

BALATON CITY CODE

CHAPTER I. GENERAL PROVISIONS

100.01. CITY CODE.

SUBD. 1. HOW CITED. This code of ordinances shall be known as the Balaton 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 adopting, and validating signatures and dates. The 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.

100.02. DEFINITIONS. SUBDIVISION 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 the City of Balaton.

SUBD. 3. STATE. "State" means the 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.

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 part of this code. As so adopted, references in this chapter to laws and statutes mean provisions of this code, and references to the legislature means the council.

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.

100.05. HEARINGS. SUBDIVISION 1. GENERAL. Unless otherwise provided by 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 the opportunity to be heard and to present such evidence as is relevant to the proceedings. 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 matters after hearing, the council shall have prepared a written summary of its findings and decisions and enter the summary in the official council minutes.

100.06. PENALTIES. SUBDIVISION 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 provision shall, upon conviction, be subject to a fine of not more than \$100.00.

SUBD. 2. GENERAL MISDEMEANORS. In 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 a term not to exceed 90 days or both, plus, in either case, the costs of prosecution.

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 OF 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 each failure.

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

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CHAPTER II. OPERATIONS AND ADMINISTRATION

PART 1. THE COUNCIL

201.01 MEETINGS.

SUB. 1. REGULAR MEETINGS. Regular meetings of the council shall be held on the second Monday of each calendar month at 7:00 p.m. Any regular meeting falling upon a holiday shall be held on the next following business day or on the Monday of the following week at the same time and place. All meetings including special and adjourned meetings, shall be convened in the city hall.

SUBD. 2. SPECIAL MEETINGS. The mayor or any two council members of the council may call a special meeting of the council. Each member of the council shall, if possible, be given 24 hours written notice. This notice shall be delivered personally to each member or shall be left at his usual place of residence with some responsible person. Similar notice shall be given to the official city newspaper and a copy shall be posted on the bulletin board at the city hall and two other public locations within the city.

SUBD. 3. INITIAL MEETING. At the first regular council meeting in January of each year, the council shall:

1. Designate the depositories of city funds;
2. Designate the official newspaper;
3. Choose one of the council members as acting mayor who shall perform the duties of the mayor during disability or absence of the mayor from the city or, in case of a vacancy in the office of mayor, until a successor has been appointed and qualifies.

SUBD. 4. PUBLIC MEETINGS. All council meetings, including special and adjourned meetings and meetings of council committees, shall be open to the public.

201.02. PRESIDING OFFICER.

SUBD. 1. WHO PRESIDES. The mayor shall reside at all meetings of the council. In the absence of the mayor, the acting mayor shall preside. In the absence of both, the clerk shall call the meeting to order and shall preside until the council members present at the meeting choose one of their number to act temporarily as presiding officer.

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 council member, he shall vacate the chair and designate a council member to preside temporarily.

201.03. MINUTES.

SUBD. 1. WHO KEEPS. Minutes of each council meeting shall be kept by the clerk and shall be approved by the mayor prior to being typed. In the absence of the clerk, the presiding officer shall appoint a secretary pro tem. Ordinance, 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 as soon as possible 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 as approved.

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. Audit of bills, claims, and demands.
6. Petition, requests, and communications.
7. Ordinances and resolutions.
8. Reports of officers, boards and committees.
9. Unfinished business.
10. New business.
11. Miscellaneous.
12. 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. The clerk shall prepare an agenda of business for each regular meeting and file a copy in his office not later than two days before the meeting. The agenda shall be approved by the mayor and prepared in accordance with the order of business and copies thereof shall be delivered to each council member and to the city attorney as far in advance of the meeting as time for preparation will permit. No item of business shall be considered unless it appears on the agenda for the meeting or is approved for addition to the agenda by a unanimous vote of the council members present.

201.05. QUORUM AND VOTING.

SUBD. 1. QUORUM. At all council meetings, a majority of all the council members elected constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time and the council may punish non-attendance by a fine not exceeding \$10.00 for each absence from any meeting unless a reasonable excuse is offered.

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 provided by statute, a majority vote of a quorum shall prevail in all other cases.

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.

201.07. COMMITTEES.

SUBD. 1. COMMITTEES DESIGNATED. There shall be committees as are determined necessary by the council. Committee members shall be appointed by the mayor as necessary.

SUBD. 2. MEMBERSHIPS. Each committee shall consist of two members of the council and the chairman of each committee shall be designated by the mayor. Each committee member shall serve as appointed unless excused by a majority of the members of the council. If the committee does not provide otherwise, committee meetings shall be held at the call of the chairman. Public notice is not required unless of a quorum. Personal notice need not be given if the committee so desires.

SUBD. 3. 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 for a written report and recommendation before it is considered by the council as a whole. Each committee report shall be signed by a majority of the members and shall be filed with the clerk prior to AM council meeting at which it is to be submitted. Minority reports may be submitted. Each committee shall act promptly and faithfully on any matter referred to it.

201.08. SUSPENSION OR AMENDMENT OF RULES. These rules may be suspended only by a two-thirds vote of the members present and voting.

201.09. SALARIES OF MAYOR AND COUNCIL MEMBERS. The salaries of the mayor and council members shall be as provided in Chapter X of this code.

PART 2. POLICE DEPARTMENT

Effective May 17, 2012 Balaton law enforcement services are contracted with Lyon County Law Enforcement.

PART 3. FIRE DEPARTMENT

203.01. FIRE DEPARTMENT CONTINUED. There is hereby continued in this city a volunteer fire department consisting of a chief, an assistant chief, a fire marshal, an ambulance captain, and not fewer than 10 or more than 25 firefighters.

203.02. APPOINTMENT. The chief, the assistant chief, the fire marshal, ambulance captain, and the firefighters shall be appointed by the council. In making such appointments, the council shall take into consideration recommendations of the members of the department. Each officer and every other member of the department, except a probationary firefighter, shall serve during good behavior and may be removed by the council only for cause after a public hearing.

203.03. DUTIES OF FIRE MARSHAL. The office of 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.

203.04. DUTIES OF AMBULANCE CAPTAIN. The ambulance captain shall have control of the ambulance and equipment and shall be solely responsible for their care and condition. He shall make a semi-annual report to the council at its meetings in March and September on the condition of the equipment and needs of the ambulance department. He may submit additional reports and recommendations at any meeting of the council, and he 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 a final action by the council on his discharge or retention.

203.05. DUTIES OF CHIEF. The chief shall have control of all the firefighting apparatus and shall be solely responsible for its care and condition. He shall make a semi-annual report to the council at its meetings in March and September on the condition of the equipment and needs of the fire department. He may submit additional reports and recommendations at any meeting of the council, and he shall report each suspension by him of a member of the fire department at the first meeting of the council following such suspension. He shall be responsible for the 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 discharge or retention.

203.06. RECORD. The chief shall keep in convenient form a complete record of all fires. Such record shall include the time of the alarm, location of fire, cause of fire (if known), type of building, name of owner and tenants, purpose for which occupied, value of building and contents, members 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 depart

203.07. TRAINING OFFICER. The training officer shall be responsible for the proper training and education of fire department personnel in firefighting, fire prevention and rescue operations.

203.08. TRAINING. The training officer shall hold bi-monthly practice drills for the fire department of at least one hour's duration to provide the firefighters instruction in approved methods of firefighting, fire prevention and rescue.

203.09. 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.

203.10. FIREFIGHTERS. The assistant chief and firefighters shall be able-bodied and not less than 18 years of age. They shall become members of the fire department only after a three-months' 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 be specified by the council, and that he must pass satisfactorily a physical examination.

203.11. LOSS OF MEMBERSHIP. Absence of any firefighter from three consecutive training sessions or calls unless excused the chief shall be cause for removal from the department.

203.12. COMPENSATION. The members and officers of the fire department shall receive compensation as provided in Chapter of this code.

203.13. PRESENT MEMBERS. No person who is a member of the fire department at the time of the adoption of this ordinance shall be required to serve a probationary period before becoming a firefighter.

203.14. RELIEF ASSOCIATION. The members and officers of the fire department may organize themselves into firefighters' relief association in accordance with law.

203.15. INTERFERENCE WITH DEPARTMENT. No person shall give or make, or cause to given or made, a fire alarm without probable cause, or neglect or reuse to obey any reasonable order of the chief at a fire, or interfere with the fire department in the discharge of its duties.

203.16 AMBULANCE SERVICES - MEMBER BENEFIT. To the extent that benefits are available to an active or retired member of the fire department, or a member of the family of the active or retired member, or the surviving spouse of a deceased member, to pay the cost of necessary ambulance services provided by the city, claim shall be made by the city for the cost of such services. In the event that the cost of such services exceeds the benefits available to such member, no claim shall be made by the city for the cost of ambulance services provided an active or retired member of the fire department or a member of the family of the active or retired member, or the surviving spouse of a deceased member which exceed the benefits available. For purposes of this section, a retired member shall be a member who has completed 20 years of service with the Balaton Fire Department. For purposes of this section, a member's family shall include individuals who (i) resides with the member in the member's home; and (ii) is the dependent of the active or retired member as defined in Section 152 of the Internal Revenue Code.

PART 4. PLANNING COMMISSION

204.01. ESTABLISHMENT OF COMMISSION. A city planning commission for the City of Balaton is hereby continued. The commission shall be the city-planning agency authorized by Minnesota Statutes, Section 462.354, Subdivision 1.

204.02. COMPOSITION.

SUBD. 1. MEMBERSHIP. The city planning commission shall consist of five members. The city engineer and the city attorney shall be member's ex-officio. The other members shall be appointed and may be removed by the council.

SUBD. 2. TERMS, VACANCIES, OATH. Members of the commission shall be appointed to such terms of ex-officio members shall correspond to their respective official tenures. Vacancies during the term shall be filled by the council for the un-expired portion of the term. Every appointed member shall, before entering upon the discharge of his duties, take an oath that he will faithfully discharge the duties of his office. All members shall serve without compensation.

204.03. ORGANIZATION, MEETINGS, ETC.

SUBD. 1. OFFICERS. The commission shall meet at such times and for such purposes as shall be determined by the council. The commission may create and fill such offices as it may determine. The city clerk shall act, as secretary of the planning commission, by the clerk shall not be a member.

SUBD. 2. MEETINGS, RECORDS, REPORTS. The commission shall meet as necessary. 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. Upon the conclusion of the commission's work, the commission shall submit to the city council a report. Expenditures of the commission shall be within amounts appropriated for the purpose by the city council.

204.04. 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 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.

204.05. 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, Subd. 3.

204.06. 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 5. CIVIL DEFENSE AGENCY

205.01. ACT ADOPTED. The Minnesota Civil Defense Act, Minnesota Statutes, Chapter 12, insofar as it relates to cities, is adopted by reference as part of this ordinance as fully as if set forth explicitly herein.

205.02. CIVIL DEFENSE AGENCY.

SUBD. 1. AGENCY AND DIRECTOR. There is hereby created within the city government a civil defense and disaster agency which shall be under the supervision and control of a director of civil defense, hereinafter called the director. The director shall be appointed by the mayor for an indefinite term and may be removed by him at any time. He shall serve without salary but shall be paid his necessary expenses. The director shall have direct responsibility for the organization, administration, and operation of the civil defense agency, subject to the direction and control of the mayor.

SUBD. 2. ORGANIZATION AND FUNCTIONS. The civil defense agency shall be organized into such divisions and bureaus, consistent with state and local defense plans, as the director deems necessary to provide for the efficient performance of local civil defense functions during a civil defense emergency. The agency shall perform civil defense functions within the city and in addition shall conduct such functions side the city as may be required pursuant to Minnesota Statutes, Chapter 12, or this ordinance.

205.03. POWERS AND DUTIES OF DIRECTOR.

SUBD. 1. INTERGOVERNMENTAL ARRANGEMENTS. With the consent of the mayor, the director shall represent the city in any regional or state organization for civil defense. He shall develop

proposed mutual aid agreements with other political subdivisions within or outside the state for reciprocal civil defense aid and assistance in a civil defense emergency too great to be dealt with unassisted, and he shall present such agreements to the council for its action. Such Agreements shall be consistent with the civil defense plan and during a civil defense emergency; the civil defense agency and civil defense forces shall render assistance in accordance with the provisions of such agreements.

