the City of Truman as have been in existence since 1938.

Subd. 2. All references to the ordinances for public utilities shall be references to the Minnesota Statutes Annotated, Sections 412.321 through 412.481, as amended, and as amended by duly adopted ordinances of the City and the additional ordinances as set forth in this chapter.

## PART II. WATER AND SEWER DEPARTMENT.

### SECTION 401.01. WATER AND SEWER DEPARTMENT.

There is hereby established a water and sewer department, which shall be a part of the Public Utilities Department, and which shall be under the supervision of the Public Utilities Manager. The department shall be responsible for the management, maintenance, care, and operation of the water works and sanitary sewage system.

### SECTION 401.02. USE OF WATER OR SEWER SYSTEM RESTRICTED.

No person shall make or use any water or sewer service installation connected to the City water or sewer system except pursuant to application and permit as provided in this chapter. No person shall make or use any such installation contrary to the regulatory provisions of this chapter.

### SECTION 401.03. RIGHT TO ENTER PRIVATE PROPERTY.

The City has the right to enter in and upon private property, including buildings and dwelling houses, in or upon which is installed a municipal utility, or connection therewith, at all times reasonable under the circumstances, for the purpose of reading utility meters, or inspecting or repairing meters, or the utility system or to inspect for the unlawful discharge of storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process water to any sanitary sewer. The City may enter in and upon premises of a consumer found to be in violation of this chapter in order to disconnect utilities to which such violated rule or regulation relates.

### SECTION 401.04. VIOLATIONS.

- A. Any person found to be violating any provision of this Chapter will 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 sub-section (a) shall be guilty of a misdemeanor.
- C. Any person violating any of the provisions of this Chapter shall become liable to the City for expenses, loss or damage occasioned on the City by reason of such violations.

SECTION 401.05. INSPECTION BY CITY.

- A. Authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Chapter. The City Inspector shall have no authority to inquire into processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point of having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.
  
- B. While performing the necessary work on private properties referred to in sub-section (a), duly authorized employees of the City shall insure all safety rules applicable to the premises established by the owner or occupant of the same and shall be held harmless for injury or death to the City employees. The City shall indemnify the owner or occupant against loss or damage to its property by City employees and against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence, or failure of the owner or occupant to maintain safe conditions.
  
- C. Duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for purposes of, but not limited to, inspection, observation, measurement, samplings, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

PART III. WATER SYSTEM.

SECTION 402.01. METERS.

Subd. 1. Meters Required. Except for the extinguishment of fires, no person other than an authorized City employee shall use water from the city water supply system or permit water from being drawn there from unless the water passes through a meter supplied or approved by the City. No person not authorized by the Public Utilities Commission shall connect, disconnect, take apart, or in any manner change or interfere with any such meter or its use.

Subd. 2. Purchase. Meters shall be installed by the City at the owner's expense.

Subd. 3. Maintenance. The City shall inspect the meter at the customer's expense and if found to be defective, the City shall repair at its expense any meter that has become unserviceable through ordinary wear and tear and shall replace it if necessary. Where repair or replacement is made necessary by act or neglect of the owner or occupant of the premises it serves, any city expense caused thereby shall be a charge against and collected from the water customer, and water service may be discontinued until the cause is corrected and the amount charged is paid.

Subd. 4. Complaints; Meter Testing. When a customer complains that the bill for any past service period is excessive, the City shall have the meter reread on request. If the customer remains dissatisfied, and he may, on written request and the deposit of \$25.00 have the meter tested. If the test shows an error in the City's favor exceeding five percent of the water consumed, the deposit shall be refunded, an accurate meter shall be installed, and the bill shall be adjusted accordingly. Such adjustment shall not extend back more than one service period from the date of the written request.

Subd. 5. Meters Property of Owner. Water meters shall be the property of the owner and may be removed or replaced as to size and type when deemed necessary.

Subd. 6. Meter Reading and Inspection. Authorized meter reader shall have free access at reasonable hours of the day to all parts of every building and premises connected with the city water supply system in order to read meters and make inspections.

SECTION 402.02. WATER RATES.

Subd. 1. Service Charge. Each water user shall pay a service charge each month during which water service is furnished as set by Council Resolution from time to time.

Subd. 2. Rate Schedule. In addition each water user shall pay for water used each month at the rates as set by the Council by resolution from time to time.

PART IV. SANITARY SEWER SYSTEM

SECTION 403.01. SEWER RATES.

Subd. 1. General Rates for Sewer Service. Each user of sewer service to property also served by the city water system shall pay each month an amount as set by Council Resolution from time to time as a sewer service charge. In the case of domestic users, and, on approval of the Public Utilities Department, any other user who uses water for the seasonal sprinkling of yards and gardens, the sewer bill shall be based on water consumption during the winter quarter.

Subd. 2. Rates for Users Not Connected to Water System. Except as otherwise provided in this section, any user of sewer service to property not served by the city water system shall pay each month the sewer service charge as set by Council Resolution from time to time.



PART V. ELECTRIC SERVICE FRANCHISE.

SECTION 404.01. ELECTRIC SERVICE FRANCHISE REQUIRED.

Purpose: This ordinance is adopted pursuant to the powers of the City and is intended to be consistent with the right of the City, pursuant to M.S. 216B.36, to regulate certain activities of a public utility occupying the streets and other public ways of the City. It is intended that by adopting the provisions of this ordinance, the economic welfare of the citizens of the City and the customers of the Public Utility Department, as well as the customers of any other public utility serving customers in the City shall be protected. Further, it is intended to promote the general health, safety and welfare of the citizens of the City by providing for orderly growth and efficient planning for the expansion of all municipal services, including the provision of electric service at retail.

SECTION 404.02. DEFINITIONS.

Definitions: For purposes of this ordinance the following terms shall be defined as follows:

Subd. 1. “Person” means a natural person, a partnership, private corporation, a public corporation, an association, a cooperative whether incorporated or not, or two or more persons having a joint or common interest.

Subd. 2. “Customer” means a person contracting for or purchasing electric service at retail from an electric utility.

Subd. 3. “Electric Service” means electrical service furnished to a customer at retail for ultimate consumption, but does not include wholesale electric energy furnished by an electric utility to another electric utility for resale.

Subd. 4. “Electric line” means lines for conducting electric energy at a design voltage of 25,000 volts phase to phase to less used for distributing electric energy directly to customers at retail.

Subd. 5. “Electric utility” means a person or entity operating, maintaining or controlling within the city equipment or facilities for providing electric service at retail and which falls within the definition of “public utility” as that term is described in Minnesota Statutes 216B.02, Subd. 4 and includes a cooperative electric association.

SECTION 404.03. EXTENSION OF FACILITIES PROHIBITED.

Extension of Facilities Prohibited. Following the adoption of this ordinance, no public utility serving a customer within the City may serve any new customer by means of the existing electric service distribution facilities, until the public utility has obtained a franchise from the City as provided in Chapter \_\_\_\_.

SECTION 404.04. EXEMPTIONS.

Exemptions: This ordinance shall not be deemed to prevent an electric utility already serving a customer on the effective date of this ordinance from:

- (a) Continuing to serve said customer until the city has acquired the right to do so under the provisions of Minnesota Statutes 216B.44;
- (b) Repairing or maintaining electric lines and distribution facilities already in place made necessary in order to maintain reliable service;
- (c) Extending electric lines and distribution facilities within the City for the sole purpose of facilitating service to existing or new customers located outside of the municipal boundaries of the City.

SECTION 404.05. ENFORCEMENT.

Enforcement: In addition to any criminal provisions provided for herein, the City Attorney is empowered to enforce the provisions of this ordinance by initiation of a proceeding seeking equitable or other appropriate relief in the name of the City in the District Court of the Fifth Judicial District in Martin County against any violator, including a customer of any violator.

SECTION 404.06. PENALTIES.

Subd. 1. Penalties. Any person, including an officer, employee or agent of a public utility who violates the provisions of this ordinance shall be guilty of a misdemeanor. Each violation shall be deemed to be a separate offense, and each day's continuance of said violation shall be deemed a separate and distinct offense and may be punished accordingly.

SECTION 404.07. ELECTRIC FRANCHISE.

Subd. 1. Definitions. For purposes of this ordinance, the following capitalized terms listed in alphabetical order shall meanings:

1. **City.** The City of Truman, County of Martin, State of Minnesota.
2. **City Utility System.** Facilities used for providing public utility service owned or operated by City or Agency thereof, including sewer, storm sewer, water service, street lighting and traffic signals, but excluding facilities for providing heating, lighting or other forms of energy.
3. **Commission.** The Minnesota Public Utilities Commission, or any successor agency or agencies, including an agency of the federal government, which preempts all or part of the authority to regulate electric retail rates now vested in the Minnesota Public Utilities Commission.
4. **Company.** The Truman Public Utilities Commission, a Minnesota Corporation, its successors and assigns including all successors or assigns that own or operate any part or parts of the Electric Facilities subject to this franchise.
5. **Electric Facilities.** Electric transmission and distribution towers, poles, lines, guys, anchors, conduits, fixtures and necessary appurtenances owned or operated by Company for the purpose of providing electric energy for public or private use.
6. **Notice.** Notice to Company shall be mailed to Truman Public Utilities Commission, 202 West Ciro Street, Truman, Minnesota 56088. Notice to the City shall be mailed to the City of Truman, 101 E. Ciro St., Truman, Minnesota 56088.
7. **Public Way.** Any street, alley, or other public right-of-way within the City.
8. **Public Ground.** Land owned or otherwise controlled by the City for park, open space or similar public purpose, which is held for use in common by the public.

Subd. 2. Adoption of Franchise.

1. **Grant of Franchise.** City hereby grants Company, for a period of ten (10) years from the date this ordinance is approved by the City, the right to transmit and furnish electric energy for light, heat and power for public and private use within and through the limits of the City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair and maintain Electric Facilities in, on, over, under and across the Public Ways and Public Grounds, subject to the provisions of this Ordinance. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to such reasonable regulations as may be imposed by the City pursuant to ordinance or permit requirements and to the further provisions of this franchise agreement.
2. **Effective Date: Written Acceptance.** This franchise shall be in force and effect from and after the passage of this Ordinance and publication as required by law and its acceptance by Company. If Company does not file a written acceptance with the City within 60 days after the date the City Council adopts this Ordinance, the City Council by resolution may revoke this franchise or seek its enforcement in a competent jurisdiction.

3. **Service, Rates and Area.** The service to be provided and the rates to be charged by Company for electric service in the City are subject to the jurisdiction of the Commission. The area within the City in which Company may provide electric service is subject to the provisions of Minnesota Statutes, Section 216B.37-40.
4. **Publication Expense.** Company shall pay the expense of publication of this ordinance.
5. **Dispute Resolution.** If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within thirty (30) days of the date of written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity.
6. **Continuation of Franchise.** If the City and the Company are unable to agree on the terms of a new franchise by the time this franchise expires, this franchise will remain in effect until a new franchise is agreed upon, or until 90 days after the City or the Company serves written notice to the other party of its intention to allow the franchise to expire. However, in no event shall this franchise continue for more than one year after expiration of the ten (10) year term set forth in Section 2.1.

**Subd. 3. Location, Other Regulations.**

1. **Location of Facilities.** Electric Facilities shall be located, constructed, and maintained so as not to interfere with the safety and convenience of ordinary travel along and over Public Ways and so as not to disrupt or interfere with the Normal operation of any City Utility System. Electric Facilities may be located on Public Grounds as determined by the City. Company's construction, reconstruction, operation, repair, maintenance, location and relocation of Electric Facilities shall be subject to other reasonable regulations of the City consistent with authority granted the City to manage its Public Ways and Public Grounds under state law, to the extent not inconsistent with a specific term of this franchise agreement.
2. **Street Openings.** Company shall not open or disturb the surface of any Public Way or Public Ground for any purpose without first having obtained a permit from the

- City, if required by a separate ordinance for which the City may impose a reasonable fee. Permit conditions imposed on Company shall not be more burdensome than those imposed on other utilities for similar facilities at work. Company may, however, open and disturb the surface of any Public Way or Public Ground without a permit if (i) an emergency exists requiring the immediate repair of Electric Facilities and (ii) Company gives telephone notice to the City before, if reasonably possible, commencement of the emergency repair. Within two business days after commencing the repair, Company shall apply for any required permits and pay any required fees.
3. **Restoration.** After undertaking any work requiring the opening of any Public Way, the Company shall restore the Public Way in accordance with Minnesota Rules, part 7819.1100 and applicable City ordinances consistent with law. Company shall restore Public Ground to as good a condition as formerly existed, and shall maintain the surface in good condition for six (^) months thereafter. All work shall be completed as promptly as weather permits, and if Company shall not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and put the Public Ground in the said condition, the City shall have, after demand to Company to cure and the passage of a reasonable period of time following the demand, but not to exceed five days, the right to make the restoration of the Public Ground at the expense of the Company. Company shall pay to the City the cost of such work done for or performed by the City. This remedy shall be in addition to any other remedy available to the City for noncompliance with this Section 3.3. Company shall also post a construction performance bond consistent with provisions of the Minnesota Rules parts 7819.3000 and 7819.0100, subpart 6.
  4. **Shared Use of Poles.** Company shall make space available on its poles or towers for City fire, water utility, police or other City facilities whenever such use will not interfere with the use of such poles or towers by the Company, by another electric utility, by a telephone utility, or by any cable television company or other form of communication company. In addition, the City shall pay for any added costs incurred by the Company because of such use by Company.
  5. **Avoid Damage in Electric Facilities.** The Company must take reasonable measures to prevent the Gas Facilities from causing damage to persons or property. The Company must take reasonable measures to protect the Gas Facilities from damage that could be inflicted by persons, property, or the elements. The Company must take protective measures when the City performs work near the Gas Facilities if given reasonable notice by the City of such work prior to its commencement.
  6. **Notice of Improvements to Streets.** The City must give Company reasonable

written notice of plans for Improvements to Public Ways where the City has reason to believe that Electric Facilities may affect or be affected by the improvement. The notice must contain (i) the nature and character of the improvements, (ii) the Public ways upon which the improvements are to be made, (iii) the extent of the improvements, (iv) the time when the City will start the work, and (v) if more than one Public Way is involved, the order in which the work is to proceed. The notice must be given to Company's sufficient length of time considering seasonal working conditions, in advance of the actual commencement of the work to permit Company to make any additions, alterations, or repairs to its Electric Facilities the Company deems necessary.

7. **Mapping Information.** The Company must promptly provide mapping information for any of its underground Electric Facilities in accordance with Minnesota Rules Parts 7819.4000 and 7819.4100.

Subd. 4. Facilities Relocation.

1. **Relocation in Public Ways.** The Company shall comply with Minnesota Rules part 7819.3100 and applicable City ordinances consistent with law.
2. **Relocation in Public Grounds.** City may require Company at Company's expense to relocate or remove its Electric Facilities from Public Ground upon a finding by City that the Electric Facilities have become or will become a substantial impairment to the existing or proposed public use of the Public Ground. Such relocation shall comply with applicable ordinances consistent with law.
3. **Projects with Federal Funding.** Relocation, removal, or rearrangement of any Electric Facilities made necessary because of the extension into or through City of a federally aided highway project shall be governed by the provisions of Minnesota Statutes Section 161.46.

Subd. 5. Tree Trimming. Unless otherwise provided in any permit or other reasonable regulation required by the City under separate ordinance, Company may trim all trees and shrubs in the Public Ways and Public Grounds of City to the extent Company finds necessary to avoid interference with the proper construction, operation, repair and maintenance of any Electric Facilities installed hereunder, provided that Company shall hold the City harmless from any liability arising therefrom.

Subd. 6. Indemnification.

1. **Indemnity of City.** City shall indemnify and hold the City harmless from any and all liability, on account of injury to persons or damage to property occasioned by

construction, maintenance, repair, inspection, the issuance of permits or the operation of the Electric Facilities located in the Public Ways and Public Grounds. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of the Company's plans or work.

2. **Defense of City.** In the event a suit is brought against the City under circumstances where this agreement to Indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not unreasonably withheld. This section is not as to third parties, a waiver of any defense or immunity otherwise available to the City; and Company, in defending any action on behalf of the City shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf. This franchise agreement shall not be interpreted to constitute a waiver by the City of any of its defenses of immunity or limitations on liability under Minnesota Statutes, Chapter 466.

**Subd. 7. Vacation of Public Ways.** The City shall give Company at least two weeks prior written notice of a propose vacation of a Public Way. The City and the Company shall comply with Minnesota Rules 7819.3200 and applicable ordinances consistent with law.

**Subd. 8. Change in Form of Government.** Any change in form of government of the City shall not affect the validity of this ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City in this Ordinance.

**Subd. 9. Franchise Fee.**

1. **Form.** During the term of the franchise hereby granted, the City shall impose an annual franchise fee of \$10,000.00 plus .0007 times the kWh sold.
2. **Collection of Fee.** The franchise fee shall be payable not less than quarterly during complete billing months of the period during complete billing months of the period for which payment is to be made. The franchise fee formula may be changed from time to time; however, the change shall meet the same notice requirements and the fee may not be changed more often than annually. Such fee shall not exceed any amount that the Company may legally charge to its customers prior to payment to the

City. Such fee is subject to subsequent reductions to account for uncollectibles and customer refunds incurred by the Company. The Company agrees to make available for inspection by the City at reasonable times all records necessary to audit the Company's determination of the franchise fee payments.

3. **Continuation of Franchise Fee.** If this franchise expires and the City and the Company are unable to agree upon terms of a new franchise, the franchise fee, if any being imposed by the City at the time this franchise expires, will remaining effect until a new franchise is agreed upon.

**Subd. 10. Provisions of Ordinance.**

1. **Severability.** Every section, provision, or part of this ordinance is declared separate from every other section, provision, or part; and if any section, provision, or part shall be held invalid, it shall not affect any other section, provision, or part; provided, however, that if the City is unable to enforce its franchise fee provisions for any reason the City will be allowed to amend the franchise agreement to impose a franchise fee pursuant to statute. Where a provision of any other City ordinance conflicts with the provisions of this ordinance, the provisions of this ordinance shall prevail.
2. **Limitation on Applicability.** This ordinance constitutes a franchise agreement between the City and Company as the only parties and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.



PART VI. STORM SEWER SYSTEM.

SECTION 405.01. ESTABLISHMENT.

A municipal storm water utility is hereby established and shall be operated as a public utility pursuant to Minnesota Statutes, Section 444.075 from which revenues will be derived subject to the provisions of [this Chapter/the City Code] and Minnesota Statutes.

SECTION 405.02. PURPOSE.

The storm water utility is created to provide efficient, economic, and safe collection of storm water for the protection of the health, safety, and general welfare of the residents of the City of Truman.

SECTION 405.03. STORM WATER UTILITY FEE STRUCTURE.

Subd. 1. A storm water utility fee shall be imposed and all fees collected shall be placed in a separate storm water utility fund for storm water purposes as allowed by Minnesota Statutes, Section 444.075.

Subd. 2. The storm water utility fee shall be generated from a minimum monthly connection fee that is set by the City Council from time to time, billed to each property currently billed for sanitary sewer usage, without regard to type of use. The storm water utility fee shall not be charged to a property that is outside the drainage system.

Subd. 3. The storm water utility fee shall be added to the City utility bills. The City reserves the right to establish procedures to certify unpaid charges to the County Auditor with taxes against the property served for collection as other taxes are collected.

SECTION 405.04. AMENDMENTS TO FEE STRUCTURE.

The City Council shall annually review the rates for fairness and sufficiency and may modify the structure by resolution. The City Council must review the fee structure any time the City issues debt payable from the net revenues of the storm water utility fund.

SECTION 405.05. ADMINISTRATION.

All administrative rules that apply to electric bills and water bills shall apply to storm water utility bills, including collection and penalty policies of the City's Public Utilities Commission. The City Council may develop and adopt specific rules by resolution.

CHAPTER V. MUNICIPAL REGULATION AND LICENSING

PART I. GENERAL LICENSING AND PERMIT PROVISIONS.

SECTION 501.01. LICENSES AND PERMITS.

Subd. 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 part.

Subd. 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.

Subd. 3. Application. Every application for a license shall be made to the Clerk on a form provided by him/her. 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.

Subd. 4. Bond. 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 of \$500.00, conditioned that the licensee or permittee shall comply with the applicable ordinance and laws pertaining to the licensed or permitted activity and that the licensee or permittee his agents or employees.

Subd. 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 non-cancellable 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:
- For injuries including death therefrom sustained by any one person, \$300,000.00.
  - For injuries including death resulting therefrom sustained by two or more persons as the result of any one occurrence, \$300,000.00.
  - For property damage, \$100,000.00.

SECTION 501.02. FEES.

Subd. 1. Fee Established. License fees shall be established by the City Council by Resolution.

Subd. 2. Prorated Fees. License fees shall not be prorated unless otherwise specified by this code or by law.

Subd. 3. Refunds. License fees shall not be refunded in whole or in part unless otherwise specified by this code or by law.

SECTION 501.03. DURATION OF LICENSE.

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

SECTION 501.04. 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.

SECTION 501.05. INSPECTION.

Subd. 1. Authorized Personnel. Any City official or employee having a duty to perform with reference to a license under this code and any police 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 Subdivision 2, 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.

Subd. 2. 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.

SECTION 501.06. DUTIES OF LICENSEE.

Subd. 1. Compliance Required. Every licensee and permittee shall have the duties set forth in this section.

Subd. 2. Inspection. He shall permit at reasonable times inspections of his business and examination of his books and records by authorized officers or employees.

Subd. 3. Compliance With Law. He shall comply with laws, ordinances, and regulations applicable to the licensed business, activity, or property.

Subd. 4. 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.

Subd. 5. Unlawful Disposition. The licensee shall not lend or give to any other person his license or license insignia.

#### SECTION 501.07. 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

#### SECTION 501.08. LICENSE BACKGROUND CHECKS; APPLICANTS FOR CITY LICENSES.

Subd. 1. Purpose. The purpose and intent of this Section is to establish regulations that will allow enforcement access to Minnesota's computerized criminal history information for specified non-criminal purposes of licensing background checks.

Subd. 2. Criminal History License Background Investigations. The Truman Police Department is hereby required, as an exclusive entity within the City, to do a criminal history background investigation on the applicant's for the following licenses within the City: City licenses, peddlers, fireworks, 3.2 percent malt liquor licenses, on-sale intoxicating liquor licenses, including on-sale licenses, special club licenses, on-sale wine licenses, and off-sale licenses.

In conducting the criminal history background investigation in order to screen license applicants, the Police Department is authorized to access data maintained in the Minnesota Bureau of Criminal Apprehensions computerized criminal history information system in accordance with BCA policy. Any data that is accessed and acquired shall be maintained at the Police Department under the care and custody of the Chief Law Enforcement official or his or her designee. A summary of the results of the computerized criminal history data may be

released by the Police Department to the licensing authority including the City Council of the City of Truman, or other staff involved in the licensing approval process.

Before the investigation is undertaken, the applicant must authorize the Police Department by written consent to undertake the investigation. The written consent must fully comply with the provisions of M.S. Chapter 13 regarding the collection, maintenance and use of the information. Except for the position set forth in M.S. 364.09, the City will not reject an applicant for a license on the basis of the applicant's prior conviction unless the crime is directly related to the license sought and the conviction is for a felony, gross misdemeanor, or misdemeanor with a jail sentence. If the City rejects the applicant's request on this basis, the City shall notify the applicant in writing of the following:

- A. The grounds and reasons for denial;
- B. The applicant complained in grievance procedures set forth in M.S. Section 364.06;
- C. The earliest date the applicant may reapply for the license;
- D. That all competent evidence of rehabilitation will be considered upon reapplication.

PART II. REFUSE COLLECTION AND DISPOSAL.

SECTION 502.01. DEFINITIONS.

Subd. 1. Words and Phrases. For the purposes of this chapter, the following words and phrases have the meanings given them in this section.

Subd. 2. Garbage. Means organic waste resulting from the preparation of food and decayed and spoiled food from any source.

Subd. 3. Recyclables. Include 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.

Subd. 4. Recycling Center. Means 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.

Subd. 5. Refuse. Includes garbage and rubbish.

Subd. 6. Rubbish. Means inorganic solid waste such as tin cans, glass, paper, ashes, sweepings, etc.

SECTION 502.02. GENERAL REGULATIONS.

Subd. 1. Unauthorized Accumulation. Any unauthorized accumulation of refuse on any premises is a nuisance and prohibited.

Subd. 2. 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.

Subd. 3. Scattering of Refuse. No person shall deposit anywhere within the City any refuse in such a manner that it may be carried or deposited by the elements upon any public or private premises within the City.

Subd. 4. 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, non-poisonous garbage may be composted on the premises where such refuse has been accumulated. Garbage may be composted only in a rodent-proof structure and in an otherwise sanitary manner and after the Council gives its approval to such composting after it finds that the composting will be done in accordance with these standards.

SECTION 502.03. 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 during the year.

SECTION 502.04. CONTAINERS.

Subd. 1. 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 Subdivision 2.

Subd. 2. Container Requirements. Each container shall be water-tight, shall be impervious to insects and rodents, shall be fireproof, and shall not exceed 75 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 Council. 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. The container shall be placed at the front property line for collection, but it shall not be so placed before 6:00 o'clock p.m. the night before collection and shall be removed by 6:00 o'clock p.m. the day of the collection.

Subd. 3. Use of Containers. Refuse shall be drained of liquid and household garbage shall be wrapped before being deposited in a container. Highly inflammable or explosive material shall not be placed in containers.

SECTION 502.05. LICENSED COLLECTORS.

Subd. 1. License Required. No person shall permit refuse to be picked up from his premises for hire by an unlicensed collector.

Subd. 2. Application. 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.

Subd. 3. 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 (1) each person injured, at least \$300,000.00; (2) each accident, at least \$300,000.00; (3) property damage, at least \$100,000.00.

Subd. 4. License Fees. Licenses shall be issued for a period of one year. The license fee shall be established by the City Council by resolution.



PART III. DOG AND CAT REGULATION AND LICENSES.

SECTION 503.01. LICENSE REQUIRED.

- A. All cats and dogs over the age of 3 months kept, harbored or maintained by their owners in the City shall be licensed and registered with the City. Dog and cat licenses shall be issued by the City Clerk-Treasurer upon payment of the license fee. The license shall be valid for the lifetime of the animal. The owner shall state, at the time application is made for the license and upon forms provided for the purpose his or her name and address and the name, breed, color and sex of each dog and/or cat owned or kept by him or her. No license shall be granted for a dog and/or which has not been vaccinated against distemper and rabies, as provided in this section. Vaccinations shall be performed only by a doctor qualified to practice veterinary medicine in the state in which the dog is vaccinated. A veterinarian who vaccinates a dog to be licensed in the City shall complete a certificate of vaccination. One copy shall be issued to the dog and/or cat owner for affixing to the license application.
- B. It shall be the duty of each owner of a dog/or cat subject to this section to pay to the City Clerk-Treasurer the license fee as imposed by the Council by resolution.
- C. Upon payment of the license fee, the City Clerk-Treasurer shall issue to the owner a license certificate and metallic tag for each animal licensed. The tag shall have stamped on it the number corresponding with the number on the certificate. Every owner shall be required to provide each dog or cat with a collar to which the license tag must be affixed and shall see that the collars and tag are constantly worn. In case a tag is lost or destroyed, a duplicate shall be issued by the City Clerk-Treasurer. A charge of \$3.00 shall be made for each duplicate tag. Tags shall not be transferrable from one dog or cat to another and no refunds shall be made on any dog or cat license fee or tag because of death of a dog or cat or the owners leaving the City.
- D. The licensing provisions of this section shall not apply to dogs or cats whose owners are nonresidents temporarily within the City, nor to dogs or cats brought into the City for the purpose of participating in any dog or cat show, nor shall this provision apply to seeing eye dogs properly trained to assist blind persons for the purpose of aiding them in going from place to place.
- E. The funds received by the City Clerk-Treasurer from all dog and cat licenses and metallic tag fees shall first be used to defray any costs incidental to the enforcement of this section; including, but not restricted to, the costs of licenses, metallic tags, and impounding and maintenance of the dogs and cats.

SECTION 503.02. CONTROL, CLEANUP.

Any dog or cat inside the City shall be on a leash or under the immediate control of the owner or handler at all times. Any debris or manure shall be cleaned up and discarded by owner or handler before leaving the site.

SECTION 503.03. RUNNING AT LARGE PROHIBITED.

It shall be unlawful for any person who owns, harbors, or keeps a dog or cat, or the parents or the guardians of any person under 18 years of age, to allow the dog or cat to run at large. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the City has posted an area with signs reading Dogs or Cats Prohibited.

SECTION 503.04. CATS, GENERALLY.

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

SECTION 503.05. IMPOUNDMENT.

- A. Any dog or cat may be picked up and impounded by any Police Officer or City authorized Dog Catcher of the City of Truman, when an owner does not restrain or keep the dog or cat in accordance with this chapter or any other applicable ordinance of the City and, to enforce this chapter, Police Officers and Dog Catchers may enter upon private premises to pick up a dog or cat. The Officer may use either a dog snare or a tranquilizer gun to safely and effectively capture the animal, or by any other means necessary in order to capture the animal without causing harm to it.
- B. Upon taking and impounding a dog or cat, the enforcing officer shall notify the owner thereof if known. Unless the dog or cat is claimed or redeemed within 5 business days of the impoundment, the dog or cat shall be painlessly killed and disposed of.

SECTION 503.06. REDEMPTION.

Any dog or cat can be redeemed from the pound by the owner within the 5 business day period by payment of a license fee, (if not licensed).

SECTION 503.07. INTERFERING WITH ENFORCEMENT.

It shall be unlawful for any person to take or attempt to take from any Police Officer, or Dog Catcher or Pound Master, or the pound, any dog or cat taken in by him or her in enforcement of this ordinance or any manner to interfere or hinder the enforcement against the discharge of his or her duties under the chapter.

SECTION 503.08. BITES.

Upon learning that a dog or cat has bitten a human, the Police Officer shall order the dog or cat impounded at the City pound for a period of 14 days.

SECTION 503.09. PROHIBITED ACTS.

A. No person shall keep or harbor a dog:

1. That barks continuous for 5 minutes or more without any pauses or interruptions longer than one minutes in duration;
2. That at any time has attacked or bitten a person outside the owner's premises;
3. That at any time has destroyed property or habitually trespassed in a damaging manner on property of person other than owners; and/or
4. That is dangerous or shows vicious habits, or molests pedestrians, or interferes with the driving of automobiles on a public street, highway, or alley.

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

**DANGEROUS DOG.** Any dog that has:

- a. Without provocation, inflicted substantial bodily harm on a human being on public or private property;
- b. Killed a domestic animal without provocation while off the Owner's property;  
or
- c. Been found to be potentially dangerous and after the owner has noticed that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

**POTENTIALLY DANGEROUS DOG.** Any dog that:

- a. When unprovoked, inflicts bites on a human or domestic animal on public or private property.
- b. When unprovoked, chases or approaches a person, including a person on a bicycle, upon the streets, sidewalks, or any public or private property other than the dog owner's property, in an apparent attitude of attack; or
- c. Has a known propensity, tendency, or disposition to attack unprovoked, causing injury, or otherwise threatening the safety of humans or domestic animals.

PART IV. OTHER ANIMALS.

SECTION 504.01. GENERAL PROHIBITION.

No person shall keep any horse, cattle, swine, sheep, goat, or other livestock or fowl in the city or permit such animal to be kept on premises owned, occupied, or controlled by him except under the conditions prescribed by this chapter.

SECTION 504.02. AREAS WHERE KEEPING PROHIBITED.

No horse, cattle, swine, sheep, or other livestock or fowl shall be kept in the City except within the agricultural zone.

SECTION 504.03. ANIMALS AT LARGE.

No person shall permit any horse, mule, donkey, pony, cattle, sheep, cat, goat, swine, rabbit, chicken, geese, duck, or turkey of which he is the owner, caretaker, or custodian to be at large within the City. Any such animal is deemed to be at large when it is off the premises owned or rented by the owner or his agent and not under his individual restraint.

SECTION 504.04. DISEASED ANIMALS.

Any animal with a contagious disease shall be so confined that it cannot come within 50 feet of any public roadway or any place where animals belonging to or harbored by another person are kept.

SECTION 504.05. MANNER OF KEEPING.

No person shall keep any dog, cat, or other animal in the City in an unsanitary place or condition or in a manner resulting in objectionable odors or in such a way as to constitute a nuisance or disturbance by reason of barking, howling, fighting, or other noise or in such a way as to permit the animal to annoy, injure, or endanger any person or property.

SECTION 504.06. CARE OF PREMISES.

Subd. 1. Clean Shelters. Every structure and yard in which animals or fowl are kept shall be maintained in a clean and sanitary condition and free of all rodents, vermin, and objectionable odors. The interior walls, ceilings, floors, partitions and appurtenances of any such structure shall be whitewashed or painted as the Health Officer shall direct. Upon the complaint of any individual or otherwise, the Health Officer shall inspect such structure or yard and issue any such order as may be reasonably necessary to carry out the provisions of Part 4.

Subd. 2. Manure. Manure shall be removed with sufficient frequency to avoid nuisance from odors or from the breeding of flies, at least once per month from October 1<sup>st</sup> to May 1<sup>st</sup> each year and once every two weeks at other times. Unless used for fertilizer, manure shall be removed by hauling beyond the city limits. If used for fertilizer, manure shall be spread upon the ground evenly and turned over at once or as soon as the frost leaves the ground.

SECTION 504.07. IMPOUNDING.

Subd. 1. Who Impounds. The Pound Master or any Police Officer may take up and impound in the city pound any animal or fowl found running at large in violation of this chapter and shall provide proper sustenance for every animal impounded.

Subd. 2. Release. No animal impounded shall be released, except to a person displaying a receipt from the Clerk showing payment of the impounding fee or the sale price. The fees and sale price shall be established by a resolution of the City Council.

Subd. 3. Illegal Release. No unauthorized person shall break into the pound or release any animal legally placed therein.

PART V. TOBACCO, TOBACCO PRODUCTS AND TOBACCO RELATED DEVICES.

SECTION 505.01. PURPOSE.

Because the City recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products and tobacco related devices and such sales, possession and use are violations of both State and Federal laws; and because the Minnesota Legislature finds that smoking causes premature death, disability, chronic disease, including cancer and heart disease and lung disease; and smoking related diseases result in excess medical care costs and smoking initiation occurs primarily in adolescents; this ordinance shall be 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 Section 144.391.

SECTION 505.02. DEFINITIONS AND INTERPRETATIONS.

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

Subd. 1. Tobacco or Tobacco Products. “Tobacco” or “Tobacco Products” shall mean 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.

Subd. 2. Tobacco Related Devices. “Tobacco Related Devices” shall mean any tobacco product as well as a pipe, rolling papers, or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

Subd. 3. Self-Service Merchandising. “Self-Service Merchandising” shall mean open displays of tobacco, tobacco products, or tobacco related devices in any manner where any person shall have 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 shall 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 shall not include machines.

Subd. 4. Vending Machine. “Vending Machine” shall mean 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.

Subd. 5. Individually Packaged. “Individually Packaged” shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be 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 subdivision shall not be considered individually packaged.

Subd. 6. Loosies. “Loosies” shall mean the common term used to refer to a single or individually packaged cigarette.

Subd. 7. Minor. “Minor” shall mean any natural person who has not reached the age of 18 years.

Subd. 8. Retail Establishment. “Retail Establishment” shall mean any place of business where tobacco, tobacco products or tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to grocery stores, convenience stores and restaurants.

Subd. 9. Movable Place of Business. “Movable Place of Business” shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportation shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

Subd. 10. Sale. A “Sale” shall mean any transfer of goods for money, trade, barter, or other consideration.

Subd. 11. Compliance Checks. “Compliance Checks” shall mean the system the City uses to investigate and insure that those authorized to sell tobacco, tobacco products and tobacco related devices are following and complying with the requirements of this ordinance. Compliance checks shall involve the use of minors as authorized by this ordinance. Compliance checks shall also mean 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.

SECTION 505.03. LICENSE.

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.

Subd. 1. 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 address 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 the notice of the information necessary to make the application complete.

Subd. 2. 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 an 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.

Subd. 3. Term. All licenses issued under this ordinance shall be valid for one calendar year from the date of issue.

Subd. 4. Revocation or Suspension. Any license issued under this ordinance may be revoked or suspended as provided in the violations and penalties section of this ordinance.

Subd. 5. Transfers. All licenses issued under this ordinance shall be issued 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.

Subd. 6. Movable Place of Business. No licenses shall be issued to a movable place of business. Only fixed location businesses shall be eligible to be licensed under this ordinance.

Subd. 7. Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premises.

Subd. 8. 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 not more than 60 days before the expiration of the current license. The issuance of a license issued under this ordinance 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.

SECTION 505.04. FEES.

No license shall be issued under this ordinance until the appropriate license fee shall be paid in full. The fee for a license under this ordinance shall be set by the City Council by resolution.