SUBD. 2. CIVIL DEFENSE PLAN. The director shall prepare a comprehensive general plan for the civil defense of the city and shall present such plan to the city council for its approval. When the council has approved the plan by resolution, all civil defense forces of the city shall perform the duties and functions assigned by the plan.

SUBD. 3. REPORTS. The director shall prepare and present to the council periodically a report of activities and recommendations.

PART 6. PERSONNEL POLICY

206.01 PURPOSE: It is the purpose of these policies to establish a uniform and equitable system of personnel administration for employees of the City of Balaton. Their provisions do not establish terms and shall not be construed as contractual provisions. They are not intended to be all-inclusive or to cover every situation that may arise. These policies may be amended at any time at the sole discretion of the City and they will supersede all previous personnel policies. Revisions and amendments shall become effective upon approval by the City Council.

Except as otherwise prohibited by law, the City of Balaton has the right to terminate any employee at any time for any or no reason. Employees may similarly terminate employment at any time for any reason.

206.02 DEFINITIONS: For purposes of these policies, the following definitions will apply:

1. **“City” means the City of Balaton, Minnesota.**
2. **Authorized Hours:** The number of hours an employee was hired to work. Actual hours worked during any given pay period may be different than authorized hours, depending on workload demands or other factors, and upon approval of the employee’s supervisor.
3. **Benefit Earning Employees:** Employees who are eligible for at least a pro-rated portion of city-provided benefits. Except for sick leave benefits as provided in Section 206.14, such employees must be year-round employees who work at least 20 hours per week on a regular basis.
4. **Employee:** An individual who performs work for at least 80 hours in a year. An employee does not include an independent contractor.
5. **Full-Time Employee:** Employees who are required to work forty (40) or more hours per week year-round in an ongoing position.
6. **Non-Exempt Employee:** Employees who are covered by the federal or state Fair Labor Standards Act. Such employees are normally eligible for overtime at 1.5 times their regular hourly wage for all hours worked over forty (40) in any given work week.
7. **Regular Part-Time Employee:** Employees who are required to work less than forty (40) hours per week year-round in on an ongoing position.

8. **Seasonal Employee:** Employees who work only part of the year (100 days or less) to conduct seasonal work. Seasonal employees may be assigned to work a full-time or part-time schedule. Seasonal employees do not earn credit for seniority.
9. **Temporary Employee:** Employees who work in temporary positions. Temporary jobs might have a defined start and end date or may be for the duration of a specific project. Temporary employees may be assigned to work a full-time or part-time schedule. Temporary employees do not earn credit for seniority.
10. **Earned sick and safe time.** “Earned sick and safe time” means paid time off for the purposes provided in Minn. Stat. 181.9447, as amended. Earned sick and safe time and sick leave are synonymous and interchangeable.
11. **Family member.** “Family member” means:
 - a. an employee’s
 - i. child, foster child, adult child, legal ward, child for whom the employee is legal guardian, or child to whom the employee stands or stood in loco parentis;
 - ii. spouse or registered domestic partner;
 - iii. sibling, stepsibling, or foster sibling;
 - iv. biological, adoptive, or foster parents, stepparent, or a person who stood in loco parentis when the employee was a minor child;
 - v. grandchild, foster grandchild, or step grandchild;
 - vi. grandparent or step grandparent;
 - vii. a child of a sibling of the employee
 - viii. a sibling or the parents of the employee; or
 - ix. a child-in-law or sibling-in-law
 - b. any of the family members listed in clause (1) of a spouse or registered domestic partner;
 - c. any other individual related by blood or whose close association with the employee is the equivalent of a family relationship; and
 - d. up to one individual annually designated by the employee.
12. **Domestic Abuse.** “Domestic abuse” has the meaning given in section 518B.01.
13. **Health care professional.** “Health care professional” means any person licensed, certified, or otherwise authorized under federal or state law to provide medical or emergency services, including doctors, physician assistants, nurses, advanced practice registered nurses, mental health professionals, and emergency room personnel.
14. **Sexual assault** “Sexual assault” means an act that constitutes a violation under Minn. Sata. 609-342 to 609-3453 or 609-352.
15. **Stalking.** “Stalking” has the meaning given in section 609.749.
16. **Year.** “Year” means the calendar year, January 1 to December 31.

206.03. SCOPE:

SUBD. 1. PERSONNEL COVERED. These policies apply to all employees of the city. Except as otherwise provided by state or federal law, these policies do not apply to:

1. Elected officials
2. City attorney
3. Members of city boards, commissions, and committees
4. Consultants and contractors
5. Volunteers, except as specifically noted for paid-per-call firefighters.

206.04 EEO POLICY STATEMENT: The City of Balaton is committed to providing equal opportunity in all areas of employment, including but not limited to recruitment, hiring, demotion, promotion, transfer, recruitment, selection, lay-off, disciplinary action, termination, compensation and selection for training. The City of Balaton will not discriminate against any employee or job applicant on the basis of race, color, creed, religion, national origin, ancestry, sex, sexual orientation, gender identity, or gender expression, disability, age, marital status, genetic information, status with regard to public assistance, veteran status, familial status, or membership on a local human rights commission or lawful participation in the Minnesota Medical Cannabis Patient Registry.

206.05 PERSONAL COMMUNICATIONS AND USE OF SOCIAL MEDIA

It is important for city employees to remember that the personal communications of employees may reflect on the city, especially if employees are commenting on city business. The following guidelines apply to personal communications, including various forms such as social media (Facebook, Twitter, blogs, YouTube, etc.), letters to the editor of newspapers, and personal endorsements:

- Remember that what you write, or post is public, and will be so for a long time. It may also be spread to large audiences. Use common sense when using email or social media sites. It is a good idea to refrain from sending or posting information or photos that you would not want your boss or other employees to read, or that you would be embarrassed to see in the newspaper. Keep in mind harassment, bullying, threats of violence, discrimination, or retaliation that would not be permissible in the workplace is not permissible between co-workers online, even if it is done after hours, from home and on home computers.
- The City of Balaton expects its employees to be fair, courteous, and respectful to supervisors, co-workers, citizens, customers, and other persons associated with the city. Avoid using statements photographs, video or audio that reasonably viewed as malicious, obscene, threatening or intimidating, disparaging, or might constitute harassment or bullying. Examples of such conduct might include offensive posts meant to intentionally harm someone's reputation or posts that could contribute to a hostile work environment on the basis of sex, race, national origin, age, color, creed, religion, disability, marital status, familial status, veteran status, sexual orientation, gender identity, or gender expression, status with regard to public assistance or membership or activity in a local commission.
- If you publish something related to city business, identify yourself and use a disclaimer such as, "I am an employee of the City of Balaton. However, these are my own opinions and do not represent those of the City of Balaton."
- City resources, working time, or official city positions cannot be used for personal profit or business interests, or to participate in personal political activity.
- Personal social media account name or email names should not be tied to the city (e.g., city name Cop).

206.06 CITYWIDE WORK RULES & CODE OF CONDUCT.

SUBD 1. CONDUCT AS A CITY EMPLOYEE. In accepting city employment, employees become representatives of the city and are responsible for assisting and serving the citizens for whom they work. An employee's primary responsibility is to serve the residents of Balaton. Employees should exhibit conduct that is ethical, professional, responsive, and of standards becoming of a city employee. To achieve this goal, employees must adhere to established policies, rules, and procedures and follow the instructions of their supervisors.

The following are job requirements for every position at the City of Balaton. All employees are expected to:

- Perform assigned duties to the best of their ability at all times.
- Render prompt and courteous service to the public at all times.
- Read, understand, and comply with the rules and regulations as set forth in these personnel policies as well as those of their departments.

- Conduct themselves professionally toward both residents and staff and respond to inquiries and information requests with patience and every possible courtesy.
- Report any and all unsafe conditions to the immediate supervisor.
- Maintain good attendance while meeting the goals set by your supervisor.

SUBD. 2. ATTENDANCE & ABSENCE. The operations and standards of service in the City of Balaton require that employees be at work unless valid reasons warrant absence, or an employee has a position that has been approved to work remotely. In order for a team to function efficiently and effectively, employees must fully understand the goals that have been set for them and the time that is required to be on the job. Understanding attendance requirements is an essential function of every city position.

Employees who are going to be absent from work are required to notify their supervisor as soon as possible in advance of the absence. In case of an unexpected absence, employees should contact their supervisor before the scheduled starting time and keep in mind the following procedures:

- If the supervisor is not available at the time, the employee should leave a message that includes a telephone number where he/she can be reached and/or contact any other individual who was designated by the supervisor.
- Failure to use the established reporting process will be grounds for disciplinary action.
- The employee must call the supervisor on each day of an absence extending beyond one (1) day unless arrangements otherwise have been made with the supervisor.
- Employees who are absent for three (3) days or more and who do not report the absence in accordance with this policy, will be considered to have voluntarily resigned not in good standing.
- The city may waive this rule if extenuating circumstances warranted such behavior.

This policy does not preclude the city from administering discipline for unexcused absences of less than three (3) days. Individual departments may establish more specific reporting procedures.

206.07. ACCESS TO AND USE OF CITY PROPERTY. Any employee who has authorized possession of keys, tools, cell phones, pagers, or other city-owned equipment must register his/her name and the serial number (if applicable) or identifying information about the equipment with his/her supervisor. All such equipment must be turned in and accounted for by any employee leaving employment with the city to resign in good standing.

Employees are responsible for the safekeeping and care of all such equipment. The duplication of keys owned by the city is prohibited unless authorized by the city administrator. Any employee found having an unauthorized duplicate key will be subject to disciplinary action.

206.08. APPEARANCE. Departments may establish dress codes for employees as part of departmental rules. Personal appearance should be appropriate to the nature of the work and contacts with other people and should present a positive image to the public. Clothing, jewelry, or other items that could present a safety hazard are not acceptable in the workplace. Dress needs vary by function. Employees who spend a portion of the day in the field need to dress in a professional manner appropriate to their jobs, as determined by their supervisor. Employees may dress in accordance with their gender identity, within the constraints of the dress codes adopted by the city. City staff shall not enforce the city's dress code more strictly against transgender and gender diverse employees than other employees.

206.09. APPOINTMENTS. Every appointment of municipal service shall be made by the appointing authority on the basis of merit and fitness for the position. When required by law or by the council, merit and fitness shall be ascertained by written, oral, or other examinations designated to evaluate the ability of the candidate to discharge the position for which the examination is held.

206.10 TRAINING/PROBATIONARY PERIOD.

SUBD. 1. PURPOSE. The probationary period is an integral part of the selection process and shall be utilized for observing the employee's work, for securing the most effective adjustment of the employee to that position, and for rejecting any employee whose performance does not meet the required work standards. An employee serving his/her initial probationary period may be disciplined at the sole discretion of the City, up to and including dismissal. An employee so disciplined, including dismissal, will not have any grievance rights.

SUBD 2. DURATION. Every original appointment and every promotional appointment is subject to a probationary period of ninety (90) days after appointment.

SUBD 3. TERMINATION. The appointing authority may terminate a probationary employee anytime during the probationary period if, in the appointing authority's opinion, the working test indicates that the employee is unable or unwilling to perform the duties of the position satisfactorily or that his habits and dependability do not merit continuance in the position. The employee so terminated shall be notified in writing of the reasons for the termination and shall not have the right to appeal unless he is a veteran, in which case the procedure prescribed in Minnesota Statutes, Section 197.46, shall be followed:

A permanent employee terminated during the probationary period from a position to which he was transferred or promoted and not terminated from the city service as provided in these rules shall be placed on a leave of absence without pay. When a vacancy arises in the class from which the employee was promoted or transferred, such employee shall be reinstated to that position.

SUBD. 4. COMPLETION. An employee who has completed the period of probationary service and who has not received, before completion of that period, a written notice from the department head that his services are terminated, shall be considered to have successfully completed the probationary period and attained the status of permanent employee.