SECTION 505.05. BASIS FOR DENIAL OF LICENSE.

The following shall be grounds for denying the issuance or renewal of a license under this ordinance, however, except as may otherwise be provided by law, the existence of any particular ground for a denial does not mean 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. The basis for denial of a license shall include:

- A. The applicant is under the age of 18 years;
- B. The applicant has been convicted within the last 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 local law, ordinance or other regulation from holding such a license.

SECTION 505.06. PROHIBITED SALES.

It shall be a violation of this ordinance for any person to sell or offer to sell any tobacco, tobacco product, or tobacco related device; (a) to any person under the age of 18 years; (b) by means of any type of vending machine, except as may otherwise be provided by this ordinance; (c) 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; (d) by means of loosies as defined in Section 505.02, Subd. 6. of this ordinance;

(e) containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic or controlled substance except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process; (f) by any other means to any other person, or in any other manner or form prohibited by federal, state, or local law, ordinance provision, or other regulation.

SECTION 505.07. VENDING MACHINES.

It shall be unlawful for any person licensed under this ordinance to allow the sale of tobacco, tobacco products, or tobacco related devices by means of a vending machine unless minors are at all times prohibited from entering the licensed establishment.

SECTION 505.08. SELF-SERVICE SALES.

It shall be unlawful for a licensee under this ordinance 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 the tobacco, tobacco product, or 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 in an area not freely accessible to customers, or in a 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 ordinance is adopted shall comply with this section within 30 days.

SECTION 505.09. RESPONSIBILITY.

All licensees under this ordinance 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 ordinance, state, or federal law, or other applicable law or regulation.

SECTION 505.10. COMPLIANCE CHECKS AND INSPECTIONS.

All licensed premises shall be open to inspection by the City Police or other authorized City official 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 parent 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 the 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 minors age, and all minors lawfully engage in a compliance check shall answer all questions about the minors age asked by the licensee by his or her employee and shall produce any identification, if any exists for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by State or Federal law for educational, research, or training purposes or required for the enforcement of a particular state or federal law.

#### SECTION 505.11. OTHER ILLEGAL ACTS.

Unless otherwise provided, the following acts shall be a violation of this ordinance:

Subd. 1. Illegal Sales. It shall be a violation of this ordinance for any person to sell, or otherwise provide any tobacco, tobacco product or tobacco related device to any minor.

Subd. 2. Illegal Possession. It shall be a violation of this ordinance for any minor to have in his or her possession any tobacco, tobacco product , or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check.

Subd. 3. Illegal Use. It shall be a violation of this ordinance for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco product, or tobacco related device.

Subd. 4. Illegal Procurement. It shall be a violation of this ordinance 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 ordinance for any person to purchase or otherwise obtain such item 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 subdivision shall not apply to minors lawfully involved in a compliance check.

Subd. 5. Use of False Identification. It shall be a violation of this ordinance for any minor to attempt to disguise his or her true age by the use of a false form of identification, or that 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.

#### SECTION 505.12. VIOLATIONS.

Subd. 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.

Subd. 2. Hearings. If a person accused of violating this ordinance so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

Subd. 3. Hearing Officer. The City Council shall serve as the hearing officer.

Subd. 4. Decision. If the hearing officer determines that a violation of this ordinance did occur, that decision along with the hearing officers reasons for finding a violation and the penalty to be imposed under Section 505.13 of his ordinance, 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.

Subd. 5. Appeals. Appeals of any decision made by the hearing officer shall be filed in the District Court for the city in which the alleged violation occurred.

Subd. 6. Misdemeanor Prosecution. Nothing in this section shall prohibit the City from seeking prosecution as a misdemeanor for any alleged violation of this ordinance. If the City elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

Subd. 7. Continued Violation. Each violation and every day in which a violation occurs or continues shall constitute a separate offense.

#### SECTION 505.13. PENALTIES.

Subd. 1. Licenses. Any licensee found to have violated this ordinance, or whose employee shall have violated this ordinance, shall be charged an administrative fine of \$75 for a first violation of this ordinance; \$200 for a second offense at the same licensed premises within a 24 month period; and \$250 for a third or subsequent offense at the same location within a 24 month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

Subd. 2. Other Individuals. Other individuals, other than minors regulated by Subdivision 3 of this subsection, found to be in violation of this ordinance shall be found an administrative fee of \$50.

Subd. 3. Minors. Minors found in unlawful possession of, or who unlawfully possess or attempt to purchase tobacco, tobacco products or tobacco related devices shall be fined \$75.

Subd. 4. Misdemeanor. Nothing in this section shall prohibit the City from seeking prosecution as a misdemeanor for any violation of this section.

SECTION 505.14. EXCEPTIONS AND DEFENSES.

Nothing in this ordinance 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 ordinance for a person to have reasonably relied on proof of age as described by state law.

SECTION 505.15. SEVERABILITY AND SAVINGS CLAUSE.

If any section or portion of this ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as invalidation or effect the validity and enforceability of any other section or provision of this ordinance.

SECTION 505.16. EFFECT DATE.

This ordinance shall take effect the day following publication in the City's official newspaper.

PART VI. PEDDLERS AND SOLICITORS.

SECTION 506.01. DEFINITIONS.

Except as may otherwise be provided or clearly implied by context all terms shall be given their commonly accepted definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**PEDDLER.** A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other personal property that the person is carrying or otherwise transporting. The term **PEDDLER** shall mean the same as the term hawker.

**PERSON.** Any natural individual, group, organization, corporation, partnership, or association. As applied to groups, organizations, corporations, partnerships, and associations, the term shall include each member, officer, partner, associate, agent or employee.

**REGULAR BUSINESS DAY.** Any day during which the City Hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.

**SOLICITOR.** A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term **CANVASSER.**

**TRANSIENT MERCHANT.** A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, or other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.

SECTION 506.02. EXCEPTIONS TO DEFINITIONS.

For the purpose of this chapter, the terms **PEDDLER, SOLICITOR, and TRANSIENT MERCHANT** shall not apply to:

- A. Non-commercial door-to-door advocates. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Person engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor under Section 506.7.
- B. Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.
- C. Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk.
- D. Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.
- E. Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.
- F. Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.
- G. Any person participating in an organized multi-person bazaar or flea market.
- H. Any person conducting an auction as a properly licensed auctioneer.
- I. Any officer of the court conducting a court-ordered sale.

Exemption from these definitions shall not, for the scope of this chapter, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

SECTION 506.03. LICENSING; EXEMPTIONS.

- A. County License Required. No person shall conduct business as a peddler, solicitor, or transient merchant within the City limits without first having obtained the



appropriate license from the county as required by M.S. Ch. 329, as it may be amended from time to time.

- B. City License Required. Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the City. Solicitors need not be licensed, but are still required to register pursuant to Section 513.07.
- C. Application. Application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk-Treasurer. All applications shall be signed by the applicant. All applications shall include the following information:
1. Applicant's full legal name;
  2. All other names under which the applicant conducts business or to which applicant officially answers;
  3. A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like);
  4. Full address of applicant's permanent residence;
  5. Telephone number of applicant's permanent residence;
  6. Full legal name of any and all business operations owned, managed or operated by applicant, or for which the applicant is an employee or agent;
  7. Full address of applicant's regular place of business (if any);
  8. Any and all business related telephone numbers of the applicant;
  9. The type of business for which the applicant is applying for a license;
  10. Whether the applicant is applying for an annual or daily license;
  11. The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the City (maximum 14 consecutive days);
  12. Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the City, including the location where a transient merchant intends to set up business;
  13. A statement as to whether or not the applicant has been convicted within the last five (5) years of any felony, gross misdemeanor, or misdemeanor for violation of any federal statute or any local ordinance other than traffic offenses;
  14. A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant;
  15. Proof of any requested county license;
  16. Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant;

17. A general description of the items to be sold or services to be provided;
  18. All additional information deemed necessary by the City Council;
  19. The applicant's driver's license number or other applicable form of identification;
- and
20. The license plate number, registration information, and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

D. Fee. All applications for a license under this Chapter shall be accompanied by the fee established by resolution of the City Council.

E. Procedure. Upon receipt of the completed application and payment of the license fee, the City Clerk-Treasurer, within two regular business days must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Clerk-Treasurer determines that the application is incomplete, the City Clerk-Treasurer must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk-Treasurer must order any investigation, including background checks, necessary to verify the information provided with the application. Within 10 regular business days of receiving a complete application the City Clerk-Treasurer must issue the license unless there exists grounds for denying the license under Section 613.04 in which case the City Clerk-Treasurer must deny the license. If the City Clerk-Treasurer denies the license the applicant must be notified in writing of the decision, the reason for denial and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

F. Duration. An annual license granted under this chapter shall be valid for one calendar year from the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

G. License Exemptions.

1. No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated or raised on any farm.
2. No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's state or federal

constitutional rights such as the freedom of speech, press, religion, and the like, except that this exemption may be lost if the person's exercise of constitutional rights is merely incidental to a commercial activity.

3. Professional fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.

#### SECTION 506.04. LICENSE INELIGIBILITY.

The following shall be grounds for denying a license under this chapter:

- A. The failure of the applicant to obtain and show proof of having obtained any required county license;
- B. The failure of the applicant to truth fully provide any of the information requested by the City as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.
- C. The conviction of the applicant within the past five (5) years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include, but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
- D. The revocation within the past five (5) years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant; and/or
- E. The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three (3) complaints against the applicant with the Better Business bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding 12 months, or three (3) complaints filed against the applicant within the preceding five (5) years.

#### SECTION 506.05. LICENSE SUSPENSION AND REVOCATION.

- A. Generally. Any license issued under this section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

1. Fraud, misrepresentation, or incorrect statements on the application form;
  2. Fraud, misrepresentation, or false statements made during the course of the licensed activity;
  3. Conviction of any offense for which granting of a license could have been denied under Section 513.04; and/or
  4. Violation of any provision of this chapter.
- B. Multiple Persons Under One License. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchants on behalf of the licensee whose license is suspended or revoked.
- C. Notice. Prior to revoking or suspending any license issued under this chapter, the City shall provide the license holder with written notice of the alleged violations and inform the licensee, of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent resident address listed on the application, or if no residential address is listed to the business address provided on the license application.
- D. Public Hearing. Upon receiving notice provided in Division (C) of this section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk-Treasurer within ten (10) regular business days following the service of the notice, the City may proceed with the suspension or revocation. For the purpose of mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.
- E. Emergency. If in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchants licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a public hearing as prescribed in Division (C) of this section.
- F. Appeals. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

SECTION 506.06. LICENSE TRANSFERABILITY.

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

SECTION 506.07. REGISTRATION.

All solicitors and any person exempt from the licensing requirements of this chapter under Section 506.03, shall be required to register with the City. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form the City Clerk-Treasurer shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferrable.

SECTION 506.08. PROHIBITED ACTIVITIES.

No peddler, solicitor, or transient merchant shall conduct business in any of the following manners:

- A. Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure;
- B. Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way;
- C. Conducting business in a way as to create a threat to the health, safety and welfare of any individual or the general public;
- D. Conducting business before 7:00 a.m. or after 9:00 p.m.;
- E. Failing to provide proof of license or registration, and identification, when requested, or using the license or registration of another person;
- F. Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor or transient merchant shall claim to have the endorsement of the City, solely based on the City having issued a license or certificate of registration to that person, and/or
- G. Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive.

SECTION 506.09. EXCLUSION BY PLACARD .

No peddler, solicitor, or transient merchants, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least 4 inches long and 4 inches wide with print of at least 48 point in size stating No Peddlers, Solicitors or Transient Merchants, or Peddlers, Solicitors and Transient Merchants Prohibited or other comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this section.

PART VII. CHARITABLE GAMBLING.

SECTION 507.01. DEFINITIONS.

As used in this article, the terms defined in Minnesota Statutes Section 349.12 are incorporated hereby by reference and shall be applicable to the provisions contained herein. **Local trade area is defined as the geographic limits of Truman School District No. 458.**

SECTION 507.02. GAMBLING PROHIBITED; EXCEPTION.

No person except an organization licensed by the State Charitable Gambling Control Board pursuant to Minnesota Statutes Chapter 349 or an organization permitted under this article shall conduct gambling within the corporate limits of the City. Any person or persons violating this section shall be punishable pursuant to Minnesota Statutes 609.75 to 609.762.

SECTION 507.03. ADOPTION OF STATE LAW.

The provisions of Minnesota Statutes Section 349.11 et seq., relating to the licensing and restrictions of gambling, are adopted and made a part of this article as if set out in full herein, with the following restrictions or requirements, as permitted by that statute.

SECTION 507.04. ADDITIONAL RESTRICTIONS AND REQUIREMENTS.

- A. **Donation Required.** Any organization licensed to conduct lawful gambling within the city limits must donate at least fifty (50) percent of its lawful purpose expenditures to lawful purposes conducted or located within the local trade area.
- B. **Reports.** A licensed organization shall file with the City Clerk copies of all reports which it is required to file with the State Gambling Control Board, and shall do so within seven (7) days of filing the report with the Board. Failure to comply with this provision may constitute grounds for disapproval of gambling licenses by the City Council.
- C. **Investigation Fee.** Pursuant to authority granted by Minnesota Statute 349.16, Subdivision 4, there is hereby imposed, on organizations applying for or renewing state-issued licenses to conduct lawful gambling, an investigation fee of one hundred dollars (\$100.00), which fee must accompany the application notice filed with the City Clerk. Failure to pay this fee shall be cause for the Council's disapproval of this application.

SECTION 507.05. CITY PERMIT REQUIRED; APPLICATION; FEE; COMPENSATION;  
REPORTS; ETC.

1. **City Permit Application.** Application for a City gambling permit shall be made to the City Clerk upon an application form supplied by the City Clerk, together with such additional information as may be required by the Clerk. A separate application shall be required for each separate day or occurrence on which the gambling event is to be conducted. Applications must be filed with the City clerk at least thirty (30) days prior to the required date of the gambling event. The application shall be referred to the Police Chief who shall report to the City Council at its next regular meeting following the filing of the application.
2. **Permit Fees.** A permit fee for each proposed gambling event is twenty-five dollars (\$25.00).
3. **Time and Membership Requirements for Charitable Organizations.** No organization shall be issued a City permit unless it has been in existence for at least three (3) years and has at least fifteen (15) active members and complies with all other requirements of Minnesota Statute 349 and this article.
4. **Compensation.** No compensation shall be paid to any person, including the Manager, in connection with the operation of the permitted lawful gambling, which does not require a state license but is conducted pursuant to a City permit. No person who is not an active member of the permitted organization, or its auxiliary, or the spouse or surviving spouse of an active member, may participate in the organization's operation of such a permitted gambling occurrence.
5. **Gambling Managers.** All operation of gambling devices and in the conduct of raffles pursuant to a City Permit shall be under the supervision of a single Gambling Manager designated by the organization. The Gambling Manager shall be responsible for gross receipts and profits from gambling devices and raffles and for its conduct and compliance with all laws and rules. The organization may require the Gambling Manager to provide a fidelity bond in a sum to be set by the organization, not to exceed ten thousand dollars (\$10,000.00), and given in favor of the organization holding the license under this article conditioned on the faithful performance of his or her duties and noncompliance with Minnesota Statute 349.20.
6. **Reports.** The permitted organization shall file with the City Clerk within thirty (30) days of each gambling occasion permitted a copy of the reports required to be filed with the State Charitable Gambling Control Board pursuant to Minnesota Statute 349.214, Subdivision 2.

Passed by the City Council of the City of Truman this 16<sup>th</sup> day of August, 1999.



PART VIII. ADULT ORIENTED BUSINESSES

SECTION 508.01. PURPOSE AND INTENT.

Subd. 1. Studies Cited. Studies conducted by the Minnesota Attorney General, the American Planning Association and cities such as St. Paul, Minnesota; Indianapolis, Indiana; Alexandria, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; Seattle Washington; have studied the impacts that Adult Oriented Businesses have in communities. These studies have concluded that Adult Oriented Businesses have adverse impacts on the surrounding neighborhoods. Those impacts include increased crime rates, lower property values, increased transiency, neighborhood blight and potential health risks. Based on these studies and findings, the City Council of the City of Truman, (the “City Council”) concludes:

- A. Adult Oriented Businesses have adverse secondary impacts of the types set forth above.
- B. The adverse impacts caused by Adult Oriented Businesses tend to diminish if Adult Oriented Businesses are governed by locational requirements, licensing requirements, and health requirements.
- C. It is not the intent of the City Council to prohibit Adult Oriented Businesses from have a reasonable opportunity to locate in the City of Truman (the “City”).
- D. Minnesota Statutes, Section 462.357 allows the City to adopt regulations to promote the health, safety, morals, and general welfare.
- E. The public health, safety, morals, and general welfare will be promoted by the City adopting regulations governing Adult Oriented Businesses.

Sub. 2. Findings of City Council. The City Council makes the following findings regarding the need to license Sexually Oriented Businesses. The findings are based upon the experience of other cities where such businesses have located as studied by City staff.

- A. Adult Oriented Businesses can contribute to an increase in criminal activity in which such businesses are located, taxing City crime-prevention programs and law enforcing services.
- B. Adult Oriented Businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.
- C. Adult Oriented Businesses can increase the risk of exposure to communicable disease including, but not limited to Acquired Immune Deficiency Syndrome

(AIDS) for which currently there is no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, thereby endangering not only the patrons of such establishment but also the general public.

- D. Adult Oriented Businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
- E. The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed herein.

Subd. 3. Purpose. It is the purpose of this Section 508.01 to 508.16 to regulate Adult Oriented Businesses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent additional criminal activity within the City and,

- A. Prevent additional criminal activity with the City; and
- B. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values for properties within the neighborhood; and
- C. To locate Adult Oriented Businesses away from Agricultural land designated for future residential development within the City's comprehensive plan, Amusement Establishments, Daycares, Other Adult Oriented Businesses, Places of Worship, Public Libraries and Parks, Residential Districts and Uses, and Schools; and
- D. Prevent concentration of Adult Oriented Businesses within certain areas of the City.

Subd. 4. First Amendment Rights Protected. The provisions of this Section 508.01-508.16 have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult oriented materials. Similarly, it is not the intent of this Section 508.01-508.16 to restrict or deny access by adults to adult-oriented materials protected by the First Amendment or to deny access by distributors and exhibitors of adult-oriented entertainment to their intended market.