SUBD. 5. PERFORMANCE REVIEWS. An objective performance review system will be established by the city council or designee for the purpose of periodically evaluating the performance of city employees. The quality of an employee's past performance will be considered in personnel decisions such as promotions, transfers, demotions, terminations and, where applicable, salary adjustments.

Performance reviews will be discussed with the employee. While certain components of a performance evaluation, such as disputed facts reported to be incomplete or inaccurate are challengeable using the city's grievance process, other performance evaluation data, including subjective assessments, are not. For those parts of the performance evaluation system deemed not challengeable, an employee may submit a written response, which will be attached to the performance review. Performance reviews are to be scheduled on a regular basis, at least annually. The form, with all required signatures, will be retained as part of the employee's personnel file.

During the training period, informal performance meetings should occur frequently between the supervisor and the employee. Conducting these informal performance meetings provides both the supervisor and the employee the opportunity to discuss what is expected, what is going well and not so well.

Signing of the performance review document by the employee acknowledges the review has been discussed with the supervisor and does not necessarily constitute agreement. Failure to sign the document by the employee will not delay processing.

206.11. COMPENSATION.

SUBD. 1. AMOUNT. Employees of the city shall be compensated according to the schedule established by the city council. Any wage or salary so established is the total remuneration for employment but shall not be considered as reimbursement for official travel or other expenses which may be allowed for the conduct of official business. Unless approved by the council, no employee

shall receive pay from the city in addition to the salary authorized for the position or positions to which he has been appointed.

SUBD. 2. SEASONAL, TEMPORARY AND PART-TIME EMPLOYEES. Whenever an employee works for a period less than the regularly established number of hours a day, days a week, or weeks a month, the amount paid shall bear the same relationship to the full time rate for the position as the time actually worked bears to the time required for full-time service. Seasonal and Temporary employees are not entitled to vacation leave, or holidays with pay.

SUBD. 3. OVERTIME/COMPENSATORY TIME. The City of Balaton has established this policy to comply with applicable state and federal laws governing accrual and use of overtime. The City Council will determine whether each employee is designated “exempt” or “non-exempt” from earning overtime. An employee working overtime will be granted compensatory time in accordance with the Fair Labor Standards Act. Employees must use up compensatory time as soon as possible. The individual in charge of a department must approve all overtime in the department. Overtime pay shall be 1 and 1/2 times the regular rate of pay. Employees may accumulate up to two hundred forty (240) hours of compensatory time.

SUBD. 4. PAYDAYS. Employees shall be paid bi-weekly on alternate Mondays. When a payday falls on a holiday, employees shall receive their pay the preceding/succeeding workday. Every effort shall be made to conform to the above pay schedule as closely as possible; however, it may be necessary to depart from the above schedule under extraordinary circumstances.

SUBD. 5. POST RETIREMENT HEALTH CARE SAVINGS PLAN (HCSP) AND/OR HRA/DEFERRED COMP. The city will contribute a monthly stipend to be used toward Post-Retirement Health Care Savings Plan (HCSP and/or HRA/Deferred Compensation to all full-time employees. All full-time employees will receive additional dollars per month to be used follows: A designated amount per month to the HCSP and the balance per month to be invested at the employee’s discretion in the HRA Agri-Plan and/or the Deferred Comp. The city contribution will be reviewed and approved by the City Council on a periodic basis.

- A. **COMPENSATORY TIME.** All full-time employees, who accumulate compensatory time, may at the end of the year cash-out unused compensatory time to either the POST RETIREMENT HEALTH CARE SAVINGS PLAN or THE DEFERRED COMPENSATION PLAN.
- B. **UNUSED SICK LEAVE OVER 120 DAYS.** All full-time employees, who began employment before January 1, 2024, who have reached the maximum accumulation of 960 hours of sick leave, may at the end of the year cash-out 25% of the accumulated sick leave over 960 hours to either the POSTED RETIREMENT HEALTH CARE SAVINGS PLAN or THE DEFERRED COMPENSATION PLAN at the employee’s regular rate of pay.

SUBD. 6. RETIREMENT/PERA. The city participates in the Public Retirement Association (PERA) to provide pension benefits for its eligible employees to help plan for a successful and secure retirement. All city employees meeting program requirements must participate in accordance with Minnesota law. Participation is mandatory for most employees, and contributions into PERA begin immediately. The city and the employee contribute to PERA each pay period as determined by state law. Most employees are also required to contribute a portion of each paycheck for Social Security and Medicare (the city matches the employee’s Social Security and Medicare withholding). For information about PERA eligibility and contribution requirements, contact the City Clerk.

SUBD. 7. SEVERANCE PAY. All employees who began employment before January 01, 2024, upon completion of 10 years of service will receive severance pay for unused accumulated sick leave to a maximum of 960 hours. This severance pay will be cashed-out at a rate of 1/3 of the accumulated number of hours/days at the hourly rate being paid at the time of the resignation or retirement. Severance pay for unused accumulated sick leave shall not be paid to any employee who is involuntarily terminated, discharged, or separated from employment.

206.12. WORK HOURS. Work schedules for personnel shall be established by the appropriate department head with the approval of the city council. The regular work week for employees is five eight-hour working days in addition to a lunch period, Monday through Friday, except as otherwise established by the city council in accordance with custom and needs of the department.

206.13. VACATION LEAVE WITH PAY.

SUBD. 1. AMOUNT ALLOWED. All employees having earned permanent employment status, with the exception of temporary employees, shall be entitled to an annual period of paid vacation leave at their regular rate of pay to be calculated as provided in this section. Every permanent "Full Time Employee" shall earn vacation on the following schedule provided that the first month of regular full-time employment shall be counted if the employee started work on or before the 15th day of the month.

<u>Period of Continuous Employment</u>	<u>Earned Vacation</u>
After 1 st year	1 week
2 nd year through 4 th year	2 weeks
5 years and over	3 weeks

Every regular part-time employee shall earn vacation on the following schedule provided that the first month of regular part-time employment shall be counted only if the employee started work on or before the fifteenth (15th) day of the month and provided the employee has worked a minimum of 750 hours in the preceding year. A regular part time employee works less than 40 hours per earns vacation as follows:

<u>Period of Continuous Employment</u>	<u>Earned Vacation</u>
After first (1 st) year	Equal to average hours worked per week.

Vacation Time will be added annually on the first anniversary date of the employee and after that on the first pay period of the year.

SUBD. 2. REQUEST. Vacation leave shall be requested in advance of the vacation period by at least the length of the vacation period.

SUBD. 3. WHEN TAKEN. Vacation leave may be used as earned, subject to approval by the department head of the time at which it may be taken. Five days annual accrued vacation leave may be carried to a subsequent year; all other accrued leave not taken during the year shall be lost.

SUBD. 4. TERMINAL LEAVE. Any employee leaving the municipal service in good standing after giving proper notice of such termination of employment, will receive pay for 100 percent of unused accrued vacation to the date of separation.

206.14. SICK LEAVE.

SUBD. 1. AMOUNT. Sick leave is a privilege, not a right. Employees shall begin to accrue sick leave on their first day of employment, however, employees may only use sick leave once they have worked eight (80) hours in a year.

1. Full-time employees will accumulate sick leave at a rate of eight (8) hours per month, up to a maximum of 960 hours.
2. Regular Part-Time Employees of the Balaton Liquor Store will accumulate sick leave at the rate of one (1) hour for every thirty (30) hours worked, up to a maximum of forty-eight (48) hours per year. Any unused, accrued sick leave shall be paid to the employee at the end of the year at the rate of their current hourly wage.

3. All other Employees, including part-time, seasonal, temporary, and ambulance employees, will accumulate sick leave at the rate of one (1) hour for every thirty (30) hours worked, up to a maximum of forty-eight (48) hours per year. Any unused, accrued sick leave shall be paid to the employee at the end of the year at the current Minnesota minimum wage rate.

SUBD. 2. USE OF SICK LEAVE. An employee may use earned sick leave for:

1. an employee's:
 - i) mental or physical illness, injury, or other health condition;
 - ii) need for medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; or
 - iii) need for preventive medical or health care;
2. care of a family member:
 - i) with a mental or physical illness, injury, or other health condition;
 - ii) who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or other health condition; or
 - iii) who needs preventive medical health care;
3. absence due to domestic abuse, sexual assault, or stalking of the employee or employee's family member, provided the absence is to:
 - i) seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking;
 - ii) obtain services from a victim services organization;
 - iii) obtain psychological or other counseling
 - iv) seek relocation or take steps to secure an existing home due to domestic abuse, sexual assault, or stalking; or
 - v) seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking;
4. closure of the employee's place of business due to weather or other public emergency or an employee's need to care for a family member whose school or place of care has been closed due to weather or other public emergency;
5. the employee's inability to work or telework because the employee is: (i) prohibited from working by the City due to health concerns related to the potential transmission of a communicable illness related to a public emergency; or (ii) seeking or awaiting the results of a diagnostic test for, or a medical diagnosis or, a communicable disease related to a public emergency and such employee has been exposed to a communicable disease or the City has requested a test or diagnosis; and
6. when it has been determined by the health authorities having jurisdiction or by a health care professional that the presence of the employee or family member of the employee in the community would jeopardize the health of others because of the exposure of the employee or family member of the employee to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.

For the purposes of this subdivision, a public emergency shall include a declared emergency as defined in Minn. Stat. 12.03 or a declared local emergency under Minn. Stat. 12.29.

After accrued sick leave has been exhausted, vacation leave may be used upon approval of the city council, to the extent the employee is entitled to such leave.

Employees must use at leave four (4) hours of sick leave per occurrence.

SUBD. 3. NOTICE. When taking sick leave, the employee shall notify his/her department head of this fact prior to the beginning of the scheduled workday. Failure to supply the department with adequate notice may be cause for denial of sick leave or other disciplinary action. If the need for use of sick leave is foreseeable, an employee shall provide a minimum of seven (7) days' advance notice to his/her department head prior to taking sick leave.

SUBD. 4. PENALTY. Using or claiming sick leave for a purpose not authorized by Subdivision 2 may be cause for disciplinary action under Section 206.23.

SUBD. 5. REINSTATEMENT OF SICK LEAVE. When there is a separation from employment and the employee is rehired within one hundred eighty (180) days of separation, previously accrued earned sick leave that had not been used shall be reinstated. An employee is entitled to use accrued earned sick leave and accrue additional sick leave at the commencement of reemployment.

SUBD. 6. DOCUMENTATION. An employee who uses three or more consecutive days of sick leave shall provide reasonable documentation, as set forth in Minn. Stat. 181.9477, subd. 3, to City providing that the use of sick leave is covered by subdivision 2.

SUBD. 7. ACCUMULATION OF SICK LEAVE. Accumulated unused sick leave exceeding one hundred twenty (120) days or nine hundred sixty (960) hours may be traded at the rate of four (4) unused sick days or thirty-two (32) hours for one (1) vacation day.

SUBD. 8. CHANGE OF STATUS. An employee who becomes ill or injured may, upon proper notification, change his/her status to sick leave.

206.15. PERSONAL LEAVE. Any employee eligible for sick leave benefits may use up to three (3) sick leave days per year for personal reasons. Personal leave may be taken for any purpose. An employee must request and receive authorization for the use of personal leave from his/her department head prior to the date of the leave. Personal leave shall not be taken in increments of less than one-half day, nor more than one (1) day in succession. Personal leave cannot be taken the day before or the day following a holiday or vacation.

206.16. MILITARY LEAVE. Every employee, to whom Minnesota Statutes, Section 192.26 or Section 192.261 applies, is entitled to the benefits afforded by those sections subject to the conditions herein prescribed.

State and federal laws provide protections and benefits to city employees who are called to military service, whether in the reserves or on active duty. Such employees are entitled to a leave of absence without loss of pay, seniority status, efficiency rating, or benefits for the time the employee is engaged in training or active service not exceeding a total of 15 days in any calendar year.

The leave of absence is only in the event the employee returns to employment with the city as required upon being relieved from service, or is prevented from returning by physical or mental disability or other cause not the fault of the employee, or is required by the proper authority to continue in military or naval service beyond the fifteen (15) day paid leave of absence. Employees on extended unpaid military leave will receive fifteen (15) days paid leave of absence in each calendar year, not to exceed five years.

Where possible, notice is to be provided to the city at least ten (10) working days in advance of the requested leave. If an employee has not yet used his/her fifteen (15) days of paid leave when called to active duty, any unused paid time will be allowed for the active duty time, prior to the unpaid leave of absence.

Employees returning from military service will be reemployed in the job that they would have attained had they not been absent for military service and with the same seniority, status and pay, as well as other rights and benefits determined by seniority. Unpaid military leave will be considered hours worked for the purpose of vacation leave and sick leave accruals.

206.17. LEAVES WITHOUT PAY. The council may grant any permanent employee, a leave of absence without pay for a period not exceeding 90 days, except that it may extend such leaves to a maximum period of one year in case the employee is disabled or where extraordinary circumstances, in its

judgement warrant such an extension. No vacation or sick leave benefits shall accrue during a leave of absence without pay.

206.18. JURY OR WITNESS DUTY. When an employee performs jury duty or is subpoenaed as a witness in court or voluntarily serves as a witness in a case in which the city is a party, the employee is entitled to compensation from the city equal to the difference between his regular pay and the amount received as a juror or witness.

206.19. REST PERIODS AND HOLIDAYS.

SUBDIVISION 1. REST PERIODS. Every regular employee, when working under conditions where a break period is practicable, shall be granted a 15-minute break period for each four (4) hours worked. The rest periods shall be scheduled at the middle of each four hour work period whenever possible.

SUBD. 2. HOLIDAYS. The following calendar days and such other days as the council may fix are paid holidays:

1. New Year's Day – January 1.
2. Martin Luther King Day – third Monday in January.
3. President's Day – third Monday in February.
4. Memorial Day – last Monday in May.
5. Independence Day – July 4.
6. Labor Day – first Monday in September.
7. Veteran's Day – November 11.
8. Thanksgiving Day – fourth Thursday in November.
9. Christmas Day – December 25.

All employees in regular positions, upon satisfactory completion of the probationary period, are entitled to time off with full pay on holidays, as provided herein. The city hall shall be closed for business on each such holiday, but employees who may be required to work on a holiday shall receive another day off at his/her choice provided prior approval was obtained from the department head. When New Year's Day, Independence Day, Veteran's Day, or Christmas Day falls on Sunday, the following Monday is a paid holiday, and if any such day falls on Saturday, the preceding Friday is a holiday. Each holiday commences at the beginning of the first shift on the day on which the holiday occurs and continues for 24 hours thereafter. Full time employees shall receive pay for official holidays at their normal rate of pay if they are at work or on a leave of absence with pay the last regular shift to which they would have been assigned prior to the holiday and the first regular shift to which they would have been assigned following the holiday. Regular part-time employees shall be eligible for holiday benefits if it falls on their regular scheduled work day.

206.20. RESIGNATION. Any employee wishing to leave the municipal service in good standing, except for mandatory retirement under Section 206.17, shall file with his department head, at least ten (10) working days before leaving, a written resignation and the reason for leaving. Failure to comply with this procedure may be considered cause for denying the employee future employment by the city and denying terminal leave benefits. Unauthorized absence from work for a period of three working days may be considered by the department head as a resignation without such benefits.

Failure to comply with this procedure may be cause for denying the employee's severance pay and any future employment with the city.

206.21. GRIEVANCE POLICY. It is the policy of the city insofar as possible to prevent the occurrence of grievances and to deal promptly with those which occur. When any employee grievance comes to the attention of a supervisory employee, the supervisor shall discuss all relevant circumstances with the employee and his representatives if he so desires, consider and examine the causes of the grievance, and attempt to resolve it to the extent that he has the authority to do so. If the grievance is not dealt with

satisfactorily at that level, the grievance may be carried up to the next higher administrative level, including the council.

206.22. LAY-OFFS. The city council may lay off employees whenever such action is made necessary by reason of shortage of work or funds, the abolition of a position, or changes in organization. No permanent employee shall be laid off while there is a temporary, seasonal, or probationary employee serving in the same class or position for which the permanent employee is qualified, eligible, and available. Every effort will be made to arrange work schedules of the city employees so that continued employment is assured for permanent employees regardless of the weather, the season of the year, and the nature of the work, to the extent reasonably possible.

206.23. DISCIPLINE.

SUBD. 1. IN GENERAL. City employees shall be subject to disciplinary action for failing to fulfill their duties and responsibilities at the level required, including observance of work rules and standards of conduct and applicable city policies. It is the policy of the city to administer disciplinary penalties in a non-discriminatory manner. Every disciplinary action shall be for just cause and the employee may demand a hearing or use the grievance procedure of Section 206.21 with respect to any disciplinary action which he/she believes is either unjust or disproportionate to the offense committed. The supervisor or department head shall investigate any allegation on which disciplinary action might be based before any disciplinary action is taken.

SUBD. 2. CAUSES FOR DISMISSAL OR SUSPENSION. Just cause for dismissal or suspension includes, but is not limited to, the following:

1. Failure to report or refusal to work when necessary to keep the essential services operating and provide service to the public.
2. Reporting for work under the influence of alcohol or narcotics or the use of such on the job.
3. Repeated tardiness or unauthorized absence.
4. Incompetence, inefficiency, dishonesty, or disobedience.
5. Misconduct.
6. Inability or incapacity to perform duties.
7. Failure to observe laws or regulations relating to the performance of duties.
8. Insubordination.

SUBD. 3. DISCIPLINARY ACTION STEPS. Documentation of disciplinary action taken will be placed in the employee's personnel file with a copy provided to the employee. Except for severe infractions, disciplinary action against any employee shall be progressive and follow the steps listed below in numerical order:

1. **Oral Reprimand.** This measure will be used where informal discussion with the employee has not resolved the matter. Oral reprimands are normally give for first infractions on minor offenses to clarify expectations and the employee on notice that the performance or behavior needs to change and what the
2. **Written Reprimand.** A written reprimand is more serious and may follow an oral reprimand when the problem is not corrected or behavior has not consistently improved in a reasonable period of time. A written reprimand will state what the employee is being warned for misconduct, describe the misconduct, describe past actions taken by the supervisor to correct the problem, urge prompt correction or improvement by the employee, include timetables and goals for improvement when appropriate, and outline future penalties should the problem continue. The employee shall be given a copy of the reprimand and sign the original acknowledging that he has received the reprimand. The signature of the employee does not mean that he agrees with the reprimand. The reprimand shall be placed in the city's file on the employee but shall be removed from the file after one year from the date of issuance if there has been no subsequent reprimand and no other disciplinary action has been instituted.

3. **Suspension without pay.** Prior to the suspension or as soon thereafter as possible, the employee shall be notified in writing of the reason for the suspension and its length. Upon the employee's return to work, he shall be given a written statement outlining further disciplinary actions should the misconduct continue. An employee may be suspended pending investigation of an allegation. A copy of each written statement shall be placed in the employee's personnel file, but if the suspension is for investigation and the allegation proves false, the statement shall be removed and the employee shall receive any compensation to which he would have been entitled had the suspension not taken place.
4. **Dismissal.** The council may dismiss any employee after the employee is given notice in writing at least five work days before the effective date of the dismissal. The notice shall contain the reasons for the dismissal, the employee's rights under these rules and the Veterans' Preference Law if he is a veteran, and a statement indicating that the employee may respond to the charges both orally and in writing and that he may appeal personally before the official having authority to make or recommend the final decision.

If, in the judgement of the department head or city clerk, a severe infraction concerning misconduct, malfeasance or incompetence in job performance has taken place, the employee can be dismissed without following Steps 1 through 3, above.

SUBD. 4. OTHER DISCIPLINARY ACTIONS. The following other disciplinary actions may be taken against any employee after Steps 1 and 2 above have been followed:

1. Involuntary demotion. This step shall be taken only if the employee does not have the ability to function at the higher level.
2. Forced transfer to a comparable position under a different supervisor. This step may be taken only if the problem is due to personal incompatibility between the supervisor and employee.
3. Withholding a salary increase or decreasing the employee's salary. The employee shall be notified in writing of the action and the reasons therefor. A copy of the notice shall be placed in the employee's file. In no case shall an employee's salary be decreased below the minimum of the salary range of the class.

SUBD. 5. HEARING. In any case of suspension, dismissal or demotion, the employee shall be granted a hearing before the council if the employee submits a written request for such a hearing to the council within five (5) working days of notification of the action taken. The hearing shall be held within ten (10) working days from the date the request is filed unless the city and the employee agree on an earlier or later date. If the disciplinary action involves the removal of a veteran, the hearing shall be held in accordance with Minnesota Statutes, Section 197.46.

206.24. WORKER'S COMPENSATION. The city shall be liable for compensation according to the provisions of Minnesota Statutes, Chapter 176, and the city is liable to pay compensation in every case of personal injury or death of its employees arising out of and in the course of employment without regard to the question of negligence, unless the injury was intentionally self-inflicted or when the intoxication of the employee is the proximate cause of the injury.

206.25. RETIREMENT POLICY.

SUBD. 1. GENERAL RULE. Every appointed employee of the city shall automatically be retired upon reaching the age of 70 years, except as provided in Subdivision 2.

SUBD. 2. RETENTION AFTER AGE 70. If the department head finds that the interest of the city will be best served by allowing a person to remain in the employ of the city after reaching 70 years of age

because his services are especially needed or his replacement would be especially difficult, he may recommend to the council no later than 60 days before the employee's retirement date that the employee can be retained after his 70th birthday. Unless the council disapproves such retention within three weeks after receipt of the recommendations of the department head, the department head may continue the employment of such person for one year. Any such employee may be retained for successive one-year periods until reaching the age of 75 upon the annual recommendation of the department head and approval of the council.

206.26. UNLAWFUL ACTS.

SUBDIVISION 1. FALSIFICATION OF RECORDS. No person shall knowingly make any false statement, certificate, mark, rating, or report in regard to any test, certificate or appointment held or made under the city personnel system or in any manner commit or attempt to commit any fraud preventing the impartial execution of the provisions of Part 6.

SUBD. 2. RENDERING OF CONSIDERATION. No person seeking employment to or promotion in the municipal service shall either directly or indirectly give, render, or pay any money, service, or other valuable consideration to any person, or on account of or in connection with his test, appointment, or promotion, or proposed appointment or promotion.

SUBD. 3. DISCRIMINATION. No person shall be employed, promoted, demoted, or discharged by the city or in any way favored or discriminated against because of political opinions or affiliations, race, color, national origin, religion, sex, marital status, status with regard to public assistance or disability, or because of the exercise of rights under provisions of the Public Employment Labor Relations Act, Minnesota Statutes, Section 179.61 to 179.76. No person who is between 40 and 70 years of age shall be discriminated against with reference to city employment in any way forbidden by federal law.

206.27. OFFICIALS UNDER WORKERS' COMPENSATION ACT. Pursuant to Minnesota Statutes, Section 176.011, Subdivision 9, the elected officials of the city and those municipal officers appointed for a regular term of office are hereby included in the coverage of the Minnesota Workers' Compensation Act.

206.28. EXPOSURE TO HAZARDOUS SUBSTANCES. Any employee routinely exposed to hazardous substances or harmful physical agents as defined in the Minnesota Employee Right to Know Act of 1983 (Laws 1983, Chapter. 316, Minnesota Statutes, Sections 182-65-182-675) shall be trained before being assigned or reassigned work exposing him to such substances or agents and shall be given training annually thereafter. Training shall include an explanation of how and where information about hazards is stored in the workplace, how the hazards are labeled, and where to obtain specific information. The appropriate official shall provide for such training and for compliance with the Minnesota Employee Right to Know Act of 1983, including the establishment of specific policies to ensure compliance with the state law and regulations. An employee acting in good faith has the right to refuse to work under conditions which the employee reasonably believes present an imminent danger of death or serious physical harm to the employee.

206.29. PENALTY. Any person violating any provision of Section 19 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.

206.30. RESPECTFUL WORKPLACE POLICY (includes sexual harassment prevention)

The intent of this policy is to provide general guidelines about the conduct that is and is not appropriate in the workplace. The city acknowledges that this policy cannot possibly predict all situations that might arise, and also recognizes that some employees are exposed to disrespectful behavior, and even violence, by the very nature of their jobs.