#### SECTION 508.02. DEFINITIONS.

Subd. 1. "Adult Oriented Businesses". Shall be defined as any business which offers its patrons services, entertainment or the sale of merchandise characterized by an emphasis on matter depicting, exposing, describing, discussion, or relating to Specified Sexual Activities or Specified Anatomical Areas. For purposes of this Section 508.01-508.16 the terms defined below in this Subdivision 1 shall have the meanings given them; and shall constitute Adult Oriented Businesses, which are activities and businesses that shall be subject to the regulation of this Section 508.01-508.16.

- A. **Adult Book and/or Media Store.** An establishment which excludes Minors and which has a substantial portion of its stock in trade or stock on display books, magazines, films, videotape, or other media which are characterized by their emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas.
- B. **Adult Cabaret.** An establishment which provides dancing or other live entertainment, if such establishment excludes Minors by virtue of age from all or part of the establishment and 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.
- C. **Adult Companionship Establishment.** A companionship 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.
- D. **Adult Conversation/Rap Parlor.** A conversation/rap parlor which excludes Minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.
- E. **Adult Mini-Motion Picture Theater.**
1. A theater in an enclosed building from which Minors are excluded from all or part of the establishment with a capacity for less than fifty (50) persons used for presenting motion pictures, including but not limited to film and video tape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.
  2. Any business which presents motion pictures from which Minors are excluded from all or part of the establishment, including films, and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter describing, or relating to Specified Sexual Activities or Specified Anatomical Areas for viewing on the premises, including but not limited to private booths, viewing by means of coin operated or other mechanical devices and the viewing of excerpt of motion pictures offered for sale or rent.
- F. **Adult Modeling Studio.** An establishment which excludes Minors from all or part of the establishment whose major business is the provision to customers or figure

models who are so provided with the intent of providing sexual stimulation to sexual gratification to such customers and who engage in Specified Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

- G. **Adult Motion Picture Arcade.** Any place which excludes Minors from all or part of the establishment wherein coin or token operated or electronically, or mechanically controlled or operated still or motor 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.
  
- H. **Adult Motion Picture Theater.** A theater in an enclosed building from which Minors are excluded from all or part of the establishment, with a capacity of fifty (50) or more persons used regularly and routinely for presenting live entertainment or motion pictures, including but not limited to film and videotapes having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas for observation by patrons.
  
- I. **Adult Novelty Business.** A business from which Minors are excluded from all or part of the establishment, which sells, offers to sell, or displays devices which simulate human genitals or devices which are designed for sexual stimulation.
  
- J. **Adult Sauna.** A sauna which excludes Minors by reason of age, or which provides a steam bath or heat 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.

**Subd. 2.** For purposes of this Section 508.01-508.16 the general terms defined below in this Subdivision 2 shall have the meanings given them.

- A. **Amusement Establishments.** An establishment whose principal use, as defined in the City's zoning ordinance is for the purpose of public amusement, such as roller rinks, dance halls, bowling alleys and the like.
  
- B. **Daycare.** A facility holding a license from Martin County or Minnesota pursuant to Minnesota Statutes, Chapter 245A, and/or Minnesota Rules, Chapter 9502 or Chapter 9503 as amended.

- C. **Minor.** Any natural person under the age of eighteen (18) years.
- D. **Place of Worship.** A building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.
- E. **Public Library.** Any library that provides free access to all residents of a City or county without discrimination and is organized under the provisions of Minnesota Statutes, Chapter 134.
- F. **Public Park.** A park, reservation, open space, playground, beach, or recreation or community center in the City owned, leased, or used, wholly in part, by City, county, state, school district or federal government for recreation purposes.
- G. **Residential District.** Residential District shall mean property located within an R-1 Single Family District, B-1 General Business District, and B-2 Central Business District as indicated on the City of Truman Zoning map and as defined and regulated through the zoning ordinance of the City.
- H. **Residential Use.** A property which contains a structure within which resides one or more individuals whether owned, leased, or rented by the occupant.
- I. **School.** A building or space that is principally used as a place where seventeen (17) or more person receive a full course of educational instruction. Any post secondary or post high school educational building, including any college or any vocational technical college shall not be deemed a school for purposes of Section 508.01-508.16.
- J. **Specified Anatomical Areas** are any of the following conditions:
1. Less than completely and opaquely covered;
    - (i) Human genitals, pubic region, or pubic hair,
    - (ii) Buttock, anus, and,
    - (iii) Female breast below a point immediately above the top of the areola; and
  2. Human male genitals in a discernible turgid state; completely and opaquely covered.
- K. **Specified Sexual Activities** are any of the following conditions:
1. An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and animal.

2. Sadomasochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being bettered, bound, or otherwise physically restricted on the part of one so clothed.
3. Masturbation or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ clothed or unclothed.
4. Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female or the breasts of a female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

#### SECTION 508.03. APPLICATION OF THIS ORDINANCE.

Subd. 1. Building Improvements. Except as in this Section 508.01-508.16 specifically provided, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose or in any manner which is not in conformity with this Section 508.01-508.16.

Subd. 2. Other Prohibitions Not Excepted. No Adult Oriented Business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by any ordinance of the City, the laws of the State of Minnesota, or the United States of America. Nothing in this Section 508.01-508.16 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.

Subd. 3. Exclusions. All public and private schools located within the City are exempt from obtaining a license hereunder when instructing pupils in sex education as part of its curriculum.

#### SECTION 508.04. LOCATION.

Subd. 1. Industrial District. All adult oriented businesses shall be located within the M-1 Industrial District as indicated on the City of Truman Zoning map as defined in and regulated through the zoning ordinance of the City.

Subd. 2. Separation Requirement. No adult oriented business shall be located less than 1,000 feet from the school, daycare center, or church.

Subd. 3. Method of Determination. For the purposes of this Section 508.01-508.16, distances shall be a horizontal measurement from the nearest existing uses listed above to the nearest boundary of the proposed adult-oriented site.

Subd. 4. Prohibited Sites. During the term of this Section 508.01-508.16, no adult oriented businesses shall be located within the following:

- A. Any establishments where liquor is served.
- B. At any place or event where Minors are permitted.

#### SECTION 508.05. HOURS OF OPERATION.

No Adult Oriented Business site shall be open to the public from the hours of 11:00 p.m. to 9:00 a.m.

#### SECTION 508.06. RESPONSIBILITIES OF OPERATOR.

Subd. 1. Operator Responsible for Employees. Every act or omission by an employee constituting a violation of the provisions of this Section 508.01-508.16 shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge or approval of the operator or as a result of the operator's negligent failure to supervise the employee's conduct and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.

Subd. 2. Licensure Considerations. Any act or omission of any employee constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's license shall be revoked, suspended or renewed.

Subd. 3. Loitering Prohibited. No employee of Adult Oriented Businesses shall allow any Minor to loiter around or to frequent an Adult Oriented Business or to allow any Minor to view its merchandise.

Subd. 4. Sanitation. The operator shall maintain the premises in a clean and sanitary manner at all times.

Subd. 5. Employee Criminal History. No employee shall have been convicted of any felony involving moral turpitude, prostitution, obscenity or other crime of a sexual nature or involving the use or distribution of a controlled substance as defined by Minnesota laws, or the use or distribution of a dangerous weapon. The fact that a conviction may be under appeal shall not affect the disqualification of the employee.

Subd. 6. Business Transaction. All business transactions shall occur within the licensed building.

Subd. 7. Compliance of Establishment. The operator shall ensure compliance of the establishment and its patrons with the provision of this Section 508.01-508.16.

Subd. 8. Off-site Viewing. An establishment operating as an Adult Oriented Business 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.

#### SECTION 508.07. LICENSES.

Subd. 1. Licenses Required. All establishments, including any business operating at the time of this Section 508.01.-508.16 becomes effective, operating or intending to operate Adult Oriented Business, shall apply for and obtain a license from the City. A person is in violation of the City Code if he or she operates an Adult Oriented Business without a valid license, issued by the City.

Subd. 2. Applications. An application for a license must be made on a form provided by the City. The application shall contain the following:

- A. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
- B. The applicant must be qualified according to the provisions of this Section 508.01-508.16 and the premises must be inspected and found to be in compliance with the appropriate state, county and local law and codes by the health official, fire marshal and building official.
- C. Application for license shall contain the address and legal description of the property to be used, the names, addresses, phone numbers, dates of birth, of the owner, lessee, if any, the operator or manager, and all employees, the name, address, and phone number 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 the disposition thereof, the names and addresses of all creditors of the applicant, owner,



lessee, or manager insofar as the 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.

- D. 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 the application, accurate and complete business records showing the names, addresses and dates of birth of all individuals having an interest in the business, including partners, officers, owner and creditors furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business and in the case of a corporation, the names, addresses and dates of birth of all officers, general managers, members of the board of directors as well as an 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.
  
- E. 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 agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.

Subd. 3. Eligibility. In order to be eligible for a license to operate Adult Oriented Businesses the applicant and premises must meet the following eligibility requirements:

- A. The applicant must be eighteen (18) years of age or older.
- B. The applicant or his or her spouse must not have been denied a similar license by any other city, county, or state within the preceding twelve (12) months or must not have had such a license revoked or suspended within the preceding twelve (12) months.
- C. All current real estate taxes must be paid on the licensed premises.
- D. The licensed premises must meet all of the criteria of this Section 508.01-508.16 as well as all building and fire codes.
- E. The applicant or spouse must not have been convicted of any felony involving moral turpitude, prostitution, obscenity or other crime of a sexual nature of involving the use or distribution of a controlled substance as defined by Minnesota laws or the use or distribution of a dangerous weapon. The fact that a conviction may be under appeal shall not affect the disqualification of the applicant.

- F. All license and investigation fees required by this Section 508.01-508.16 must have been paid.
- G. The applicant and operator must be a citizen of the United States.

Subd. 4. Denial of Application. The following shall be grounds for denial of an application for operation of Adult Oriented Businesses:

- A. The license fee required by this Section 508.01-508.16 has not been paid.
- B. An applicant has been convicted of a crime involving any of the following offenses:
  - 1. Any sex crimes as defined by Minn. Stat. 609.29 through 609.352 inclusive or as defined by any ordinance or statute in conformity therewith.
  - 2. Any obscenity crime as defined by Minn. Stat. 617.23 through 617.299 inclusive, or as defined by any ordinance or statute in conformity therewith, for which:
    - (i) 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.
    - (ii) 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
    - (iii) 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 conviction is of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 month period.
  - 3. The fact that a conviction is being appealed shall have no effect on disqualification of the applicant's spouse.

Subd. 5. Requalification. An applicant who has been convicted of an offense listed in Section 7, Subdivision 3 (g) may qualify for an Adult Oriented Business license only when the time period required by Section 7, Subdivision 3 (g), has elapsed.

Subd. 6. Individually Licensed. A license may be issued for only one Adult Oriented Business located at a fixed and certain place. Any person, partnership or corporation which desires to operate more than one Adult Oriented Business shall have a separate license for each such business.

Subd. 7. Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, expiration date, and the address of the Adult Oriented Business. The license shall be posted in a conspicuous place at or near the entrance to the Adult Oriented Business so that it may be easily read at any time.

Subd. 8. Council Action. The City Council shall act to approve or disapprove the license application within one hundred twenty (120) days from the date the application was submitted, provided that the application contains all of the information required by this Section 508.01. If the application is deficient, the Council shall act on the application within one hundred twenty (120) days from the date that the deficiency has been corrected.

Subd. 9. Appeals. Within ninety (90) days after the decision by the Council, the applicant may appeal to the District Court by serving a notice upon the City Administrator of the City.

#### SECTION 508.08. FEES.

Subd. 1. License Fee Established. The fee for the license to operate an Adult Oriented Business shall be established in the official *Fee Schedule* of the City, which is adopted annually by the City Council. This fee shall be referred to as the “License Fee”.

Subd. 2. Prorated Fees. If part of the license year has elapsed when the application is made, the City may issue a license for the remainder of the year for a prorated fee. In computing such prorated License Fee, the City shall count any unexpired fraction of a month as one (1) month.

Subd. 3. Investigation Fee Established. The application shall submit payment at the time of the initial license application to cover the cost of conducting the initial investigation and analysis of the applicant, application and the establishment; this fee shall be referred to as the “Adult Use Investigation Fee”. The Adult Use Investigation Fee shall be determined as follows:

- A. Upon applying for the license, the applicant shall pay \$500.00 per person identified on the application as an owner, operator or manager.
- B. If it appears that the investigative costs will exceed \$500.00, the City Administrator shall notify the applicant and give the applicant an estimate of costs. The applicant shall either make an additional deposit equal to the difference between \$500.00 and the total estimate, or shall withdraw the application. If the additional deposit is not paid within fourteen (14) days the application shall be deemed withdrawn.
- C. If the costs of administrative, issuance and investigation are less than the deposit, the balance shall be refunded upon the issuance or denial of the license. No license shall be issued until the applicant has paid the entire cost of administration, issuance and investigation.

D. Eligible costs for the Adult Use Investigation fee shall include the wage and benefit cost for staff time spent on the investigation and any direct out of pocket expenses incurred.

Subd. 4. Fee Refunds. No part of the License Fee paid by any licensee shall be refunded, except that a pro rata portion of the License Fee shall be refunded in the following circumstances upon application to the City Administrator within thirty (30) days from the happening of the event, provided that such event occurs more than thirty (30) days before the expiration of the license.

- A. Destruction or damage of the licensed premises by fire or other catastrophe.
- B. The licensee's illness.
- C. The licensee's death.
- D. A change in the legal status making it unlawful for licensed business to continue.

#### SECTION 508.09. INSPECTION.

Subd. 1. Access. An applicant or licensee shall permit health officials, representatives of the police department, fire department, and building inspection division, to inspect the premises of an Adult Oriented Business for the purpose of ensuring compliance with the law, at any time it is occupied or open for business.

Subd. 2. Refusal to Permit Inspection. A person who operates an Adult Oriented Business or his/her agent or employee commits an offense, if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department and building inspection division at any time it is occupied or open for business. Refusal to permit inspections may result in the suspension of the license as provided in Section 11.

Subd. 3. Exception. The provisions of this Section 508.01-508.16 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.

#### SECTION 508.10. EXPIRATION AND RENEWAL.

Subd. 1. Expiration. Each license shall expire on the last day of December in each year and may be renewed only by making application as provided in Section 508.01-508.16. Application for renewal must be made at least sixty (60) days before the expiration date, and when made less than sixty (60) days before the expiration date, the expiration of the license will not be affected.

Subd. 2. Denial of Renewal. 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 ninety (90) days have elapsed since the date denial became final.

#### SECTION 508.11. SUSPENSION.

Subd. 1. Causes of Suspension. The City may suspend a license for a period not to exceed thirty (30) days if it determines that licensee or an employee of a licensee has:

- A. Violated or is not in compliance with any provision of this Section 508.01-508.16.
- B. Engaged in the use of alcoholic beverages while on the Adult Oriented Business premises other than at an Adult Hotel or Motel.
- C. Refused to allow an inspection of the Adult Oriented Business Premises as authorized by this Section 508.01-508.16.
- D. Knowingly permitted gambling by any person on the Adult Oriented Business premises.
- E. Demonstrated inability to operate or manage an Adult Oriented Business in a peaceful and law abiding manner, thus necessitating action by law enforcement officers.

Subd. 2. Notice. A suspension shall be proceeded by written notice to the licensee and a public hearing. The notice shall give at least ten (10) days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The note may be served upon the licensee personally, or by leaving the same at the licensed business premises with the person in charge thereof.

#### SECTION 508.12. REVOCATION.

Subd. 1. Suspended Licenses. The City may revoke a license if a cause of suspension in Section 11 occurs and the license has been suspended within the preceding twelve (12) months.

Subd. 2. Causes of Revocation. The City shall revoke a license if it determines that:

- A. A license gave false or misleading information in the material submitted to the City during the application process;
- B. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- C. A licensee or an employee has knowingly allowed prostitution on the premises.

- D. A licensee or an employee knowingly operated the Adult Oriented Business during a period of time when the licensee's license was suspended.
- E. A license has been convicted of an offense listed in Section, 7, Subd. 3 (g) for which the time period required in Section 7, Subdivision 3 (g) has not elapsed.
- F. On two or more occasions within a 12 month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 7, Subdivision 3 (g) for which a conviction has been obtained, and the person or persons were employees of the Adult Oriented Business at the time the offenses were committed.
- G. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.
- H. A licensee or an employee has knowingly allowed the consumption of alcohol to occur in or on the licensed premises.

Subd. 3. Appeals. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

Subd. 4. Exceptions. Section 12, Subdivision 21 (g) does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

Subd. 5. Granting a License After Revocation. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an Adult Oriented Business 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 ninety (90) days have elapsed since the date the revocation became effective. If the license was revoked under Section 12 of this Section 508.01-508.16, an applicant may not be granted another license until the appropriate number of years required under Section 7 has elapsed.

Subd. 6. Notice. A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least ten (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.

SECTION 508.13. TRANSFER OF LICENSE.

A licensee shall not transfer this license to another person, partnership or corporation, nor shall a licensee operate an Adult Oriented Business under the authority of a license at any place other than the address designated in the application.

SECTION 508.14. LAYOUT.

Subd. 1. Patron Observation. The layout of the display areas shall be designated 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 other material.

Subd. 2. Entrances. All entrances to the business, with the exception of emergency fire exists which are not useable by patrons to enter the business, shall be visible from a public right-of-way.

Subd. 3. Private Viewing Areas. Adult Oriented Businesses having available for customers, patrons or members, a booth, room, cubicle for the private viewing of any adult entertainment must comply with the following requirements:

- A. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the adult oriented establishment and shall be unobstructed by any door, lock or other control type devices.
- B. Every booth, room or cubicle shall meet the following construction requirements:
  - (1) Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a wall
  - (2) Have at least one side totally open to public lighted aisle so there is an unobstructed view at all times of anyone occupying the area.
  - (3) All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light colored, non-absorbent, smooth textured, and easily cleanable.
  - (4) The floor must be light colored, non-absorbent, smooth textured and easily cleanable.
  - (5) The lighting level of each booth, room or cubicle when not in use shall be minimum of 10 foot candles at all times as measured from the floor.

C. Only one individual shall occupy a booth, room or cubicle at any time. No occupant of a booth, room or cubicle shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.

Subd. 4. Exterior Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

Subd. 5. Interior Illumination. The operator shall maintain at least ten (10) foot candles of light in the public portions of the establishment, including aisles, at all times. However, if a lesser level of illumination in the aisles shall be necessary to enable a patron to view the adult entertainment in a booth, room, or cubicle adjoining an aisle, a lesser amount of illumination may be maintained in such aisles, provided, however, at no time shall there be less than one (1) foot candle of illumination in said aisles as measured from the floor.

#### SECTION 508.15. SIGNAGE.

The following sign regulations shall apply to all Adult Oriented Business in the City. These regulations are to protect children from exposure to sexually oriented or shocking signs and to preserve the value of property near such uses. These regulations are aside from any other provision of the City Code.

- A. All signs shall be flat.
- B. No merchandise, photos or pictures of the products or entertainment on the premises shall be displayed in window areas or any areas where they can be viewed from the sidewalk or public-right-of-way adjoining the building or structure in which Adult Oriented Businesses are operated.
- C. Window areas shall not be covered or made opaque in any way.
- D. No signs shall be located on the roof or contain any flashing lights, moving elements, or electronically or mechanically, changing messages.
- E. No sign shall be placed in any window.
- F. A one square foot sign may be placed on the door of the establishment to state hours of operation.
- G. A one square foot sign shall be placed on each public entrance of the establishment



which states “This business sells or displays material containing adult themes. Persons under age eighteen years of age shall not enter”.

H. Where provisions of this Section conflict with City Code or the Zoning Ordinance, the provisions of the Section shall prevail.

SECTION 508.16. SEVERABILITY.

Every Section, provision or part of this Section 508.01-508.16 or any permit issued pursuant to this Section 508.01-508.16 is declared severable from every other Section, provision or part thereof to the extent that if any Section, provision or part of this Section 508.01-508.16 or any permit issued pursuant to this Section 508.01-508.16 shall be held invalid by a court of competent jurisdiction is shall not invalidate any other section, provision or part thereof.

CHAPTER VI. LIQUOR AND BEER

PART I. LIQUOR DISPENSARY

SECTION 602.06. PROVISIONS OF STATE LAW ADOPTED.

The provisions of Minnesota Statutes Chapter 340 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 are adopted and made a part of this ordinance as if set out in full.

SECTION 602.07. LIQUOR AND BEER.

Subd. 1. No person, except a wholesaler or manufacturer to the extent authorized under State license, shall directly or indirectly deal in, sell, or keep for sale in the City of Truman, any intoxicating liquor without a license to do so as provided in this ordinance. Liquor licenses shall be of three kinds: “On-sale”, “Off-sale”, and “Sunday Liquor”. The maximum number of each kind of liquor license shall be two (2) “on-sale” liquor licenses, two (2) “Sunday Liquor” licenses, and two (2) “off-sale” liquor license.

Subd. 2. “On-sale” license shall be issued only to bona fide clubs, restaurants and hotels where food is prepared and served for consumption on the premises or exclusive “on-sale” liquor stores and shall permit “on-sale” of liquor only.

Subd. 3.

- A. “Sunday liquor license” shall be issued only to a restaurant, club, bowling center, or hotel as defined in M. S. 340A.101, which holds an on-sale intoxicating liquor license for which it may sell intoxicating liquor between 10:00 a.m. and 12:30 a.m. on Sunday for consumption on the premises in conjunction with the sale of food. Establishments serving intoxicating liquor on Sundays must obtain a Sunday liquor license. The license shall be issued for a period of one year and shall expire on December 31<sup>st</sup>. The fee for the license shall be established by resolution of the City Council from time to time and may not exceed the statutory maximum, provided that the fee applicable to any application made after the commencement of the license year shall not be prorated.
- B. Application for Sunday license shall be made to the City in the same manner and by complying with the same requirements as required for a license to sell intoxicating

liquors, except for the investigation fee.

- C. The holder of a Sunday license may serve intoxicating liquors between the hours of 10:00 a.m. and 12:30 a.m. on Mondays and the premises shall be vacated by 1:00 a.m. on Monday.

SECTION 602.08.

Subd. 1. Every application for a license of liquor shall state the name of the applicant, his age, representations as to his character, with such references as the Council may require, his citizenship, the type of license applied for, the business in connection with which the proposed license will operate and its location, whether the applicant is the owner and operator of the business, how long he has been in that business at that place, and such other information as the Council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the Commissioner of Public Safety and shall be verified and filed with the City Clerk. No person shall make a false statement in an application.

Subd. 2. Bond. Each application for a license shall be accompanied by a surety bond or, in lieu thereof, cash or United States Government Bonds of equivalent market value as provided in Minnesota Statutes, Section 340.12. Such surety bond or other security shall be in the sum of \$5,000.00 for an applicant for an “on-sale” license and \$2,500.00 for an applicant for an “off-sale” license.

Subd. 3. Liability Insurance. The liability insurance shall be in an amount as may be established by resolution of the Council, but minimum coverage shall be as stated in Minnesota Statutes 340.11, Subd. 21, or amendments thereto. The policy shall specifically provide for the payment by the insurance company on behalf of the insured of all sums which the insured shall become obliged to pay by reason of liability imposed upon him by law, or for injuries or damages to persons other than employees, including the liability imposed upon the insured by reason of Section 340.95, Minnesota Statutes. Such liability insurance policy shall further provide that no cancellation for any cause can be made either by the insured or the insurance company without first giving ten days notice to the City in writing of intention to cancel the same, addressed to the City Clerk. Further, it shall provide that no payment of any claim by the insurance company shall, in any manner, decrease the coverage provided for in respect to any other claim or claims brought against the insured or company thereafter. Such policy shall be conditioned that the insurer shall pay, to the extent of the principal amount of the policy, and damages for death or injury caused by, or resulting from the violation of any law relating to the business for which such license has been granted. The licensee and the City shall be named as a joint insured on the liability insurance policy.

Subd. 4. Approval of Security. The security offered under Subdivision 2 and 3 shall be

approved by the City Council and in the case of applicants for “off-sale” licenses by the State Commissioner of Public Safety. Surety bonds and liability insurance policies shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the City at all times effective security as required in Subdivision 2 and 3 is a cause for revocation of the license.

SECTION 602.09. LICENSE FEES.

Subd. 1. Fees. The annual fee for a liquor license shall be \$1,000.00 for an “on-sale” license and \$100.00 for an “off-sale” license.

Subd. 2. Payment. Each application for license shall be accompanied by a receipt from the City Treasurer for payment in full of the license fee and the fixed investigation fee required, if any. All fees shall be paid into the general fund. If an application of license is rejected, the Treasurer shall refund the amount paid as the license fee.

Subd. 3. Term; Pro Rata Fee. Each license shall be issued for a period of one year commencing January 1<sup>st</sup> of each year, except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of December.

Subd. 4. Refunds. No refund of any fee shall be made except as authorized by statute.

SECTION 602.10. GRANTING OF LICENSE.

Subd. 1. Preliminary Investigation. On an initial application for an “on-sale” license and on application for transfer of an existing “on-sale” license, the applicant shall pay with his application an investigation fee of \$100.00 and the City shall conduct a preliminary background and financial investigation of the applicant. If the actual costs of the investigation are less than the sum of \$100.00, the City shall refund to the applicant, any excess. The application in such case shall be made on a form prescribed by the State Bureau of Criminal Apprehension and with such additional information as the Council may require. If the Council deems it to be in the public interest to have an investigation made on a particular application for renewal of an “on-sale” license, it shall so determine. In any case, if the Council determines that a comprehensive background and financial investigation of the applicant is necessary, it may conduct the investigation itself or contract with the Bureau of Criminal Investigation for the investigation. No license shall be issued, transferred, or renewed if the results show to the satisfaction of the Council that the issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the cost of said investigation, not to exceed \$10,000.00 and shall be paid by the applicant after deducting any initial investigation fees already paid. The fee shall be payable by the applicant whether or not the license is granted.

Subd. 2. Hearing and Issuance. The City Council shall investigate all facts set out in the application and not investigated in the preliminary background and financial investigation conducted pursuant to Subdivision 1. 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 discretion, grant or refuse the application. No “off-sale” license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

Subd. 3. Person and Premises Licensed; Transfer. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Any transfer stock of corporate licensee is deemed a transfer of the license and a transfer of stock without prior Council approval is a ground for revocation of the license.

#### SECTION 602.11. PERSONS INELIGIBLE FOR LICENSE.

No license shall be granted to any person made ineligible for such a license by state law. No more than one intoxicating liquor license shall be directly or indirectly issued within the City to any one person.

#### SECTION 602.12. PLACES INELIGIBLE FOR LICENSE.

Subd. 1. No license shall be issued for any place or any business ineligible for such a license under state law.

Subd. 2. Time in Business. No license shall be issued to any business, except an exclusive liquor store, until it has been in operation continuously for six (6) months.

Subd. 3. Delinquent Taxes and Charges. No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the City are delinquent and unpaid.

Subd. 4. Distant From School or Church. No license shall be granted within 300 feet of any existing school or within 300 feet of any church. In applying this restriction, the distance shall be measured between the main front entrances following the route of ordinary pedestrian travel.

#### SECTION 602.13. CONDITIONS OF LICENSE.

Subd. 1. Every license is subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance, state law, or regulation.

Subd. 2. Licensee's Responsibility. Every licensee is responsible for the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.

Subd. 3. Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the City to enter, inspect, and search the premises of the licensee during the business hours.

Subd. 4. Display During Prohibited Hours. No "on-sale" establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

Subd. 5. Federal Stamps. No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

Subd. 6. Sales to Minors or Intoxicated Persons. No intoxicating liquor shall be sold or served to any intoxicated person or to any person under 21 years of age.

Subd. 7. Employment of Minors. No minor under the age of 18 years shall be employed on the premises.

Subd. 8. Gambling. No gambling or any gambling device shall be permitted on any licensed premises except for authorized charitable gambling.

Subd. 9. Nudity and Sexual Conduct Prohibited. The City Council finds that the sale and or presence of alcoholic beverages by the drink and adult entertainment occurring on the same premises can increase disorderly conduct and can result in incident exposure and/or sexual assault. In order to protect the health, safety, and welfare of City residents, and pursuant to the City Council's authority to regulate alcoholic beverages under Minnesota Statutes, Chapter 340A and the Twenty-first Amendment to the United States Constitution, no licensee under this code shall permit the following kinds of conduct on the licensed premises or in areas adjoining the license premises where the following kinds of conduct can be seen by patrons of the licensed premises:

- A. The performance of acts of simulated acts of sexual intercourse, masturbation bestiality, oral copulation, and flagellation; or
- B. The actual or simulated touching, caressing, or fondling of the breast, buttocks, anus, genitals, or;
- C. The actual or simulated displaying of the public hair, anus, vulva, or genitals; or
- D. The displaying of films, videos, still pictures, electronic reproduction, or any other visual reproduction of image depicting the acts described in (a) through (c) above; or

- E. The presentation of any female in such manner or attire as to expose to view any portion of the breast below the top of the areola, or any simulation thereof.
- F. No licensee or their agent shall allow or permit to remain in or about the licensed premises any person who performs acts as set forth in (a) through (e) above.
- G. The violation of any of the provisions of this Section 508.01-508.16 by the licensee or their employees, agents shall constitute grounds for the suspension or revocation of any and all intoxicating liquor, non-intoxicating liquor or wine licenses issued to said premises or to said licensee.

Subd. 10. Outdoor Patios and Decks. Service and consumption of alcohol in outdoor patios and decks in conjunction with an intoxicating liquor “on-sale” license, an “on-sale” wine license, a special club license, a special license for Sunday sales, or a 3.2 percent malt liquor “on-sale” license, is allowed under the following conditions:

- 1. The patio or deck must be compact and contiguous to the licensed premises;
- 2. The area surrounding a patio or deck must be fenced or have a railing that must be compliant with the Minnesota State Building Code so as to not allow entrance from outside onto the patio or deck unless the patio or deck is constructed in such a way to prevent entrance from other than the main premises;
- 3. The maximum size allowed for the patio or deck area is six hundred (600) square feet;
- 4. Music, televisions, bands or any activity that would disturb the peace of the surrounding area is prohibited on outdoor patios or decks;
- 5. Appropriate receptacles for rubbish, garbage, cigarette paraphernalia, etc. must be provided;
- 6. Lighting must be sufficient to promote public safety, shall be downward directional, and shall be compatible with the surrounding area;
- 7. The outdoor patio or deck area must be included in the required liquor liability insurance for the premises;
- 8. The licensee may allow smoking on the patio or deck, provided that the patio or deck is in compliance with the Minnesota Freedom to Breathe Act of 2007; and
- 9. Signs shall be posted in accordance with Minnesota Rule 4620.0500 to advise persons of the existence of acceptable nonsmoking and smoking-permitted areas.
- 10. **PENALTY.** Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$700.00 or imprisonment in the County Jail for not more than 90 days, or both, plus the cost of prosecution in any case.

#### SECTION 602.14. HOURS OF OPERATION.

Subd. 1. No sale of intoxicating liquor shall be made either “off-sale” or “on-sale” during the days and hours when such sales are prohibited by Minnesota Statutes 340A.504.

Subd. 2. There shall be no sale of intoxicating liquors after 12:30 a.m. and the premises shall be vacated by 1:00 a.m.

SECTION 602.15. RESTRICTIONS ON PURCHASE AND CONSUMPTION.

Subd. 1. Liquor in Unlicensed Places. No person shall mix or prepare liquor for consumption in any public place or place of business unless it has a license to sell liquor “on-sale” or a permit from the Commissioner of Public Safety under Minnesota Statutes, Section 340.119 and no person shall consume liquor in any such place.

Subd. 2. Consumption in Public Places. No person shall consume liquor or other alcoholic beverages in a public park or public street or highway without a permit. There shall be no fee for said permit.

SECTION 602.16. SUSPENSION AND REVOCATION.

The Council may either suspend for a period not to exceed sixty (60) days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes, Section 15.0418 to 15.0426.

SECTION 602.17. PENALTY.

Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction may be punished by a fine of not more than \$1,000.00 or imprisonment in the County Jail for not more than 90 days, or both, plus the cost of prosecution in any case.



## PART II. BEER LICENSING.

### SECTION 603.01. DEFINITION OF TERMS.

Subd. 1. Beer. As used in this ordinance, “beer” or “3.2 percent malt liquor” means any malt beverage with an alcoholic content of not more than one-half of one percent by volume and not more than three and two-tenths percent by weight.

Subd. 2. Beer Store. “Beer Store” means an establishment for the sale of beer, cigars, cigarettes, all forms of tobacco, beverages and soft drinks at retail.

### SECTION 603.02. LICENSE REQUIRED.

Subd. 1. Licenses. No person, except wholesalers and manufacturers to the extent authorized by law, shall deal in or dispose of by gift, sale or otherwise, or keep or offer for sale, any beer within the City without first having received a license as hereinafter provided. Licenses shall be of three kinds: (1) Regular “on-sale”; (2) Temporary “on-sale”; (3) “Off-sale”.

Subd. 2. Regular “On-Sale”. Regular “On-Sale” licenses shall be granted only to bona fide clubs, beer stores, exclusive “On-Sale” liquor stores, restaurants and hotels where food is prepared and served for consumption on the premises. “On-Sale” licenses shall permit the sale of beer for consumption on the premises only.

Subd. 3. Temporary “On-Sale”. Temporary “On-Sale” licenses shall be granted only to bona fide clubs and charitable, religious, and non-profit organizations for the sale of beer for consumption on the premises only.

Subd. 4. “Off-Sale”. “Off-Sale” licenses shall permit the sale of beer at retail, in the original package for consumption off the premises only.

### SECTION 603.03. LICENSE APPLICATIONS.

Every application for a license to sell beer shall be made to the City Clerk on a form supplied by the City and containing such information as the Clerk or the City Council may require. It shall be unlawful to make any false statement in an application.

### SECTION 603.04. LICENSE FEES.

Subd. 1. Payment Required. Each application for a license shall be accompanied by a receipt from the City Treasurer for payment in full of the required fee for the license. All fees shall be paid into the general fund of the City. Upon rejection of any application for a license, the Treasurer shall refund the amount paid.

Subd. 2. Expiration; Pro Rata Fees. Every license except a temporary license shall expire on the last day of December of each year. Each license except a temporary license shall be issued for a period of one year. A temporary license shall be issued for a specific period in which a special event to which the sale is incident is being held and such period shall be stated on the license.

Subd. 3. Refunds. No part of the fee paid for any license issued under this ordinance shall be refunded except in the following instances upon application to the Council within ten (10) days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis, when operation of the licensed business ceases not less than one month before expiration of the license because of:

- (1) Destruction or damage of the licensed premises by fire or other catastrophe.
- (2) The licensee's illness.
- (3) The licensee's death.
- (4) A change in the legal status of the municipality making it unlawful for the licensed business to continue.

#### SECTION 603.05. GRANTING OF LICENSE.

Subd. 1. Investigation and Hearing. The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After such investigation and hearing, the Council shall grant or refuse the application in its discretion.

Subd. 2. Transfers. Each license shall be issued to the applicant only and shall not be transferable to another holder. Each license shall be issued only for the premises described in the application. No license may be transferred to another place without the approval of the Council.

#### SECTION 603.06. PERSONS INELIGIBLE FOR LICENSE.

No license shall be granted to or held by any person who:

- (1) Is under 19 years of age;
- (2) Has, within five years prior to the application for such license, been convicted of a felony, or of violating any law of this state or local ordinance relating to the manufacture, sale, distribution, or possession for sale or distribution of intoxicating liquors or beer and cannot show competent evidence under Minnesota Statutes, Section 364.03, of sufficient rehabilitation and present fitness to perform the duties of a beer license;
- (3) Is a manufacturer of beer or is interested in the control of any place where beer is manufactured;

- (4) Is not of good moral character
- (5) Is or during the period of this license becomes the holder of a federal retail liquor dealer's special tax stamp for the sale of intoxicating liquor at any place unless there has also been issued to him a local license to sell intoxicating liquor at such place; or
- (6) Is not the proprietor of the establishment for which the license is issued.

SECTION 603.07. PLACES INELIGIBLE FOR LICENSE.

Subd. 1. Conviction or Revocation. No license shall be granted for sale on any premises where a licensee has been convicted of the violation of this ordinance, or the state beer or liquor law, or where any license hereunder has been revoked for cause until one year has elapsed after such conviction or revocation.

Subd. 2. Distance From Schools and Churches. No license shall be granted for any place within 300 feet of any public school or within 300 feet of any church. In applying this restriction, the distance shall be measured between the main front entrances following the route of ordinary pedestrian travel.

SECTION 603.08. CONDITIONS OF LICENSE.

Subd. 1. General Conditions. Every license shall be granted subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance of the City or state law.

Subd. 2. Sales to Minors or Intoxicated Persons. No beer shall be sold or served to any intoxicated person or to any person under the age of 21 years.

Subd. 3. Consumption by Minors. No minor shall be permitted to consume beer on the licensed premises unless accompanied by his parent or legal guardian.

Subd. 4. Employment of Minors. No minor under 19 shall be employed on the premises of a beer store.