SUBD. 1. Applicability. Maintaining a respectful work environment is a shared responsibility. This policy is applicable to all city personnel including regular and temporary employees, volunteers, firefighters, and City Council members.

SUBD. 2. Abusive Customer Behavior. While the city has a strong commitment to customer service, the city does not expect that employees accept verbal abuse from any customer. An employee may request that a supervisor intervene when a customer is abusive, or they may defuse the situation themselves, including ending the contact.

If there is a concern over the possibility of physical violence, a supervisor should be contacted immediately. When extreme conditions dictate, 911 may be called. Employees should leave the area immediately when violence is imminent unless their duties require them to remain. Employees must notify their supervisor about the incident as soon as possible.

SUBD. 3. Types of Disrespectful Behavior. The following types of behaviors cause a disruption in the workplace and are, in many instances, unlawful:

1. **Violent behavior:** Includes the use of physical force, harassment, bullying or intimidation.
2. **Discriminatory behavior:** Includes inappropriate remarks about or conduct related to a person's race, color, creed, religion, national origin, disability, sex, marital status, age, sexual orientation, gender identity, or gender expression, familial status, or status with regard to public assistance.
3. **Offensive behavior:** May include such actions as: rudeness, angry outbursts, inappropriate humor, vulgar obscenities, name calling, disparaging language, or any other behavior regarded as offensive to a reasonable person based upon violent or discriminatory behavior as listed above. It is not possible to anticipate in this policy every example of offensive behavior. Accordingly, employees are encouraged to discuss with their fellow employees and supervisor what is regarded as offensive, taking into account the sensibilities of employees and the possibility of public reaction.
4. **Sexual Harassment:** Can consist of a wide range of unwanted and unwelcome sexually directed behavior such as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

206.31 EMPLOYEE EDUCATION & TRAINING.

SUBD. 1. The city promotes staff development as an essential, ongoing function needed to maintain and improve cost effective quality service to residents. The purposes for staff development are to ensure that employees develop and maintain the knowledge and skills necessary for effective job performance and to provide employees with an opportunity for job enrichment and mobility.

SUBD. 2. Policy. The city will pay for the costs of an employee's participation in training and attendance at professional conferences, provided that attendance is approved in advance under the following criteria and procedures:

1. **Job-Related Training & Conferences.** The subject matter of the training session or conference is directly job-related and relevant to the performance of the employee's work responsibilities. Responsibilities outlined in the job description, annual work program requirements and training goals and objectives that have been developed for the employee will be considered in determining if the request is job-related. CLE or similar courses taken by an employee in order to maintain licensing or other professional accreditation will not be eligible for payment under this policy unless the subject matter relates directly to the employee's duties, even though the employee may be required to maintain such licensing or accreditation as a condition of employment with the city.

2. **Compensation for Travel & Training Time.** Time spent traveling to and from, as well as time spent attending a training session or conference, will be compensated in accordance with the federal Fair Labor Standards Act. Travel and other related training expenses will be reimbursed subject to the employee providing necessary receipts and appropriate documentation.
3. **Memberships and Dues.** The purpose of memberships to various professional organizations must be directly related to the betterment of the services of the city.
4. **Travel & Meal Allowance:** If employees are required to travel outside of the area in performance of their duties as a city employee, they will receive reimbursement of expenses for meals, lodging and necessary expenses incurred. Employees who find it necessary to use their private automobiles for city travel and who do not receive a car allowance will be reimbursed at the prevailing mileage rate as established by the City Council, not to exceed the allowable IRS rate. Expenses for meals, including sales tax and gratuity, will be reimbursed according to this policy. No reimbursement will be made for alcoholic beverages. Meal expenses of \$ 30.00 per day will be allowed.

PART 7. CLAIM PROCEDURES

207.01. CLAIM PROCEDURES FOR CLOSED CITY OWNED BUSINESSES

SECTION 1. PURPOSE: The City of Balaton desires to establish a policy to efficiently process and timely pay claims for city owned businesses that cease operations

SECTION 2. 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 ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

SUBD. 1. CITY OWNED BUSINESS: any business, facility, or entity that is owned or operated by the City of Balaton.

SUBD. 2. VENDORS: any vendor, contractor, supplier, person, group, organization, corporation, or partnership that renders any goods, leases and rents, services, or anything of value to a city owned business.

SUBD. 3. CLAIM: a good faith demand for monetary payment for goods, leases and rents, services, or anything of value actually rendered or provided.

SUBD. 4. CITY: means the City of Balaton.

SECTION 3. NOTICE OF CLOSURE OF CITY OWNED BUSINESSES. Unless otherwise provided by law or contract, the City shall within thirty days of cessation of operations of a city owned business, notify all vendors in writing of the closure. Notice shall be provided by personal service or by certified mail.

SECTION 4. CLAIMS DEADLINE.

SUBD. 1. Within sixty (60) days after receiving notice as provided in Section 3k vendors shall submit in writing all outstanding claims to the City. Claims not received within sixty days after notice pursuant to Section 3, shall be deemed waived and forfeited.

SUBD. 2. All timely submitted claims shall be paid by the City in accordance with Minn. Stat. 471.425, amended. Any claims received sixty (60) days after notice pursuant to Section 3, shall be rejected and not paid by the City. The City shall have no obligation to pay any claims beyond sixty (60) days after notice as provided in Section 3.

SUBD. 3. The sixty (60) day claim deadline does not apply to vendors who were not provided notice as referenced in Section 3.

SECTION 5. VENDORS TO PROVIDE UPDATED ADDRESSES. Vendors shall be required to provide and maintain with the City a current, valid mailing address for service of notice. Vendors shall notify the City within seven days of any change to a mailing address. If a vendor fails to timely notify the City of a change to a mailing address, the City's notice shall be deemed sufficient if sent to the vendor's last known mailing address.

SECTION 6. 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.

207.02. CHARGE AND COLLECT FOR EMERGENCY FIRE PROTECTION FIRE SERVICES. The City of Balaton does ordain:

SECTION 1. PURPOSES AND INTENT. This ordinance is adopted for the purpose of authorizing the City of Balaton to charge and collect for fire service as authorized by Minn. Stat. 366.011, 366.012, and 415.01.

SECTION 2. DEFINITIONS.

- A. **"Fire service"** means any deployment of firefighting personnel and/or equipment to extinguish a fire or perform any preventative measures in an effort to protect equipment, life, or property in an area threatened by fire. It also includes the deployment of firefighting 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 of Balaton 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 home, all-terrain vehicles, or park trailers.
- D. **"Fire protection or service contract"** means a contract between the City of Balaton and a town, township, or other city for the City of Balaton to provide fire services.
- E. **"Mutual aid agreement"** means an agreement between the City of Balaton and a town, township, or other city for the City of Balaton's fire department to provide assistance to the fire department of a town or other city.

SECTION 3. PARTIES AFFECTED.

- A. Owners of property within the City of Balaton who receive fire service.
- B. Anyone who receives fire service as a result of a motor vehicle accident or fire within the City of Balaton.
- C. Owners of property in towns, townships, or cities to which the City of Balaton provides fire service pursuant to a fire protection or service contract.
- D. Owners of property outside the City of Balaton who receive fire service.

SECTION 4. RATES. The rates for fire services shall be set by the City of Balaton's fee schedule, unless otherwise set pursuant to Section 6 or 7.

SECTION 5. BILLING AND COLLECTION.

- A. Parties receiving fire services will be billed directly by the City of Balaton within fourteen (14) days of the fire service. 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 part will be charged and billed. All parties will be billed whether or not the fire service is covered by a party's insurance remains a dept of the party receiving the fire service.

- B. Parties billed for fire service will have thirty (30) days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the City of Balaton will send a notice of delinquency.
- C. If the fire service charge remains unpaid for thirty (30) days after this notice of delinquency is sent, the City of Balaton 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 of Balaton including, but not limited to, reasonable attorney fee and court costs.
- D. If the fire service charge remains unpaid for thirty (30) days after the notice of delinquency is sent, the Balaton City Council may also, on or before October 15 of each year, certify the unpaid fire service charge to the county auditor in which the recipient of the services owns real property for collection with taxes. The county auditor is responsible for remitting to the city all charges collected on behalf of the city. The City of Balaton must give the property owner notice of its intent to certify the unpaid fire service charge by September 15.
- E. False alarms will be billed as a fire call.

SECTION 6. MUTUAL AID AGREEMENT. When the City of Balaton fire department provides fire service to another town, township, or city pursuant to a Mutual Aid Agreement, the billing will be determined by the Mutual Aid Agreement.

SECTION 7. BILLING PROCEDURE FOR FIRE PROTECTION OR SERVICE CONTRACTS WITH TOWNS, TOWNSHIPS, OR OTHER CITIES. When the City of Balaton Fire department provides fire service to a town, township, or city pursuant to a Fire Protection or Service Contract, the billing will be determined by the Contract.

SECTION 8. APPLICATION OF COLLECTIONS TO BUDGET. All collected fire charges will be city funds and used to offset the expenses of the City of Balaton fire department in providing fire services.

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

PART 1. STREET EXCAVATIONS

301.01. PERMIT REQUIRED. No person, except an authorized 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 read a permit therefore from the city clerk. The fee for permit shall be as provided in Chapter X, Section for location covered by the permit but no fee shall be required for an excavation made pursuant to a permit for r or water construction.

301.02. APPLICATION AND REGULATIONS. The city clerk shall prepare the necessary application forms and permits required under Section 301.01. He shall also prepare such rules and regulations with respect to excavations as he finds necessary protect the public from injury, prevent damage to public or private property, and minimize interference with public use of streets, alleys, sidewalks, and public grounds. Any person making an excavation covered by this application shall comply with such rules and regulations.

301.03. BOND. Any permittee except a public utility corporation or a bonded plumber shall file with the city clerk corporate surety bond in the amount of \$1000.00 condition 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 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.

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 freezing and all damages sustained by others by such freezing for which the city may be liable.

301.05. REFILLING EXCAVATIONS. Every street excavation shall be refilled as soon as possible after the work is completed and paving, sidewalks, and appurtenances shall be replaced in at least as good condition as before the excavation to the satisfaction of the street superintendent. 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, sidewalks, alley, or public ground to its proper condition. The cost shall be an obligation of the surety on the bond of the permittee.

301.06. MAP OF SUBSURFACE INSTALLATIONS. The street superintendent 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, and 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 2. ASSESSABLE CURRENT SERVICES; OBLIGATION OF PROPERTY OWNERS AND OCCUPANTS

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 sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety from private property, excluding any hazardous building included in Minnesota Statutes, Sections 463-15 to 463.26; installation or repair of water service lines; street sprinkling street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect infected trees from the public street or private property.

302.02. SNOW, ICE, DIRT, AND RUBBISH. 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 thereon.

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 Balaton to a greater height than 18 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 a nuisance on such property and on land outside the traveled portion of the street or alley abutting such property.

SUBD. 2. NOTICE. On or before June 1 of each year and at such other times as ordered by resolution of the council, the city clerk shall publish once in the official newspaper, a notice directing owners and occupants of property within the city to destroy all weeds declared by Subdivision 1 to be a nuisance and stating that if not so destroyed within ten (10) days after publication of the notice, the weeds will be destroyed by the street superintendent 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 (10) days after its publication, the weed inspector shall cut and re-move, or spray such weeds with an appropriate herbicide. The weed inspector 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.

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 delivers such information to the city clerk. This section does not apply to the Hazardous Building Law, Minnesota Statutes, Sections 463.15 to 463.26.

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 water 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 as to each parcel of property on which the cost has not been paid.

302.06. REPAIR OF SIDEWALKS. – Repealed 11-13-2000

302.07. STREET SPRINKLING & FLUSHING, TREE CARE, ETC. - Repealed 11-13-2000

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 that the office of the city clerk.

302.09. ASSESSMENT. On or before September 1 of each year, the clerk shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable under this ordinance. The council may then spread the charges against the property benefited as a special assessment under Minnesota Statutes, Section 429.01 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 the case.