Subd. 5. Gambling. No gambling or any gambling device shall be permitted on any licensed premises except as provided for under M.S. Chapter 349, Lawful Gambling.

Subd. 6. Interest of Manufacturers or Wholesalers. No manufacturer or wholesaler of beer shall have any ownership of or interest in an establishment licensed to sell at retail contrary to the provisions of Minnesota Statutes 340.031. No retail licensee and manufacturer or wholesaler of beer shall be parties to any benefits contrary to law from a manufacturer or wholesaler of beer and no such manufacturer or wholesaler shall confer any benefits contrary to law upon a retail licensee.

Subd. 7. Liquor Dealers' Stamp. No licensee shall sell beer while holding or exhibiting in the licensed premises a federal retail liquor dealer's special tax stamp unless he is licensed under the laws of Minnesota to sell intoxicating liquors.

Subd. 8. Sales of Intoxicating Liquor. No licensee who is not also licensed to sell intoxicating liquor and who does not hold a consumption or display permit shall sell or permit the consumption and display of intoxicating liquors on the licensed premises or serve any liquids for the purpose of mixing with intoxicating liquor. The presence of intoxicating liquors on the premises of such a licensee shall be prima facie evidence of possession of intoxicating liquors for the purpose of sale; and the serving of any liquid for the purpose of mixing with intoxicating liquors shall be prima facie evidence that intoxicating liquor is being permitted to be consumed or displayed contrary to this ordinance.

Subd. 9. Searches and Seizures. Any peace officer may enter, inspect and search the premises of a licensee during business hours without a search and seizure warrant and may seize all intoxicating liquors found on the licensed premises in violation of Subdivision 8.

Subd. 10. Licensee Responsibility. Every licensee shall be responsible for the conduct of his place of business and shall maintain conditions of sobriety and order.

Subd. 11. Banquet Rooms. A regular "on-sale" license shall entitle the holder to serve beer in a separate room of the licensed premises for banquets or dinners at which are present not fewer than 50 persons.

#### SECTION 603.09. CLOSING HOURS.

No sale of beer shall be made on any Sunday between the hours of 12:30 a.m. and 10:00 a.m. No sale shall be made between the hours of 12:30 a.m. and 8:00 a.m. on any other day.

#### SECTION 603.10. CLUBS.

No club shall sell beer except to members and to guests in the company of members.

#### SECTION 603.11. RESTRICTIONS ON PURCHASE AND CONSUMPTION.

Subd. 1. Age Misrepresentation. No minor shall misrepresent his age for the purpose of obtaining beer.

Subd. 2. Inducing Purchase. No person shall induce a minor to purchase or procure beer.

Subd. 3. Procurement. No person other than the parent or legal guardian shall procure beer for any minor.

Subd. 4. Possession. No minor shall have beer in his possession with the intent to consume it at a place other than the household of his parent or guardian.

Subd. 5. Consumption. No minor shall consume beer unless in the company of his parent or guardian.

Subd. 6. Liquor Consumption and Display. No person shall consume or display any intoxicating liquor on the premises of a licensee who is not also licensed to sell intoxicating liquors or who does not hold a consumption and display permit.

#### SECTION 603.12. REVOCATION.

The violation of any provision or condition of this ordinance by a beer licensee or his agent is ground for revocation or suspension of the license. The license of any person who holds a federal retail liquor dealer's special tax stamp without a license to sell intoxicating liquors at such place shall be revoked without notice and without hearing. In all other cases, a license granted under this ordinance may be revoked or suspended by the Council in accordance with Section 501.07 of this code.

### PART III. WINE LICENSING.

#### SECTION 604.01. PROVISIONS OF STATE LAW ADOPTED.

The provision Minnesota Statutes, Chapter 340, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor insofar as they are applicable to wine licenses authorizing the sale of wine not exceeding 14 percent alcohol by volume for consumption on the licensed premises only, in conjunction with the sale of food, are adopted and made a part of this ordinance as if set out in full.

#### SECTION 604.02. WINE LICENSES.

No person, except a wholesaler or manufacturer to the extent authorized under state license, and the municipal liquor dispensary, shall directly or indirectly deal in, sell, or keep for sale in the City any wine not exceeding 14 percent alcohol by volume without an “on-sale” wine license. An “on-sale” wine license authorizes the sale of wine not exceeding 14 percent alcohol by volume, for consumption on the licenses premises only, in conjunction with the sale of food. An “on-sale” liquor license may be issued only to a restaurant having facilities for seating not fewer than 100 guests at one time. For purposes of this ordinance, a restaurant means an establishment, under the control of a single proprietor or manager, having appropriate facilities for serving meals, and where, in consideration of payment, therefore, meals are regularly served at tables to the general public, and which employs an adequate staff to provide the usual and suitable service to its guests.

#### SECTION 604.03. APPLICATION FOR LICENSE.

Subd. 1. Form. Every application for “on-sale” wine license shall state the name of the applicant, his age, representations as to his character, with such references as the Council may require, his citizenship, the restaurant in connection with which the proposed license will operate and its location, whether the applicant is owner and operator of the restaurant, how long he has been in the restaurant business at that place, and such other information as the Council may require from time to time. In addition to containing such information, the application shall be in the form prescribed by the Liquor Control Director and shall be verified and filed with the City Clerk. No person shall make a false statement in an application.

Subd. 2. Bond. Each application for a license shall be accompanied by a surety bond, or in lieu thereof, cash or United States Government bonds of equivalent market value as provided in Minnesota Statutes, Section 340.12. Such surety bond or other security shall be in the sum of \$5,000.00 for an application for an “On-Sale” wine license.

Subd. 3. Liability Insurance. Prior to the issuance of a wine license, the applicant shall file with the City Clerk one of the following:

- A. Liquor liability insurance (dram shop), \$50,000 per person; \$100,000 more than one person; \$10,000 property destruction; \$50,000 and \$100,000 for loss of means of support.
- B. A surety bond from a surety company with minimum coverage as specified above in Item A.
- C. A certificate from the State Treasurer that the licensee has deposited with the State, Trust Funds, having a market value of \$100,000 or \$100,000 in cash or securities.

Subd. 4. Approval of Security. The security offered under Subdivisions 2 and 3 shall be approved by the City Council and the State Liquor Control Director. Surety bonds and liability insurance policies shall be approved as to form by the City Attorney. Operation of a licensed business without having on file with the City at all times effective security as required in Subdivisions 2 and 3 is a cause for revocation of the license.

#### SECTION 604.04. LICENSE FEES.

Subd. 1. Amount. The annual fee for a wine license shall be set by the City Council from time to time.

Subd. 2. Payment. Each application for a wine license shall be accompanied by a receipt from the City Treasurer for payment in full of the license fee. All fees shall be paid into the general fund. If an application for a license is rejected, the Treasurer shall refund the amount paid.

Subd. 3. Term; Pro Rata Fee. Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for the remainder of the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of December.

Subd. 4. Refunds. No refund of any fee shall be made except as authorized by statute.

#### SECTION 604.05. GRANTING OF LICENSE.

Subd. 1. Investigation and Issuance. The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall, in its discretion, grant or refuse the application. No wine license shall become effective until it, together with the security furnished by the applicant, has been approved by the State Liquor Control Director.

Subd. 2. Person and Premises Licensed; Transfer. Each license shall be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without City Council approval. Any transfer of stock of a corporate licensee is deemed a transfer of the license and a transfer of stock without prior Council approval is a ground for revocation of the license.

SECTION 604.06. PERSONS INELIGIBLE FOR LICENSE.

No wine license shall be granted to any person made ineligible for such a license by state law. No license shall be issued to an individual who is not a resident of the City.

SECTION 604.07. PLACES INELIGIBLE FOR LICENSE.

Subd. 1. General Prohibition. No wine license shall be issued for any restaurant ineligible for such a license under state law.

Subd. 2. Time in Business. No license shall be issued to any restaurant until it has been in operation continuously for at least twelve (12) months.

Subd. 3. Delinquent Taxes and Charges. No license shall be granted for operation on any premises on which taxes, assessments, or other financial claims of the City are delinquent and unpaid.

Subd. 4. Distance From School or Church. No license shall be granted for a building within 300 feet of any school or within 300 feet of any church.

SECTION 604.08. CONDITIONS OF LICENSE.

Subd. 1. In General. Every license is subject to the conditions in the following subdivisions and all other provisions of this ordinance and of any other applicable ordinance, state law, or regulation.

Subd. 2. Licensee's Responsibility. Every licensee is responsible for the conduct of his place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.

Subd. 3. Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the City to enter, inspect, and search the premises of the licensee during business hours without a warrant.



Subd. 4. Display During Prohibited Hours. No licensee shall display wine to the public during hours when the sale of wine is prohibited.

Subd. 5. Federal Stamps. No licensee shall possess a federal wholesale liquor dealer's special tax stamp or a federal gambling stamp.

SECTION 604.09. SUSPENSION AND REVOCATION.

The Council may either suspend for not to exceed 60 days or revoke any "On-sale" wine license upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to intoxicating liquor. No suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes, Sections 15.0418 to 15.0426.

SECTION 604.10. PENALTY.

Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$300.00 or imprisonment in the City (county) jail for not more than 90 days, plus the cost of prosecution in any case.

## CHAPTER VII. TRAFFIC AND MOTOR VEHICLES.

### SECTION 701.01. DEFINITIONS.

Any term used in this ordinance and defined in Minnesota Statutes, Section 169.01 has the meaning given it by that section.

### SECTION 701.02. TURNING.

Subd. 1. Restriction On Turns. The Council by resolution may, whenever necessary to preserve a free flow of traffic or to prevent accidents, designate any intersection as one where the turning of vehicles to the left or to the right, or both is to be restricted at all times or during specified hours. The City Council shall mark by appropriate signs any intersection so designated. No intersection on a trunk highway shall be so designated until the consent of the Commissioner of Highways to such designation is first obtained. No person shall turn a vehicle at any such intersection contrary to the directions on such signs.

Subd. 2. U-Turns. No person shall turn a vehicle so as to reverse its direction on any street in the business district or at any intersection where traffic is regulated by a traffic control signal or sign.

### SECTION 701.03. THROUGH STREETS: ONE-WAY STREETS.

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 Council shall post appropriate signs at the entrance to such street. No trunk highway shall be so designated unless the consent of the Commissioner of Highways to such designation is first secured.

### SECTION 701.04. TRUCK RESTRICTIONS.

The City Council by resolution may designate streets on which travel by commercial vehicles in excess of 10,000 pounds gross weight is prohibited. The City Council shall erect appropriate signs on such streets. No person shall operate a commercial vehicle on such posted streets in violation of the restrictions stated.

### SECTION 701.05. SEASONAL WEIGHT RESTRICTIONS.

The City Engineer may prohibit the operation of vehicles upon any street under his 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 permissible weights thereof reduced. He 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.

#### SECTION 701.06. PARKING REGULATIONS.

Subd. 1. Angle and Parallel Parking. Angle parking shall be required on the following street; Ciro Street. On any such street every vehicle parked shall be parked with the front of the vehicle facing the curb or edge of the traveled portion of the street at an angle of approximately 60 degrees and facing between the painted or other markings on the curb or street indicating the parking space. On all other streets, cars shall be parked parallel to the curb or edge of the roadway in accordance with law.

Subd. 2. 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 Council 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 police 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 6:00 a.m. and 6:00 p.m. of any business day for the purpose of loading or unloading where access to the premises is not otherwise available.

Subd. 3. Time Limit Parking Zones. The City Council may, by resolution, designate certain areas where the right park is limited during hours specified. The City Council 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.

Subd. 4. General Time Limit and Prohibited Vehicles. No vehicle shall be parked for more than thirty (30) minutes between 2:00 a.m. and 6:00 o'clock a.m. on Ciro Street between Second Avenue West and First Avenue East, and no vehicle shall, in any case, shall be parked upon any street in any one place for a longer continuous period than 24 hours.

It is unlawful to park any recreational vehicle on any street, alley or parking lot owned by the City. For the purposes of this ordinance, a recreational vehicle is defined as follows:

Travel trailers, including those that telescope or fold down, chassis mounted campers, house cars, motor homes, tent trailers, slip in campers, non-motorized trailers intended and generally used for transporting boats, utility trailers, snow-

mobiles, all terrain vehicles, boats or any water craft.

The above provisions shall not apply to restrict parking as follows:

1. Parking for the purpose of loading and unloading and then only during the time necessary for that purpose.
2. Vehicles used for residential construction activities during the period of time that they are needed to be used for that activity and they have notified and received authorization from the police department.

Subd. 5. Impoundment. Any Police Officer may remove a vehicle from a street to a garage or other place of safety when the vehicle is left unattended and constitutes an obstruction to traffic or hinders snow removal or street improvement or maintenance operations. Such vehicle shall not be released until the fees for towing and storage are paid in addition to any fine imposed for violation of this ordinance.

Subd. 6. Prima Facie Violation. The presence of any motor vehicle on any street when standing or parked in violation of this ordinance is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of the violation

Subd. 7. Penalty. The penalties for violation of the parking regulations under this Section shall be established by the City Council, from time to time, by resolution.

#### SECTION 701.07. TRUCK ZONES, LOADING ZONES, ETC.

Subd. 1. Establishment. The City Council may by resolution establish spaces in streets as loading zones or truck zones. The hours of 6:00 a.m. and 6:00 p.m. of any day except Sundays, New Year's Day, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving Day, and Christmas Day or such other time as the City Council may specify in the resolution establishing the zone shall be the loading zone or truck zone hours. The City Council shall make each such zone by appropriate signs.

Subd. 2. Truck Zone Prohibitions. During truck zone hours, no personal shall stop, stand, or park any vehicle except a truck in a truck zone. No personnel shall stop, stand, or park a truck in a truck zone during truck zone hours except to receive or discharge passengers or freight and then only for a period no longer than is necessary for the purpose.

Subd. 3. Loading Zone Prohibitions. During loading zone hours, no person shall stop, stand or park any vehicle in a loading zone except to receive or discharge passengers or freight

and then only for a period no longer than is necessary for the purpose. No person shall occupy a loading zone with a vehicle other than a truck for more than five (5) minutes during such hours.

Subd. 4. Property Owner Initiative. Any person desiring the establishment of a loading zone or truck zone abutting premises occupied by him shall make written application therefore to the City Council. If the Council grants the request, the proper city officer shall bill the applicant for the estimated cost of placing signs and of painting the curb. When the amount is paid to the City Treasurer, the Chief of Police shall install the necessary signs and paint the curb.

Subd. 5. Semi-Trailer Parking. No person shall allow a semi-trailer to stand or be parked unattached from a tractor unit for any length of time on any street in the City except in an emergency in order to change tractors.

Subd. 6. No Truck Parking Zones. The Council may by resolution establish “No Truck Parking” zones in the business district and the City Council shall mark by appropriate signs any zones so established. Such zones shall be established in the business district where heavy traffic by trucks or other traffic congestion makes parking by trucks a hazard to the safety of vehicles or pedestrians. No person shall park a truck of more than one-ton capacity between 6:00 a.m. and 6:00 p.m. on any week day upon any street in any such zone, but parking of such vehicle for a period of not more than 30 minutes shall be permitted in such zone for the purpose of having access to abutting property when such access cannot conveniently be secured otherwise.

#### SECTION 701.08. WINTER PARKING.

No person shall stop, stand, or park any vehicle or permit it to stand on any street in any of the following places at any of the following times between November 1<sup>st</sup> and April 1<sup>st</sup>:

- (1) Between the hours of 2:00 a.m. and 6:00 o'clock a.m. on Ciro Street between Second Avenue West and First Avenue East;
- (2) On any other street as determined by the City Council and indicated on appropriate signs and posted.

#### SECTION 701.09. ESTABLISHMENT OF SAFETY ZONES, LANES OF TRAFFIC, ETC.

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 City Council may establish safety zones, lanes of traffic, and stop intersections, and they may order installation by the City Maintenance Department 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 Highways is first secured.

SECTION 701.10. EXHIBITION DRIVING PROHIBITED.

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, throwing of sand or gravel, or in a manner simulating a race. 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.

SECTION 701.11. POLICE DUTIES.

The Police Department shall enforce the provisions of this ordinance and the state traffic laws. Police 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 ordinance and the state traffic laws. During a fire or other emergency or to expedite traffic or safeguard pedestrians, officers of the Police Department may direct traffic as conditions require notwithstanding the provisions of this ordinance and the state traffic laws. Members of the Fire Department may direct or assist the Police in direct traffic at the scene of a fire or in the immediate vicinity.

SECTION 701.12. PENALTY.

Any person convicted of violating any provision of this ordinance is guilty of a petty misdemeanor.

SECTION 701.13. SNOWMOBILES.

Subd. 1. Definitions.

- A. “Snowmobile” means a self-propelled vehicle designed for travel on snow or ice or on natural terrain, steered by wheels, skis or runners, and shall include the term vehicle used in this Ordinance.
- B. “Owner” means a person, other than a lien holder, having the property in or title to a snowmobile, entitled to the use or possession thereof.
- C. “Operate” means to ride in or on and control the operation of a snowmobile.
- D. “Operator” means every person who operates or is in actual physical control of a snowmobile.
- E. “Roadway” means the traveled portion of a street or highway improved, designed, or ordinarily used for vehicular travel.

Subd. 2. Operation of a Snowmobile Upon a Roadway as Permitted Only as Follows.

- A. Snowmobiles shall not be operated on Ciro Street except to cross an angle of 90 degrees.
- B. Snowmobiles shall not be operated on a sidewalk or boulevard.
- C. Crossing of a roadway is to be made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing. Before crossing, the snowmobile shall be brought to a complete stop before crossing the shoulder or main traveled way of the highway. The driver shall yield to the right-of-way to all oncoming traffic which constitutes an immediate hazard. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street.
- D. Snowmobiles shall not be operated within the City of Truman between the hours of 1:00 a.m. and 8:00 a.m. of each day except in an emergency as provided in this section.
- E. Snowmobiles shall not be operated on private property or city property within the City of Truman without the permission of the owner.
- F. Snowmobiles shall not be operated on public or parochial school ground, public parks, or swimming pool grounds without the permission of the proper authority.
- G. No person shall operate a snowmobile on a roadway within the City of Truman, except as follows:
  - 1. A snowmobile may be operated from the owner's residence or place of business or place the snowmobile is generally stored, in a direct route to and from a place of destination, provided such place of destination is a place that such snowmobile may be lawfully operated.
  - 2. At a rate not in excess of 15 miles per hour.
  - 3. Other than single file, and two or more snowmobiles shall not be operated abreast of each other or parallel thereto.
  - 4. By a person of 14 years or older.
  - 5. In an emergency during the period of time when and at locations where snow upon the roadway renders travel by automobile impractical.

6. A snowmobile may make a direct crossing of a street or roadway, provided the crossing is made at an angle of approximately 90 degrees to the direction of the street or roadway, and at a place where no obstruction prevents a quick and safe crossing, the snowmobile is brought to a complete stop before crossing the traveled way of the street and the driver yields the right-of-way to all oncoming traffic which constitutes immediate hazard and, in crossing a divided street or roadway, the crossing is made only at intersection of such street or roadway with another public street, except that no snowmobile shall be operated upon a public street or within the City of Truman unless it is equipped with at least one headlamp, one tail lamp and brakes, all of which conform to standards prescribed by the Commissioner of Highways of the State of Minnesota.
7. Snowmobiles must yield the right-of-way to all vehicles and pedestrians.
8. Any person who violates this ordinance twice within one twelve (12) month period, shall have their safety certificate suspended by the Court. It shall not be reinstated until the driver retakes the “Minnesota Snowmobile Safety Training Course”.
  - a. Gross violations may result in safety certificate suspension on the first violation, at the courts discretion.

Subd. 3. It is unlawful for any person to operate a snowmobile in a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.

Subd. 4. It is unlawful for any person to operate a snowmobile while under the influence of intoxicating liquor or narcotics or habit forming drugs.

Subd. 5. Violation of this ordinance shall be a petty misdemeanor.

Subd. 6. Except as provided by the laws of the State of Minnesota, every snowmobile operated within the City limits shall be equipped at all times with a muffler in good working order, which blends the exhaust noise into the overall snowmobile noise and is in constant operation to prevent excessive and unusual noise, and the exhaust system shall not emit or produce a sharp popping or crackling sound.

Subd. 7. This ordinance shall be effective on publication.

#### SECTION 701.14. RECREATONAL CONVEYANCES.

Subd. 1. Definition. Recreational conveyance means a non-motorized, mechanical



vehicle or device to transport a rider or riders, which is not necessitated by physical disability of the rider and includes, but it not limited to, roller skates, skateboards, roller blades, scooters, and coasters.

Subd. 2. Operation of a Recreational Conveyance.

- A. No person shall ride a recreational conveyance upon and/or along the sidewalks, streets, parks and parking lots at any locations posted and prohibiting such action.
- B. The City Council may, by resolution, from time to time, prohibit the riding of a recreational conveyance upon such sidewalks, streets, parks and parking lots as are designated.
- C. No person shall ride a recreational conveyance upon any private property without the consent of the owner of said property.

Subd. 3. Persons riding a recreational conveyance upon a public street shall proceed in the direction of the normal flow of automobile traffic. Persons riding a recreational conveyance shall proceed in single file and as close to the curb as is practicable considering any parked motor vehicles or other obstructions along the sides of the streets. Persons riding a recreational conveyance upon a public street shall obey all intersection control devices, including but not limited to, stop signs, yield signs and semaphore lights, and shall obey all posted speed limits.

Subd. 4. It is unlawful for any person to ride a recreational conveyance in a reckless or unsafe manner on a public sidewalk or public street. No person shall ride or propel a recreational conveyance in such a manner as to endanger or be likely to endanger any person or property or in any manner which does not exhibit due care for the safety of other persons.

Subd. 5. A person operating a recreational conveyance upon a sidewalk, or across a roadway on a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal when necessary before overtaking and passing any pedestrian. A person lawfully operating a recreational conveyance on a sidewalk, or across a roadway on a crosswalk, shall have all the rights and duties applicable to a pedestrian under the same circumstances.

Subd. 6. No ramps or jumps or a temporary or permanent nature shall be constructed on public property or upon the public right-of-way by private individuals.

Subd. 7. A violation of this Ordinance is a misdemeanor. Whenever a law enforcement officer observes a violation of this Ordinance, said observation shall be sufficient probable cause to support the seizure of the recreational conveyance as evidence of the violation and said evidence shall be held until the disposition of the charge of violating this Ordinance.

This ordinance shall take effect on the day following publication in the City's official newspaper.

## SECTION 701.15. OPERATION OF MOTORIZED GOLF CARTS

### Subd. 1. Permit Required.

- A. It shall be unlawful for any person to drive or operate a motorized golf cart on any public roadway within the city limits unless the motorized golf cart has been issued a permit by the City of Truman. The permit shall be issued upon filing of the appropriate application with the City Clerk, together with evidence of insurance complying with M.S. Section 65B.48, Subd. 5. Application for a permit to operate a motorized golf cart upon designated public roadways shall be accompanied by a fee as set from time to time by the City Council.
- B. Permits may be granted for a period not to exceed one year, and may be annually renewed.
- C. Motorized golf carts may only be operated on designated roadways from sunrise to sunset. They shall not be operated in inclement weather, or when visibility is impaired by weather, smoke, fog or other conditions, or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet.
- D. Motorized golf carts shall display the slow moving vehicle emblem provided for in M.S. Section 169.522, when operated upon the designated roadways
- E. Permitted motorized golf carts shall only be operated by persons holding a valid driver's license.

### Subd. 2. Operation of Motorized Golf Carts.

- A. Upon obtaining a permit, a person shall be allowed to drive or operate the motorized golf cart upon all roadways in the City of Truman, except Ciro Street and Hwy. 15, except for the purpose of crossing Hwy. 15 or Ciro Street.
- B. It shall be unlawful to drive or operate a motorized golf cart with or without a permit upon Ciro Street or Hwy. 15, except as provided in this section.

### Subd. 3. Application of Traffic Laws.

- A. Every person operating a motorized golf cart under permit on designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of M.S. Chapter 169, except when these provisions cannot reasonably be applied to motorized golf carts and except as otherwise specifically provided in M.S. 169.045, Subd. 7.

CHAPTER VIII. NUISANCES AND OFFENSES.

PART I. NUISANCES.

SECTION 801.01. PUBLIC NUISANCE PROHIBITION.

A person must not act, or fail to act, in a manner that is or causes a public nuisance. For purpose of this ordinance, a person that does any of the following is guilty of maintaining a public nuisance:

- (1) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public; or
- (2) Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- (3) Does any other act or omission declared by law or this ordinance to be a public nuisance.

SECTION 801.02. PUBLIC NUISANCES AFFECTING HEALTH.

The following are hereby declared to be nuisances affecting health:

- (1) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (2) All diseased animals running at large;
- (3) All ponds or pools of stagnant water;
- (4) Carcasses of animals not buried or destroyed within twenty-four (24) hours after death;
- (5) Accumulation of manure, refuse, or other debris;
- (6) Privy vaults and garbage cans which are not rodent free or fly-tight, or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- (7) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- (8) All noxious weeds and other rank growths of vegetation upon public or private property;

- (9) Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities;
- (10) All public exposure of people having a contagious disease;
- (11) Any offensive trade or business as defined by statute not operating under local license; and
- (12) Any other land use or condition found unreasonably to injure or endanger the health of any members of the public.

SECTION 801.03. PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.

The following are hereby declared to be nuisances affecting public morals and decency:

- (1) All gambling devices, slot machines, and punch boards, except otherwise authorized and permitted by federal, state, or local law;
- (2) Betting, bookmaking, and all apparatus used in such occupations;
- (3) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- (4) All places where intoxicating or 3.2 malt liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort, for the purpose of drinking intoxicating or 3.2 malt liquor, or where intoxicating or 3.2 malt liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place; and
- (5) Any vehicle used for the unlawful transportation of intoxicating or 3.2 malt liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

SECTION 801.04. PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.

The following are declared to be nuisances affecting public peace and safety:

- (1) All snow and ice not removed from public sidewalks within twenty-four (24) hours after the snow or other precipitation causing the condition has ceased to fall;
- (2) All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- (3) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;

- (4) Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet, or repose of another person;
- (5) All unnecessary and annoying vibrations;
- (6) Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds, except under such conditions as are permitted by this ordinance or other applicable law;
- (7) Radio aerials or television antennae erected or maintained in a dangerous manner;
- (8) Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk that causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
- (9) All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated as to endanger public safety, or not constructed and maintained as provided by ordinance;
- (10) The allowing of rainwater, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- (11) Any barbed wire fence located less than six (6) feet above the ground and within three (3) feet of a public sidewalk or way;
- (12) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- (13) Wastewater cast upon or permitted to flow upon streets or other public properties;
- (14) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, scrap metal, rags, paper, rubber products, glass products, lumber products, products resulting from the wrecking of automobiles or other vehicles, or other materials in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or other safety hazards from such accumulation;
- (15) Any well, hole or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;

- (16) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
- (17) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles, or other substances that may injure any person or animal or damage any pneumatic tire when passing over such substance;
- (18) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- (19) Reflected glare or light from private exterior lighting exceeding 0.5 foot-candles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one (1) foot-candle when abutting any commercial or industrial parcel; and
- (20) Any building that has been destroyed by fire, has been abandoned, or is in such condition as to constitute a hazard to any person on the premises.
- (21) All other conditions or things which are likely to cause injury to the person or property of another.

SECTION 801.05. NOISE VIOLATIONS.

A. **Prohibited Noises.** The following are declared to be nuisances affecting public health, safety, peace, or welfare:

1. Any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person, or precludes their enjoyment of property, or affects their property's value (this general prohibition is not limited by any specific restrictions provided in this ordinance);
2. All obnoxious noises, motor vehicle or otherwise, in violation of Minn. R. Ch. 7030, as they may be amended from time to time, are hereby incorporated into this ordinance by reference;
3. The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise;
4. The discharging of the exhaust or permitting the discharge of the exhaust of any statutory internal combustion engine, motor boat, 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 there from and complies with all applicable state laws and regulations;

5. Any loud or excessive noise in the loading, unloading, or unpacking of any vehicle; and
6. 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.

**B. Hourly Restriction of Certain Operations.**

1. **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 8:00 a.m. and 10:00 p.m. on Saturday, 10:00 a.m. and 10:00 p.m. on Sundays and holidays. Snow removal equipment is exempt from this provision.
2. **Refuse Hauling.** No person shall collect or remove garbage or refuse in any residential district, except between the hours of 6:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.
3. **Construction Activities.** No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment, except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 8:00 a.m. and 10:00 p.m. on Saturday, 10:00 a.m. and 10:00 p.m. on Sundays and holidays.
4. **Radios, Music Devices, Paging Systems, and the Like.** The operation of any device referred to in subdivision (A) (6) between the hours of 10:00 p.m. and 7:00 a.m. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.
5. **Special Events – Exemptions.** It is recognized by the City that public policy requires discretion in enforcing this section in the context of certain special



6. events. It is further recognized that special events are by their nature unique and infrequent. Therefore, noise levels relating to special events operating with approval of the City, including, but not necessarily limited to, the annual town celebration of Truman Days; and other special events sanctioned by the City, shall be exempt from the prima facie provisions of Section 5, sub-sections A6 and B4.
7. **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.

#### **SECTION 801.06. NUISANCE PARKING AND STORAGE.**

- A. **Declaration of Nuisance.** The outside parking and storage on residentially zoned property of large numbers of vehicles, materials, supplies, or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it: (1) obstructs views on streets and private property, (2) creates cluttered and otherwise unsightly areas, (3) prevents the full use of residential streets for residential parking, (4) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (5) decreases adjoining landowners' and occupants' use and enjoyment of their property and neighborhood, and lake views, and (6) otherwise adversely affects property values and neighborhood patterns.
- B. **Unlawful Parking and Storage.**
  1. A person must not place, store, or allow the placement or storage of ice fishing houses, skateboard ramps, or other similar non-permanent structures outside continuously for longer than twenty-four (24) hours in the front yard area of residential property unless more than one hundred (100) feet back from the front property line.
  2. A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in conjunction with a business, household furnishings or appliances outside on residential property, unless shielded from public view by an opaque cover or fence.

3. A person must not cause, undertake, permit, or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements:
  - a. No more than four (4) vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the City because of nonresidential characteristics of the property. The maximum number does not include vehicles of occasional guests who do not reside on the property.
  - b. Vehicles, watercraft, and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away from school for periods of time but still claim the property as their legal residence will be considered residents on the property.

#### SECTION 801.07. INOPERABLE MOTOR VEHICLES.

- A. **Declaration of Nuisance.** Any motor vehicle described in this section shall constitute a hazard to the health and welfare of the residents of the community as such vehicles can harbor noxious diseases, furnish a shelter and breeding ground for vermin, and present physical danger to the safety and well-being of children and citizens. Motor vehicles also contain various fluids which, if released into the environment, can and do cause significant health risks to the community.
- B. **Inoperable Motor Vehicles.** It shall be unlawful to keep, park, or store *any* unlicensed, unregistered or inoperable vehicle, including boats, snowmobiles, trailer or any other means of conveyance, or abandon any motor vehicle that is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind, or which is not properly licensed for operation within the state, pursuant to Minn. Stat. § 168B.011, subd. 3, as it may be amended from time to time.
- C. **Screening.** This section does not apply to a motor vehicle enclosed in a lawfully erected building and/or kept out of view from any street, road, or alley, and which does not foster complaint from a resident of the City. Privacy fencing is permissible.

#### SECTION 801.08. DUTIES OF CITY OFFICERS.

City officials may apply and enforce any provision of this ordinance relating to public nuisances within this jurisdiction. Any peace officer or other designated city official shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

SECTION 801.09. ABATEMENT PROCEDURE.

1. **Procedure.** Whenever the peace officer or other designated official determines that a public nuisance is being maintained or exists on the premises in the City, the official shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated, not to exceed 10 days. If the notice of violation is not complied with within the time specified, the official shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the City may take any and all action necessary to abate said nuisance immediately and may assess to the landowner any and all costs incurred therein, including legal fees and costs, and said assessment shall be a specific lien against any real estate owned by said landowner.
2. **Notice.** Written notice of the violation; notice of the time, date, place, and subject of any hearing before the City Council; notice of the City Council order; and notice of motion for summary enforcement hearing shall be served by a peace officer or designated official on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premise is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by posting it on the premises.
3. **Emergency Procedure; Summary Enforcement.** In cases of emergency, where delay in abatement required to complete the procedure and notice requirements as set forth in subdivisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the peace officer or other designated official shall determine that a public nuisance exists or is being maintained on premises in the City and that delay in abatement will unreasonably endanger public health, safety, or welfare. The officer or designated official shall notify in writing the occupant or owner of the premises of the nature of the nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subdivision (1) of this section and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.
4. **Immediate Abatement.** Nothing in this section shall prevent the City, without notice or other process, from immediately abating any condition that poses an

imminent and serious hazard to human life or safety.

5. **Unlawful Parties or Gatherings.** When law enforcement determines that a gathering is creating such a noise disturbance as prohibited under Section 801.04, Subdivision (4), the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered to do so by law enforcement. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.
6. **Judicial Remedy.** Nothing in this section shall prevent the City from seeking a judicial remedy when no other adequate administrative remedy exists.

#### SECTION 801.10. RECOVERY OF COST.

1. **Personal Liability.** The owner of the premises on which a nuisance has been abated by the City, or a person who has caused a public nuisance on property not owned by that person, shall be personally liable for the cost to the City of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk or other City official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk.
2. **Assessment.** After notice and hearing as provided in Minn. Stat. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infested trees, the City Clerk shall, on or before September 1<sup>st</sup> next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and any other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten (10), as the City Council may determine in each case.

#### SECTION 801.11. PENALTY.

Any person convicted of violating any provision of this ordinance is guilty of a misdemeanor and shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for not more than ninety (90) days, or both, plus the costs of prosecution in either case.

SECTION 801.12. SEVERABILITY.

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

PART II. OPEN BURNING.

SECTION 802.01. OPEN BURNING REGULATIONS.

SECTION 1.

Subd. 1. Definitions.

- A. Persons: As defined in Minnesota Statutes 1967, Section 116.06, Subd. (8).
- B. Open Fire: “Open Fire” or “Open Burning” means a fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed fire box, structure or vehicle, and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct, or chimney.
- C. Camp Fire: “Camp Fire” means a fire set for cooking, warming, or ceremonial purposes, which is not more than three (3) feet in diameter by three (3) feet high, and has had the ground five (5) feet from the base of the fire cleared of all combustible material.
- D. Starter Fuels: “Starter Fuels” mean dry, untreated, unpainted wood or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start an Open fire.
- E. Wood: “Wood” means dry, clean fuel only such as twigs, branches, limbs, “presto logs”, charcoal, cordwood or untreated dimensional lumber. “Wood” does not include wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreation fires when cut into three (3) foot lengths.
- F. Recreation Fire: Same definition as a “Camp Fire”.
1. Recreation Fire Site – Requirements. An area of no more than a three (3) foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or block of ferrous metal only and which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fire places. Recreation fire sites shall not be located closer than fifty (50) feet to any structure. Burners are not a recreation fire site as defined herein.
  2. Recreation Fire Burn – Requirements. When a camp fire is used for recreation

purposes, it must be ignited with an approved starter fluid using dry clean wood; producing little detectable smoke, odor, or soot beyond the property line; conducted with an adult tending the fire at all times; extinguished complete before quitting the occasion; and respecting weather conditions, neighbors, burning bans and air quality so that nuisance health or safety hazards will not be created. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices, are not defined as camp or recreation fires.

G. Burning Permit: A permit issued by the Village/City Fire Marshal authorizing fire exempted from the general provisions herein, and setting conditions therefore.

Subd. 2. Open Burning Prohibited.

- A. From and after the effective date of this ordinance, except as herein otherwise provided, open burning shall be prohibited within the Village/City of Truman.
- B. The use of burners or burn barrels for burning vegetative matter is prohibited.

Subd. 3. Exemptions. Open burning of the types and subject to the conditions, as hereinafter stated, shall be exempt from the prohibition of Subdivision 2 of this ordinance:

- A. Recreational fires.
- B. Fires under managed supervision for which a burning permit has been obtained from the City Clerk and, where required by state law, from the Department of Natural Resources, but limited to the following.
  - 1. Fires purposely set for the instruction and training of public and industrial firefighting personnel.
  - 2. Fires set for the elimination of a fire hazard which cannot be abated by any other practicable means.
  - 3. Fires purposely set for forest and game management purposes.
  - 4. The burning of trees, brush, grass and other vegetable matter in the clearing of land, the maintenance of street, road and highway right-of-way and in accepted agricultural land management practices.
  - 5. The open burning of dry leaves upon the following additional conditions:
    - (a) Burning shall be limited to dried leaves only, and burning shall be conducted in such a manner to minimize pollution, hazards, and nuisances associated with open burning.