PART 3. LOCAL IMPROVEMENT POLICY

303.01. CUT-OFF DATE FOR PETITIONS. No petition for construction of curb and gutter, street surfacing, base course, grading or graveling of streets and construction of sanitary sewer shall be accepted or acted upon by the council unless it is filed with the city clerk on or before September 1 of the year prior to the year of requested construction.

303.02. CLASSIFICATION OF PROJECTS. SUBDIVISION 1. IN GENERAL. Public improvements are divided into 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 recreation facility; (3) storm sewers; and (4) any improvement not described in Minnesota Statutes, Section 429.021, Subdivision 1. Any such improvements shall be financed from general city funds and not from special assessments.

SUBD. 3. CLASS B. Class B improvements are those which are both general benefit and special benefit to abutting or nearby property. Class B improvements include (1) trunk water mains; (2) trunk sanitary sewer mains; (3) permanently surfacing arterial streets and (4) 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 lateral water mains; (3) the construction of lateral sanitary sewer mains; (4) the construction of curbs and gutters; (5) grading, gravel, oiling, and applying non-permanent surfacing to streets; (6) permanently surfacing residential streets; and (7) the abatement of nuisances and the draining of swamps, marshes, and ponds on public or private property and filling the same.

303.03. FINANCING. CLASS B AND CLASS C IMPROVEMENTS. It is the policy of the city to finance Class B and Class 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.

303.04. ASSESSMENT REGULATIONS FOR CLASS B IMPROVEMENTS.

SUBD. 1. TRUNK WATER MAINS AND SANITARY SEWERS. When a water or sewer main is laid across or adjacent to un-platted property, the city shall not defer the assessment against the un-platted 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 un-platted property on the basis of area. When a trunk sewer or water main is constructed and is to serve also as a lateral sewer to water main for abutting property, the abutting property shall be assessed for the cost of a lateral sewer or water main of 8 inches plus its proportionate share of the cost 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: Washington Avenue, Lake Avenue, 2nd Street and 3rd Street. 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. One hundred percent (100%) of the cost of constructing storm sewers shall be paid by the city from general funds.

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.

SUBD. 2. WATER AND SEWER. The cost of lateral water mains and of lateral sanitary sewer mains 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. 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.

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 of the lot plus one-third of the side footage; the other two-thirds of the side footage shall be spread among all the other assessed properties. In case of an assessment for a lateral water or sewer main, Class C corner lots shall be assessed for the footage along the front side of the lot and shall be assessed for the footage along the front side of the street abutting the lot unless the lot is large enough to accommodate another building which would be benefited by the construction of the second main.

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:

1. Front footage shall be measured at setback on the cul-de-sacs and sharply-curved streets and irregular shaped lots.

2. 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.
3. Where frontage curves so greatly as to give a general appearance of a corner lot, the lot shall be considered a corner lot and equivalent front footage, as well as side footage where required, is determined on the basis of an irregularly-shaped lot.
4. 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.

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.

303.08. PROCEDURAL RESTRICTIONS.

SUBD. 1. IN GENERAL. In addition to conforming to the provisions of Minnesota Statutes, Chapter 429, proceedings for a public improvement to be paid wholly or partly by special assessments shall conform to the requirements of this section.

SUBD. 2. WAIVERS. When, under Minnesota Statutes Section 429.041, Subd. 1, advertisement for bids for the improvement would not be required and the council has determined that at least thirty-five percent (35%) of the estimated project cost can be collected by special assessments, the improvement contract shall not be entered into or the work shall not be commenced by day labor unless all property owners subject to the assessment have signed and submitted to the city clerk waivers of the right to appeal from assessment when levied.

SUBD. 3. CONDITIONAL CONTRACTS. When, under Minnesota Statutes Section 429.041, advertisement for bids would be required and the council has determined that at least thirty-five percent (35%) of the estimated project cost can be collected by special assessments, the contract for the improvement shall provide that no work shall be undertaken pursuant to the contract until 30 days after the hearing on the proposed assessment. The contract shall also provide that if any objection to the proposed assessment is filed within such 30-day period, the contract shall be void.

SUBD. 4. FINDINGS ON MARKET VALUE INCREASE. Before determining proposed special assessments on any project, the city shall gather as much evidence as is practical and useful to show that the aggregate benefits to property to be assessed do not exceed the cost of the project and that each proposed individual assessment does not exceed the increase in market value on the property on which the assessment is to be made.

303.09. 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 sixty-five (65) years of age or older and has an annual income of \$7,400.00 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 not be made within 30 days after the adoption of the assessment roll by the council and shall be renewed each following year not later than September 30. The council shall either grant or deny the deferment and, if it

grants 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 of that fact.

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 the 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. There upon, 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.

303.10. 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.

303.11. PARTIAL PREPAYMENT. After the adoption by the city council of the assessment roll in any local improvement proceeding, the owner of any property specifically assessed in the proceeding may, prior to the certification of the assessment of the first installment to the county auditor, pay to the city treasurer any portion of the assessment not less than \$300.00. The remaining unpaid balance shall be spread over the period of time established by the council for installment payment of the assessment.

303.12. 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.

303.13. 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 clerk-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 monies 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. Monies 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 monies 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 the bond rate plus two percent (2%) per annum during the time for which such moneys have been so furnished.

SUBD. 4. INVESTMENT. Whenever there are monies in the fund not immediately needed for local improvements, such monies 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 monies 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.

303.14. ASSESSMENT MANUAL. The city clerk shall prepare an administrative manual specifying more detailed procedures for the conduct of local improvements and the levy of special assessments in supplementation of this ordinance and consistent therewith. Upon approval of the council by resolution, such manual shall be used with this ordinance in the conduct of all local improvement proceedings to which they apply their terms.

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CHAPTER IV. WATER AND SEWER

PART 1. GENERAL PROVISIONS ON WATER AND SEWER SYSTEMS

401.01. WATER AND SEWER DEPARTMENT. There is hereby established a water and sewer department which shall be under the supervision of the water and wastewater supervisor. The department shall be responsible for the management, maintenance, care, and operation of the water works and sanitary sewerage of the city.

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.

401.03. APPLICATION FOR SERVICE.

SUBD. 1. PROCEDURE. Application for a water or sewer service installation and for water service shall be made to the city clerk on forms prescribed by the council and furnished by the city. By his signature, the applicant shall agree to conform to this chapter and to rules and regulations that may be established by the city as conditions for the use of water.

SUBD. 2. FEES OR DEPOSIT. Application for a service installation shall be made by the owner of the property to be served or by his agent. The applicant shall, at the time of making application, pay to the city the amount of the fees or deposit required for the installation of the service connection as provided in this chapter. When a water service connection has been installed, application for water service may be made either by the owner or his agent or by the tenant or occupant of the premises. The applicant shall pay, in addition to the foregoing, such fees for connection to the water system and the sewer system as provided in Chapter X of this code.

401.04. CHARGES FOR SERVICE CONNECTIONS.

SUBD. 1. PERMIT AND FEE. No connection shall be made to the city water or sanitary sewer system without a permit received from the city clerk. The fee for any such permit shall be as provided in Chapter X of this code. This fee shall be in addition to any other fees required under this chapter.

SUBD. 2 CONNECTION FEES. When a connection requires installation of a service line from the main to the property line, the applicant, for a permit, shall pay to the city an amount not less than the cost of making the necessary connections, taps and installation of pipe and appurtenances to provide service to the property and the necessary street repairs.

SUBD. 3. CERTIFICATION. No permit shall be issued to connect with any water or sanitary sewer main unless the applicant therefore certifies to the truth of one of the following or the payment required under Subdivision 4 is made:

1. That the lot or tract to be served has been assessed for the cost of construction of the main with which connection is made or that proceedings for levying such assessment have been or will be commenced in due course; or
2. That the cost of construction of the main has been paid by the developer or builder platting the lot or tract; or
3. That, if neither of the foregoing is true, a sum equal to the portion of the cost of constructing the main which would be assessable against the lot or parcel has been paid to the city.

SUBD. 4. ADDITION CONNECTION FEE. If no such certificate can be issued, the applicant shall pay an additional connection fee equal to the portion of the cost of construction of the main attributable to the property upon the same basis as any assessment previously levied against other property of the main. The determination shall be made by the city clerk. If no such assessment has been levied, the assessable cost shall be determined upon the basis of the uniform charge which may have been or will be charged for similar connection with the main. The amount shall be determined on the basis of the total assessable cost. In no event shall the connection charge made under this subdivision exceed the increase in value of the property attributable to the main.

SUBD. 5. NOTICE AND HEARING. Before the city clerk makes a final determination of the additional connection fee under Subdivision 4, he shall submit a written notice to the applicant stating the amount of the proposed connection fee and the basis of its calculation. The notice shall also state that the applicant may, within ten days of receipt of the notice, demand a hearing on the matter. If the applicant requests a hearing within that time, a hearing shall be held on the matter by the council at least one week after the date on which the request is made. If, as a result of the hearing, the council finds that the proposed connection fee complies with the requirements of Subdivision 4, they shall so determine. If they Determine that the proposed fee is in excess of the amount that would have been assessed had the property been assessed for the main or in excess of the increase in market value attributable to construction of the main, they shall make a determination of the proper amount of the fee within the limits specified in Subdivision 4. No connection shall be made without payment of the connection fee determined after the hearing or determined after the expiration of ten days from receipt of the notice when there has been no request within that time for a hearing.

401.05. ACCOUNTING, BILLING AND COLLECTING WATER, SEWER, AND GARBAGE ACCOUNTS.

SUBD. 1. DEFINITIONS. For the purposes of this Ordinance, the following capitalized terms listed in alphabetical order shall have the following meanings:

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

SUBD. 2. ACCOUNTS. All accounts shall be carried in the name of the owner who personally, or by his or her authorized agent, applied for such service. The owner shall be liable for water, sewer, and garbage services supplied to the property, whether he or she is occupying the property or not, and any unpaid charges shall be a lien upon the property.

SUBD. 3. BILLING. Water, sewer, and garbage charges shall be billed on one bill as applicable to each account. All charges for water, sewer, and garbage shall be due upon receipt and considered delinquent after the twentieth day of the current month. All bills shall contain the address and telephone number of the City of Balaton; the address and phone number shall be

clearly visible and easily readable. Bills shall be mailed to the customers on or before the first day of each month and specify the water consumed and the sewer and garbage charges in accordance with the current fee schedule set by ordinance of the City Council.

SUBD. 4. UTILITY RATE SCHEDULE.

4.1 The utility rate schedule shall be subject to change, from time to time, by the City Council.

4.2 Each year the council shall establish a certification cut-off date. All city utility accounts, unless exempt for other legal reason, which have been billed a delinquent bill and remain unpaid as of the certification cut-off date shall have the balance on the account included in a preliminary certification list.

SUBD. 5. DELINQUENT ACCOUNTS.

5.1 Penalties. A late fee of \$15.00 shall be assessed to each delinquent account for every month the account remains delinquent.

5.2 Notice of delinquency and shut-off for nonpayment. Upon an account becoming delinquent, the City shall provide written notice to the owner and occupants of the premises that the account is delinquent and the water service to the premises that the account is delinquent and the water service to the premises will be shut off if the delinquent balance, current monthly charges and any late fees or other charges are not paid in full within twenty (20) days from the date of the notice. The owner of the premises shall be provided notice by first class mail and the occupants of the premises shall be provided notice by affixing a copy of the notice to the front or back door of the premises.

5.2.1 Requirements of this notice. The notice referenced in 5.2 shall contain the following information: (1) that the owner or occupant has a right to a hearing to contest the bill or shutoff; (2) the address, telephone number and hours of operation of the City's office; (3) that the request for hearing must be in writing, signed by the owner or occupant of the premises, and received by the City within twenty (20) days from the date of the notice; (4) the total amount that must be paid in full to avoid shut-off of service, which shall include the delinquent balance, current monthly charges, and any late fees or other charges; and (5) pursuant to Minn. Stat. 504B.215, subd. 3, that tenants have the right under state law to continue or restore service.

5.2.2 Right to Hearing. Any occupant or owner has the right to a hearing before water service to the premises is shut off. A request for hearing must be in writing, signed by the owner or occupant of the premises, and received by the City within twenty (20) days from the date of the notice referenced in 5.2. The failure to timely request a hearing shall waive the forfeit the occupant or owner's right to a hearing.

5.2.3 Hearing Procedure. If the owner or occupant requests a hearing pursuant to 5.2.2 a hearing shall be held before the City Council. A hearing shall be held at least one week after the date on which the request was received. Notice of the date and time of the hearing shall be provided by first class mail upon the person making the request at least four (4) days before the hearing. The City Council shall have the exclusive authority to disconnect water service, adjust the customer's bill, continue water service, enter in a mutually agreeable payment plan, or any combination of these actions. Water service shall not be shut off until the hearing process is complete.

5.2.4 Disconnection. If no request for hearing is timely made and payment in full has not been made pursuant to this section, the City shall shut-off and disconnect the water

service to the premises. A \$100.00 fee shall be assessed to each account that is shut-off.

5.2.5 Reconnection. Prior to reconnecting any water service, all delinquent balances, current monthly charges, late fees and reconnection fees must be paid in full.

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

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

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

5.6 For each certification sustained, the property owner shall have the following options after the hearing:

5.6.1 To pay the delinquent amount listed on the preliminary toll, but without additional interest after the hearing, within ten (10) days of the hearing date.

5.6.2 To pay the certified delinquent amount after the hearing date, but before the county certification deadline, with interest at the rate set in the adopted rate schedule, accrued beginning on the eleventh (11th) day following the hearing date through the date of payment.

5.6.3 To pay the certified charges as billed to them by Lyon County on their property tax statement with a collection term of one (1) year.

5.7 Fifteen days after the hearing, the certified roll, minus any payments, shall be delivered to Lyon County.

401.06. PROTECTION OF PUBLIC AND CITY.

SUBD. 1. PERMIT AND BOND. A permit for construction and connection of the extension between a building drain and the sewer main or stub, herein called the building sewer, or between the building water service pipes and a water main or stub shall be issued only upon application by a master plumber who has furnished a bond either to the clerk or the secretary of state under Minnesota Statutes 326.40. The bond shall be in the amount of \$2,000.00 conditioned so as to secure compliance by the principal with the provisions of this chapter and to further secure performance by him of all work undertaken within the city.

SUBD. 2. LIABILITY INSURANCE. Before undertaking the construction work authorized by the permit, the plumber shall secure and maintain a policy of insurance against damages to property

or injury or death to persons. The policy shall indemnify and save harmless the city and its personnel against any claim, damages, or cause of action arising out of the work and from any expenses of defending the same. The property damage insurance coverage shall be in the amount of at least \$10,000.00 and the public liability damage for injury or death shall be in the amount of at least \$100,000.00 per claimant and \$300,000.00 for any number of claims per occurrence. Proof of such insurance shall be filed with the city prior to construction work and such policy shall provide that the city shall be notified immediately of any termination or modification of such insurance. If the insurance coverage is adequate in amount, the master plumber shall indemnify and save harmless the city and its personnel in like manner.

SUBD. 3. APPORTIONMENT OF COSTS. The owner shall bear the costs and expenses incident to the installation and connection of the building sewer or extension of water service to private property. He shall indemnify the city for any loss or damage directly or indirectly caused by its installation and connection. To the extent he deems necessary, the city clerk shall establish rules and regulations for the proper implementation of these requirements which, when approved by the council by resolution, shall govern the installation and connection of building sewers and extension of water service to private property.

401.07. APPLICATION TO DISCONTINUE WATER AND SEWER SERVICE.

SUBD. 1. PROCEDURE. Any owner of residential or commercial property, or their agent, may make application to discontinue water or sewer service to property connected to the city water or sewer system. The application shall be made to the city clerk on forms prescribed by the council and furnished by the city. The applicant shall sign the application and shall agree to conform to this chapter and to the rules and regulations that may be established by the city.

SUBD. 2. REQUIREMENTS. No water or sewer service may be discontinued unless the curb stop to the applicable property is functional and in working order. If service is discontinued, the curb stop to the applicable property will be turned off. In the event the curb stop is not functional and not in working order, any property owner seeking to discontinue water or sewer service shall be responsible for the applicable rates and fees for such service, as established by the city. The property owner shall be responsible for maintaining the curb stop whether such service is active or discontinued.

SUBD. 3. RESTORATION OF SERVICES. A property owner may make application to restore any discontinued water or sewer service. The application shall conform to the procedure set forth in Subdivision 1. The fee for restoration of water or sewer service after discontinuation is \$100.

SUBD. 4. This ordinance shall be codified in the Balaton City Code as Section 401.07 and entitled "Application to Discontinue Water and Sewer Service".

SUBD. 5. This ordinance becomes effective from and after its passage and publication.

PART 2. WATER SYSTEM

402.01. GENERAL WATER REGULATIONS.

SUBD. 1. DISCONTINUANCE OF SERVICE. The City may discontinue service to any water consumer without notice for necessary repairs or, upon notice as provided in Section 401.05, Subdivision 4, for non-payment of charges, or for violation of rules and regulations affecting utility service.

SUBD. 2. SUPPLY FROM ONE SERVICE. No more than one house or building shall be supplied from one service connection except by special permission of the council. For purposes

of billing by the city, each house or building shall be considered a separate "water user" and the city shall provide each "water user" a statement for water usage in accordance with Chapter X of this code, and payment thereof shall be made by the owner or tenant who is listed as the "water user". A statement for water usage shall be provided monthly and shall be based upon the total usage in each house or building as metered. If the owner of the house or building wishes to apportion the cost of water usage between tenants or other occupants of the house or building, the cost of installation of any meter for such purpose shall be that of the owner or tenant and the obligation to the city for the cost of all water usage on the premises shall be that of the listed "water user", who shall be solely liable to the city for such usage regardless of whether there are other tenants or occupants in the house or building for who separate meters have been installed.

SUBD. 3. TURNING ON WATER; TAPPING MAINS. No person, except an authorized city employee, shall turn on any water supply at the stop box or tap any distributing main or pipe of the water supply system or insert a stop cock or other appurtenance therein without a city permit.

SUBD. 4. REPAIR OF LEAKS. The consumer or owner shall be responsible for maintaining the service pipe from the main corporation cock to the building served. If he fails to repair any leak in such service pipe within 24 hours after notice by the city, the city may turn the water off. The water shall not be turned on again until the consumer or owner has paid to the city the fee required under Chapter X of this code. When the waste of water is great or damage is likely to result from the leak, the city shall turn the water off immediately upon the giving of notice if repair is not commenced immediately.

SUBD. 5. USE OF FIRE HYDRANTS. No person, other than an authorized city employee, shall operate a fire hydrant or interfere in any way with the city water system without first obtaining authority to do so from the city clerk and fire chief.

SUBD. 6. PRIVATE WATER SUPPLY. No water pipe of the city water supply system shall be connected with any pump, well, or tank that is connected with any other source of water supply. When any such connection is found, the water department shall notify the owner to sever the connection and if this is not done immediately, the city shall turn off the water supply forthwith. Before any new connection to the city system is permitted, the department shall ascertain that no cross connection will exist when the new connection is made.

SUBD. 7. WATER CONSERVATION RESTRICTONS.

- (a) Declaration of Critical Water Deficiency. Upon the declaration of a critical water deficiency either by the Governor and/or the Mayor, the Mayor, by written declarations, may regulate the use of the municipal water system or any private well or other source of water for lawn sprinkling, lawn watering, lawn irrigation, the washing of automobiles, trucks, trailers, and other types of recreational or mobile equipment, air conditioning, the filling of swimming pools, fountains, spas, or other exterior water features, outdoor misting systems, washing or spraying sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas with water from any pressurized source, including garden hoses, or other specified uses.
- (b) Notice of Declaration of Critical Water Deficiency. Upon the declaration of a critical water deficiency by the Governor and/or Mayor, the City shall immediately post notice of the declaration at the usual meeting place of the City Council, or the official City bulletin board. The City shall provide notifications to the public as quickly as possible or through established water supply plan, emergency response plans, or procedures.
- (c) Prohibited Uses. No person shall make, cause, use, or permit the use of water received from a public water supply for residential, commercial, industrial, governmental, or any other purposes in any manner contrary to the declaration and this section.

- (d) Variances. The City Clerk or his or her designee is authorized to grant variances to this section where strict application of its provisions would result in serious hardship to a customer. A variance may be granted only for reasons involving health or safety. An applicant may appeal the denial of a variance within five days of the decision by submitting a written appeal to the City Clerk. The City Council shall hear the appeal at the next city council meeting. The decision of the City Council is final.
- (e) Violation. Any person violating the declaration or any provision of this section shall be charged a penalty as provided in Chapter X. A penalty shall be charged for each violation and the charge shall be added to the person's next water bill.
- (f) Enforcement. The City Clerk or his or her designee is authorized to designate city employees or law enforcement personnel to enforce the provisions of this section.

SUBD. 8. PERMITTING USE BY OTHERS. No person shall permit city water to be used for any purpose except upon his own premises except in an emergency and then only if written permission is first obtained from the water superintendent. Anyone wishing to obtain water from a hydrant for construction purposes shall make application to the water superintendent for such services.

402.02. 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 to be drawn therefrom unless the water passes through a meter supplied or approved by the city. No person, except as authorized by the city water department, shall connect, disconnect, take apart, or in any manner change or interfere with any such meter or its use. Except as otherwise provided, the supply of water through each separate service must be recorded by one meter only for which only one account will be rendered by the city. If additional meters are desired for recording the subdivision of the water supply on the premises, such meters must be furnished and installed by the owner or consumer at their expense. A meter must be installed on all service lines.

SUBD. 2. INSTALLATION INSPECTION, ACCESS AND REPAIRS. All meters shall be approved by the city. Except as otherwise provided herein, all such meters shall be installed by the owner at his or her expense. Meters must at all times be easily accessible so that they may be examined and read by city employees. Repair or replacement of a meter due to damage arising from carelessness or neglect of the owner or occupants or arising from ordinary usage shall be performed by the city and any expenses therefore shall be charged to the water consumer in the same manner as a charge for water service. In the case of breakage, stoppage, or other irregularity in the meter, the owner or consumer shall notify the city immediately. City employees shall, at all reasonable times, have access to the premises as necessary for the purpose of reading the meter, inspection of the meter and related plumbing, or any necessary repair or replacement of the meter. Any person that refuses to allow city employees access for such purposes after having been provided a five (5) day written notice that such access is required, shall be immediately subject to a surcharge as provided in Subd. 7 of this section. The surcharge may be appealed to the City Council within thirty (30) days of the final notice of the surcharge. In the event that the City Council denies the appeal, the surcharge becomes retroactive to the original date. If no appeal is received in writing by the city within thirty (30) days of the final notice, the surcharge will be considered uncontested and will be applied.

SUBD. 3. MAINTENANCE. The city shall maintain and repair any meter that has become unserviceable through ordinary wear and tear and shall replace it as necessary at no charge to

the consumer. Any damage to the meter resulting from the consumer's negligence or intentional interference shall be the liability of the consumer and any repair or replacement costs shall be collected from the consumer or homeowner, and water service may be discontinued until the amount charged is paid in full.

SUBD. 4. METER TESTING. When a consumer complains that the bill for any past service period is excessive, the city shall have the meter re-read on request. If the consumer remains unsatisfied, he or she may, on written request and the deposit of an amount as provided in Chapter X of this code, have the meter tested. If the test shows an error in the city's favor exceeding five percent (5%) of the water consumer, the deposit shall be refunded, and an accurate meter shall be installed at the consumer's expense. The bill shall be adjusted accordingly, but such adjustment shall not extend beyond one service period prior to the date of the written request.

SUBD. 5. PAYMENTS IN ARREARS; SERVICE DISCONNECTIONS. If the supply to any premises has been shut off except for repairs, the service will not be reestablished until all payments in arrears, all current charges, and any penalties or re-connection costs have been paid.