- (b) Burning leaves shall not be permitted upon any public property or public right-of-way.
- (c) Burning shall be permitted only between September 15<sup>th</sup> and December 1<sup>st</sup>, between 8:00 a.m. and 8:00 p.m.
- (d) An adult shall be in constant attendance during the burning of any leaves.
- (e) The burning of leaves shall not be permitted at a distance closer than twenty-five (25) feet from any structure or combustible materials.
- (f) Any residue materials shall be removed after the fire has been extinguished so as to prevent any residue from entering the storm or sewer system of the City or from entering any lakes or streams.
- (g) Adequate fire protective measures must be taken such as:
  - Fire Extinguisher available on site, or;
  - Pail of water available on site, or;
  - Connected garden hose stretched to site.
- (h) No burning of leaves shall take place during an air pollution alert, warning or emergency declared by the Minnesota Pollution Control Agency.
- (i) Smoke and ash shall not be allowed to blow or drift toward any occupied structure within fifty (50) feet of the fire.

C. Exemption to conduct fires under this section does not excuse a person from the consequences, damages or injuries which may result there from nor does it exempt any person from regulations promulgated by the Minnesota Pollution Control Agency or any other governmental unit exercising jurisdiction in matters of pollution or fire hazard regulation.

Subd. 4. Rules Adopted by Reference. Minnesota Statutes 88.02-88.22, 88.75, 88.76 and Minnesota Uniform Fire Code are hereby adopted by reference and made a part of this ordinance as if fully set forth at this point.

Subd. 5. Penalty. Any person violating the provision of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed \$700.00 or imprisonment in the County Jail for not more than 90 days or both.

Subd. 6. Effective Date. This ordinance shall be effective upon adoption and publication as provided by law.



PART III. TREE DISEASE.

SECTION 803 is hereby reserved for future use.

PART IV. OFFENSES.

SECTION 804.01. USE OF WEAPONS.

Subd. 1. Restrictions. No person except a Police Officer in the performance of duty shall, within the City, discharge any gun, pistol, or firearm of any description or carry any such weapons unless it is dismantled or broken apart or carried in a case in such a manner that it cannot be discharged. This subdivision does not prevent the carrying of a handgun within the City under a permit subject to the restrictions imposed by law.

Subd. 2. Air Rifles, Bow and Arrow, Sling Shots. No person shall use or discharge any air rifle, bow and arrow or sling shot within the City.

Subd. 3. Offense by Parents, Guardians. It is unlawful for any parent or guardian of any person under the age of 18 years knowingly to permit such person to violate any provision of this section.

SECTION 804.02. CURFEW FOR MINORS.

Subd. 1. It is unlawful for any person fifteen (15) years of age or younger to be or loiter upon the streets or public places after 10:00 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday, or after 12:00 midnight on Friday or Saturday. It is unlawful for any person age sixteen (16) or seventeen (17) to be or loiter upon the streets or public places after 12:00 midnight, except this hour is extended to 1:00 a.m. on Fridays and Saturdays. This subsection curfew shall not apply to any students who are lawfully attending, going to or returning from school, church, or community-sponsored athletic, musical, or social activities or events.

Subd. 2. It is unlawful for any parents, guardians, or other person having the legal care, or custody of any minor person under the age of eighteen (18) years to allow or permit such person to be or loiter upon the streets or public places after the hours designated in subsection 1 unless such minor is accompanied by a person of lawful age who is in charge of such minor person.

Subd. 3. It is unlawful for any person operating, or in charge of any place of amusement, entertainment, or refreshment or other place of business to allow, or permit any person to be or loiter in such place after the applicable hours designated in subsection 1 unless such minor is accompanied by a person of lawful age who is in charge of such minor.

## CHAPTER IX. BUILDING AND LAND USE REGULATION

### PART I. BUILDING CODE.

#### SECTION 901.01. CODES ADOPTED BY REFERENCE.

The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to Minnesota Statute Chapter 16B.59 to 16B.75, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Administration, through the Building Codes and Standards Division is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this ordinance. The Minnesota State Building Code is hereby incorporated in this ordinance as if fully set out herein.

#### SECTION 901.02. APPLICATION, ADMINISTRATION AND ENFORCEMENT.

The application, administration, and enforcement of the code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by Minnesota Statutes, 16B.62, subdivision 1, when so established by this ordinance.

The code enforcement agency of this municipality is called the City of Truman.

This code shall be enforced by the Minnesota Certified Building Official designated by this Municipality to administer the code (Minnesota Statute 16B.65) subdivision 1.

#### SECTION 901.03. PERMITS AND FEES.

The issuance of permits and the collection of fees shall be as authorized in Minnesota Statutes, 16B.62, subdivision 1.

Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the municipality in published rates and fees available from the City Clerk. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minnesota Statute 16B.70.

#### SECTION 901.04. VIOLATIONS AND PENALTIES.

A violation of the code is a misdemeanor (Minnesota Statutes 16B.69).

#### SECTION 901.05. BUILDING CODE OPTIONAL CHAPTERS.

The Minnesota State Building Code, established pursuant to Minnesota Statute 16B.59 to

16B.75 allows the Municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code.

SECTION 901.06. LOCAL REVISIONS.

The City of Truman reserves the right to revise elements of the building code as situations require. Any revision will only be served to enhance the building code and in no way reflect a construction that the adoption of the State Building Code is altered.

SECTION 901.07. CODE REVIEW.

The Building Code shall be available during all working hours at the office of the City Clerk for Truman, Minnesota.

CHAPTER X. CABLE TELEVISION

PART I. CABLE TELEVISION FRANCHISE.

SECTION 909.01. DEFINITIONS.

For the purposes of this contract following terms, phrases, words, abbreviations and their derivations shall have the meaning herein given. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- A. "Franchiser" is the City of Truman, Minnesota. The franchiser may also be referred to as the "City".
- B. "Franchisee" is Ter Tel Enterprises, Inc., Terril, Iowa. The franchise may also be referred to as "company".
- C. "Board" is the Minnesota Cable Communications Board.
- D. "FCC" is the Federal Communications Commission of the United States.
- E. "Cable Television System" means a system composed of, without limitation, antenna, cables, wires, lines, ducts, powers, wave guides, or other conductors, converters, equipment or facilities, designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing by coaxial cable audio and/or visual radio, television, electronic or electrical signals to and from person, subscribers and locations in the franchise area.
- F. "CATV" or "Cable System" means a cable television system as hereinabove defined.
- G. "Council" means the governing body of the City of Truman.
- H. "Subscriber" means any person receiving basic CATV service or expanded CATV service.
- I. "Expanded CATV Service" means any communications service in addition to basic CATV service provided by the company either directly or as a carrier for their subsidiaries, affiliates or any other person engaged in communications service including, but not limited to, pay TV burglar alarm service, data or other electronic transmission services, facsimile reproduction services, meter reading service and home shopping services.

SECTION 909.02. GRANT OF AUTHORITY.

There is hereby granted to the company the right and privilege to engage in the business of operating a CATV system in the City of Truman for the purpose of providing basic CATV service and such aspects of expanded CATV service as the company may from time to time deem available.

There is, therefore, hereby granted to the company the right and privilege to erect, install, construct, repair, replace, reconstruct, maintain and retain in, over, under, upon, across and along any street and public place, now laid out or dedicated and all extensions thereof and additions thereto in the franchise area, such property of the company as may be necessary and appurtenant to the CATV systems; and in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, including but not limited to any public facility or other grantee franchised or permitted to do business in the City.

SECTION 909.03. NON-EXCLUSIVE GRANT.

The right to use and occupy street and public places for the purpose of this contract shall not be exclusive, and the City reserves the right to grant a similar use in said street or public places to other persons.

SECTION 909.04. TERM OF FRANCHISE.

- A. The franchise shall have a renewal term of fifteen (15) years. The franchise and rights herein granted shall take effect and be in force thirty (30) days from and after the final passage hereof and shall continue to be in full force and effect for a term of fifteen (15) years.
- B. This franchise may be renegotiated at such times during the term of the franchise as may be mutually agreed upon by the City and the Company.

SECTION 909.05. CONDITIONS OF STREET USE.

Streets may be occupied on the following conditions:

- A. The Company shall located all structures, lines, equipment and property of the Company within the franchise area so as to cause minimum interference with the proper use of streets and the rights and reasonable convenience of property owners who adjoin said streets. The CATV system shall be constructed and operated in compliance with City constructions and electrical codes. The Company shall install and maintain the property of the Company in such manner that it will not interfere with any installations of the City.

- B. The Company shall keep accurate maps and records of all of its facilities and furnish copies of such maps and records as requested by the City.
- C. The Company shall, at its own expense and in a manner approved by the City, restore any street or paved area which the Company disrupts, to as good a condition as immediately before the street was disrupted.
- D. The Company shall not place any poles in any street in such manner as to interfere with the usual travel on such street.
- E. The Company shall obtain a permit from the proper municipal authority prior to commencing construction of any cable communications system, including the opening or disturbance of any street, sidewalk, driveway or public place. The City shall cooperate with the Company and shall not unreasonably withhold issuance of a permit.
- F. Company shall maintain all structures, lines and equipment in a neat and orderly condition. If any reconstruction or rewiring is performed, the Company shall remove all old cable and debris.

SECTION 909.06. SAFETY REQUIREMENTS.

The Company shall observe the following safety requirements:

- A. The Company shall at all times employ ordinary care and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
- B. The Company shall maintain all structures, lines, and equipment in, over, under, and upon the street wherever located, in a safe condition, and in good order and repair.

SECTION 909.07. OPERATIONAL STANDARDS.

- A. The Company shall operate and maintain the cable television system in full compliance with performance standards established by the Federal Communications Commission. The Company shall conform to all state laws and rules regarding cable communications not later than one (1) year after the effective date of the law or rule.
- B. The system shall deliver to the subscriber's terminal a signal that is capable of producing a black and white or colored picture without visual material degradation and quality within the limitations imposed by the technical state of the art.

- C. The system shall transmit or distribute signals without causing objectionable cross-modulation in the cables or interfacing with other electrical networks or with the reception of other television or radio receivers in the area not connected to the network.

SECTION 909.08. INDEMNIFICATION OF CITY.

- A. The Company shall at all times hold the City harmless from all claims, liability, or damage of every kind and description (herein collectively referred to as “claims”) including court costs and reasonable attorneys fees, which may arise out of sole negligence of the Company in the ownership, construction, maintenance and operation of the cable television systems; provided, that the City shall give the Company written notice within ten (10) days of any claims filed against it. The Company shall have the right to control the defense, settlement or compromise of any claims arising hereunder and the City shall cooperate fully with the Company herein.
- B. The Company shall maintain in full force and effect during the life of this franchise, public liability insurance in a solvent insurance company authorized to do business in the State of Minnesota, in the amount of:
  - 1. \$300,000.00 for bodily injury or death to one person.
  - 2. \$500,000.00 for bodily injury or death resulting from one accident.
  - 3. \$100,000.00 property in any one occurrence.
- C. The Company shall provide a certificate of insurance coverage together with evidence of payment of the required premium upon the request of the City.

SECTION 909.09. TRANSFER OF FRANCHISE.

The Company shall not transfer the franchise except upon prior written approval of the City, which approval shall not be unreasonably withheld provided the Company may pledge or mortgage the franchise or its stock to lending institutions for the purpose of securing financing for the Company or its parent, subsidiary or affiliate, all without consent.

SECTION 909.10. TERMINATION.

Upon termination or forfeiture of the franchise, the Company shall upon written request of the City and within a reasonable time, remove its cable, wire and all other appliances relating to the cable television system from the streets, alleys and other public places within the municipal



boundaries of the City. If the Company refuses or fails to do so, the City shall cause said facilities to be removed by low bidder as soon as is reasonably possible and invoice the Company for the actual cost of the removal. Should the Company fail or refuse to make prompt payment, the City may institute a proper legal action for the recovery of any monies owed under this provision by the Company, plus reasonable costs and attorneys fees incurred therein.

SECTION 909.11. NON-EXCLUSIVE RIGHT TO PURCHASE.

Upon expiration of the franchise term or upon revocation of the franchise, or upon other termination of the franchise as provided, or upon receipt of an application for approval of any assignment of the franchise to a party not affiliated with, owned or controlled by the Company, the City shall have a non-exclusive right to purchase the system. The City's "non-exclusive right to purchase the system" shall mean that the City shall be notified if the system is to be sold and shall be given a non-exclusive right to negotiate with the Company for the purchase of the system but that the non-exclusive right to purchase the system does not include the Company's obligation to sell to the City except if the City's offer is accepted by the Company. This provision does not accrue any interest by the City in the Company's property and does not apply to any assignment, pledge or mortgage of the franchise for borrowing and financing purposes, or assignments to a party affiliated with, owned or controlled by the Company. The failure of the Company to elect to sell to the City shall not be just cause to deprive the Company of its right to transfer herein.

SECTION 909.12. VIOLATION OF AGREEMENT.

- A. If the Company has substantially violated any provision of this franchise or attempted to evade any of the provisions of the franchise ordinance or practiced any fraud or deceit upon the City, the City shall have the right to terminate and cancel the franchise and all rights and privileges included therein. Conditions or circumstances for the City's termination of the franchise shall include but not necessarily be limited to the following:
1. The Company default in the performance of any of its obligations under the franchise and failure to act on the default within thirty (30) days after receiving written notice of the default from the City, or;
  2. If a petition is filed by the Company under the bankruptcy act, or any other insolvency or creditors right laws, state or federal, or the Company is adjudged a bankrupt insolvent under any insolvency or creditors right laws, state or federal.
- B. When the provisions of paragraph A above have been violated, the City shall provide the Company with a written notice of the cause for termination and its intention to

terminate the franchise. The Company shall be allowed a minimum of thirty (30) days subsequent to the receipt of the notice in which to correct the violation.

- C. The Company shall be provided with an opportunity to be heard at a public hearing for the governing body of the City prior to termination of the franchise. If the City determines to terminate the franchise, the Company shall have a period of thirty (30) days, beginning the next day following the date of the conclusion of the public hearing at which the termination of the franchise is considered, within which to file an appeal with the Minnesota Cable Communications Board, pursuant to Minnesota Statutes, Section 238.14. Further, if the Minnesota Communications Board refuses to take jurisdiction, said appeal may be made directly to the District Court of Martin County, Minnesota. During such thirty (30) day period and until the Board or Court determines the appeal, if an appeal is taken, the franchise shall remain in full force and effect unless the term thereof expires sooner. If the Board or Court approves of the action of the City, the franchise shall terminate when the Board Order or Court Order becomes final. If the Board or Court disapproves of the action of the City, the franchise shall, until Board Order or Court Order becomes final, remain in full force and effect, and once the Order becomes final, the franchise shall remain in full force and effect during the term thereof unless terminated sooner accordance with law. Any appeal to the Board or Court shall be determined to be a contested case to which the Board shall not be a party.

#### SECTION 909.13. PERFORMANCE BOND.

When the franchise becomes effective and at all times thereafter, until the Company has liquidated all its obligations with the City, the Company shall furnish a bond to the City in the amount of \$5,000.00 in such form and such sureties as shall be acceptable to the City conditioned upon the faithful performance of the Company according to the terms of the franchise and upon the further condition that if the Company shall fail to comply with any law, ordinance or regulation governing the franchise, there shall be recoverable, jointly and severally, from the principal and the surety of the bond any damage or loss suffered by the City as a result, including the full amount of any compensation, indemnification, or cost of removal, or abandonment of any property of the Company, plus a reasonable amount for attorneys fees and costs, up to the full amount of the bond, and with said bond further guaranteeing payments by the Company of claims, liens, and taxes due the City which arise by reason of the construction, operation or maintenance of the cable communications system. The rights reserved by the City with respect to the bond are in addition to all other rights the City may have under the franchise or any other law. The City may, from year to year, in its sole discretion, reduce the amount of the bond.

SECTION 909.14. COMPLIANTS.

- A. All complaints by City and/or subscribers received by the Company regarding the quality of the Company's cable television service, equipment malfunction, billing disputes and any other matters relative to its cable television system, shall be investigated by the Company within twenty-four (24) hours of receipt of written notice to the Company, duly setting forth the complaint. Should the Company determine the complaint is valid, it shall, if reasonably possible, use its best efforts to satisfy the complaint within seventy-two (72) hours. If a complaint is not resolved within seventy-two (72) hours, the complainant may bring the matter to the City for action as provided in this franchise.
- B. The Company shall maintain either a long distance toll-free telephone number or shall accept collect calls, all for the reception of complaints. Further, the Company shall maintain a repair service capable of responding to the subscriber complaints and requests for service within twenty-four (24) hours after receipt of the complaint or request.
- C. Whenever it is necessary to shut off or interrupt services for the purpose of making repairs, adjustments or installation, the Company shall do so during the periods of minimum use of the system by subscribers.
- D. Unless such interruption described above is unforeseen and immediately necessary, the Company shall give reasonable notice thereof to the subscribers affected. Further, all costs incurred in making such repairs, adjustments or installations to the Company's cable television system shall be borne by the Company, unless otherwise provided for in the subscriber contract.

SECTION 909.15. PUBLIC ACCESS CHANNEL.

- A. The Company shall provide to each of its subscribers who receive all, or any part, the total services offered on the system, reception on at least one specially designated access channel. A specifically designated access channel may be used by local educational authorities on the local government and the general public on a first-come, non-discriminatory basis.
- B. The Company shall establish rules pertaining to the administration of the specifically designated access channel. The operating rules shall be filed with the City within ninety (90) days after any such channel is put into use.

- C. The Company will provide to any responsible person the following equipment for use on the public access channel:

Video Cassette Recorder  
Color Camera  
Tripod  
Video Cassettes  
Carrying Case

SECTION 909.16. DROPS.

The Company shall provide one free drop to the City.

SECTION 909.17. FRANCHISE FEE.

The Company shall pay to the City a yearly franchise fee equal to 3% of its gross revenues per year from all cable services in the City of Truman, Minnesota.

SECTION 909.18. SUBSCRIBER PRIVACY.

No signals of a class IV cable communications channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorized the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one year which shall be renewable at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the subscriber without penalty of any kind whatsoever. Such permission shall be required for each type of classification of class IV cable communications actively planned for the purpose.

- A. No information or data obtained by monitoring transmission of a signal from a subscriber terminal, including but not limited to lists of names and addresses of the subscriber or any lists that identify the viewing habits of subscribers may be sold or otherwise made available to any part other than the Company and its employees for internal business use, or the subscriber subject of that information, unless the Company has received specific written authorization for the subscriber to make the data available.
- B. Written permission from the subscriber shall not be required for the systems conducting system wide or individually addressed electronic sweeps for the purpose of verifying system integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provisions set forth in IV MCAR, Section 4.202W.1.