SUBD. 6. REMOTE READERS. No charge will be made for city installation of water meters capable of remote reading and the city shall have the right to install water meters with remote reading capability in accordance with Subd. 2., above.

SUBD. 7. SURCHARGE. A surcharge of \$100.00 per month is hereby imposed on every water bill due from a property owner or water consumer who is not in compliance with this section, has refused to allow their property to be inspected in accordance with this section, has refused to allow the city to install a water meter capable of remote reading, or has refused to allow the city access for any other reasonable purpose.

SUBD. 8. LAWN SPRINKLER/IRRIGATION SYSTEM

(1) Definitions. For the purposes of this section, the following terms shall have the following meanings:

(A) Backflow Preventer. Any approved mechanical or air gap system designed and installed in order to prevent the accidental backflow of water from one source to another.

(B) Lawn Sprinkler/Irrigation System. All pumps, lines, and sprinkler heads which are located on private property or within adjacent public right-of-way that have a sole purpose of irrigating gardens, grass, or landscaping.

(2) Requirement of Separate Water Meter for Lawn Sprinkler or Irrigation Systems. All lawn sprinkler or irrigation systems connected to the city water supply system shall require a separate water meter. Except as otherwise provided, the water meter shall comply with all requirements set forth in this Chapter.

(3) Construction and Installation of Lawn Sprinkler or Irrigation Systems. The location of lines and sprinkler heads for a lawn sprinkler or irrigation system may be located within private property, the city right-of-way, or an easement, subject to the following requirements:

(A) The connection and installation of any lawn sprinkler or irrigation system shall comply with the requirements of this Chapter and shall be in conformance with the Minnesota State Plumbing Code.

(B) Prior to installation and construction of any lawn sprinkler or irrigation system, a permit shall be submitted to and approved by the city along with the payment of the

applicable fee, as set forth by annual resolution. The permit shall detail the location of the proposed lawn sprinkler or irrigation system, the name and license number of the plumber installing and constructing the system, the name and type of backflow device being installed, and the dates of when the work will be performed.

(C) The lawn sprinkler or irrigation system shall be installed by a licensed plumber.

(D) An approved back flow prevention device must be installed as part of a lawn sprinkler/irrigation system. The device shall be installed pursuant to the manufacturer's installation instructions.

(E) All newly installed lawn sprinkler/irrigation systems shall have a rain sensor, in accordance with Minn. Stat. 103G.298, as amended, and federal water conservation standards.

(F) The owner of the lawn sprinkler/irrigation system is responsible for the maintenance and repair of the lawn sprinkler/irrigation system.

(G) The owner of the lawn sprinkler/irrigation system shall assume all liability for damages to the lawn sprinkler/irrigation system that may be caused by city activities, including, but not limited to snow removal, mowing, street sweeping, or street construction, repair, or maintenance.

(H) The requirements set forth in Section 402.03, SUBD. 2 for water meters shall not apply to lawn sprinkler/irrigation systems. The location of any meter for lawn sprinkler/irrigation systems shall be approved by the city.

402.03. PLUMBING REGULATIONS.

SUBD. 1. SERVICE PIPES. Every service pipe shall be laid with sufficient bend to allow not less than one foot of extra length and in such manner as to prevent rupture by settlement. The service pipe shall be placed not less than six (6) feet below the surface and be so arranged as to prevent rupture by freezing. A shut-off or other stop cock with waste valve of the size and strength required shall be placed close to the inside wall of the building and be well protected from freezing. Copper or plastic tubing shall be used for all services of two inches or less. Joints on copper tubing shall be as few as possible and not more than one joint shall be used for a service up to 70 feet in length. Each joint shall be left uncovered until inspection by the city. Connections with the mains for domestic supply shall be at least $\frac{3}{4}$ of an inch.

SUBD. 2. WATER METER SETTING. Every water meter shall be installed in accordance with the following provisions:

1. The service pipe from the water main to the meter shall be brought through the floor in a vertical position where the pipe enters the building. The stop and waste valve shall be 12 inches above the floor.
2. The bottom of the meter shall be between 6 and 12 inches above the finished floor line. The meter shall be set not more than 12 inches horizontally from the inside line of the basement wall unless a different position is approved by the water department. A suitable bracket shall be provided to support the meter in a proper vertical position and prevent noise from vibration.
3. Each meter installation shall have a stop and waste valve on the street side of the meter. In no case shall more than 12 inches of pipe be exposed between the point of entrance through the basement floor and the stop and waste valve. A stop and waste valve shall also be installed on the house side of the meter.
4. The water pipe connecting with the main shall not exceed two feet under the basement floor from the inside of the basement wall to the water meter connection.

5. Meter setting devices for 5/8 inch, 3/4 inch, and one-inch meters shall be of copper pipe or tubing from the terminus of the service pipe up to and including the stop and waste valve on the building side.

SUBD. 3. LOCATION OF STOP BOXES. Curb stop boxes shall be installed generally where desired by the owners of occupied properties, but they shall be placed as near as possible to the curb if on a street or within one foot of the alley line if the main is located in the alley, and the owner shall know the location of the curb stop box. They shall be installed flush with the established grade and shall be left in an accurate vertical position when back-filling is completed.

402.04. WATER RATES; SERVICE CHARGE. Each "water user" shall pay a monthly service charge during each month in which water service is furnished in accordance with the rates provided in Chapter X of this code.

PART 3. SANITARY SEWER SYSTEM

403.01. REQUIREMENTS FOR BUILDING SEWER AND INSPECTION. Building sewer construction shall meet the requirements of the Minnesota Plumbing Code. The applicant for a building sewer permit shall notify the building inspector when the building sewer and connection are ready for inspection. The connection shall be made under the supervision of the build inspector or his representative. No backfill shall be placed until the work has been inspected and approved.

403.02. SEWER SYSTEM GENERAL REGULATIONS.

SUBD. 1. DISCHARGE OF SURFACE WATER, ETC. No person shall discharge or cause to be discharged any storm water, surface water, ground water, cooling water, or unpolluted industrial process water into any sanitary sewer. No rain spout or other form of surface drainage and no foundation drainage shall be connected with any sanitary sewer.

SUBD. 2. NONACCEPTABLE WASTES. No person shall discharge or permit to be discharged into any public sewer any the following wastes:

1. Any liquid or vapor having a temperature in excess of 150 degrees Fahrenheit.
2. Any water or waste having a five-day biological oxygen demand exceeding 1,000 parts per million by weight as averaged during any 12-month period.
3. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
4. Any garbage that has not been properly shredded.
5. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, manure, grit, brick, cement, onyx, carbide, or other matter that may interfere with the proper operation of the sewers or sewage treatment plant.
6. Any water or waste having a pH lower than 6-1/2 or higher than 8-1/2 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the sewage works.
7. Any water or waste containing a toxic or poisonous substance in sufficient quantities to constitute a hazard to humans or animals. injure or interfere with sewage treatment, or create any hazard in the receiving waters of the sewage treatment plant.
8. Any noxious or malodorous gas or substance capable of creating a public nuisance.

SUBD. 3. INTERCEPTORS. Grease, oil, and sand interceptors shall be provided when they are necessary for the proper handling of any liquid waste containing grease in excessive amounts or any flammable waste, sand, or other harmful ingredients; but such interceptors shall not be required for private living quarter or dwelling units. Interceptors shall be located so as to be easily accessible for cleaning and inspection.

SUBD. 4. CONTROL MANHOLE REQUIRED. The owner of any property served by a building sewer carrying industrial waste shall install a suitable control manhole in the building sewer to facilitate observation and sampling of the waste. The manhole shall be constructed by the owner in accordance with plans approved by the city engineer. The owner shall maintain the manhole so as to be safe and accessible at all times.

SUBD. 5. SEPARATE SEWERS. A separate and independent sewer shall be provided for every building connected to the sewer system except that the council may waive the requirement where it finds that a separate sewer for a building is impractical.

403.03. SEWER CONNECTION REQUIRED.

SUBD. 1. GENERAL REQUIREMENT. When property abuts upon any public street or alley along which water and sewer mains have been constructed, the owner of any dwelling or commercial establishment on the property shall install suitable toilet facilities therein and connect them with the sanitary sewer in accordance with the provisions of this ordinance within 90 days after the date of mailing or delivering official notice to do so. The notice shall be given to the owner or occupant in writing by the city clerk on order of the council.

SUBD. 2. CONNECTION BY THE CITY. Whenever any owner or occupant fails to comply with such written notice, the council shall by resolution direct that a toilet be installed and connection made with the water and sewer system and that the cost of the installation be paid in the first instance out of the general fund and then assessed against the property benefited.

SUBD. 3. ASSESSMENT. After the installation and connection have been completed pursuant to council resolution, the clerk shall serve a written notice of the assessment upon the owner or his representative directing him to pay the assessment to the treasurer within ten days after the service of the notice. If the assessment is not paid within ten days, the clerk shall certify the amount to the county auditor for collection in the same manner as other special assessments. The council may by resolution spread the assessment over a three-year period.

403.04. SEWER RATES.

SUBD. 1. GENERAL RATES FOR SEWER SERVICE. Each user of sewer service to property shall be determined from time to time by the city council.

SUBD. 2. SPECIAL CASES. In the case of an industrial user contributing wastes to the sewage disposal system in disproportionate amounts or concentrations, the council shall make an individual study of the particular use and fix an individual charge that is commensurate with the burden placed by the wastes upon the sewer treatment plant. If a building served by sewer is not served by city water and the council determines that the flat rate sewer service charge inaccurately measures use of the sewer system, the council may order installation of a meter accurately measuring the amount of water that enters the sewer system, and fix the sewer service charge on the basis of such amount. Insofar as practicable, installation and maintenance of such meters shall conform to the regulations contained in this code.

SUBD. 3. REQUIRED INFORMATION. The owner, occupant, or person in charge of any premises shall supply the city with such information as it may reasonably require to the use of water, use of sewer, or sewer rates. Willful failure to provide such information, or willful falsification of such information, or willful failure to comply with any requirement or order issued pursuant to this section constitutes a violation of this section.

SUBD. 4. DISPOSITION OF REVENUES. All revenues derived from charges imposed under this section shall be credited to the separate water/sewer funds.

PART 4. INDIVIDUAL SEWAGE DISPOSAL SYSTEMS

404.01. DEFINITIONS.

SUBD. 1. WORDS AND PHRASES. For the purposes of this part, the following words and phrases have the meanings given them in this section.

SUBD. 2. SEWAGE. Sewage is any water-carried domestic waste, exclusive of footing and roof drainage, of any residence, industry or commercial establishment, whether treated or untreated, and includes the liquid wastes produced by bathing, laundry and culinary operations, and from toilets and floor drains. Raw sewage is sewage which has not been subjected to any treatment process.

SUBD. 3. INDIVIDUAL SEWAGE DISPOSAL SYSTEM. An individual sewage disposal system is a sewage disposal system, other than a public or community system, which receives sewage from an individual establishment. Unless otherwise indicated, the word "system" as it appears in this ordinance means "individual sewage disposal system".

SUBD. 4. BUILDING DRAIN. The building drain is that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of any building and conveys the same to the building sewer.

SUBD. 5. BUILDING SEWER. The building sewer is that part of the horizontal portion of the building drainage system extending from the building drain to its connection with the septic tank and carrying the sewage of but one building.

404.02. CODE ADOPTED. The 1977 edition of the Minnesota Individual Sewage Treatment System Standards (6 MCAR, Section 4.8040) recommended by the Minnesota Pollution Control Agency is hereby adopted by reference and made a part of this ordinance as if fully set forth herein. Before publication of this code of ordinances, the clerk shall mark at least one copy of the Pollution Control Agency Code as an official copy and file it in his office for use and examination.

404.03. LICENSING. No person shall engage in the business of installing and constructing sewage disposal systems within the City of Balaton without first obtaining a license to carry on such occupation from the city council and procuring and posting with the city clerk a bond in the amount of \$10,000-00 in favor of the city and the public, conditioned upon the faithful performance of contracts and compliance with this ordinance. Such license shall be renewable annually on or before December 31 and may be revoked as provided in this code for licenses generally. Any installation, construction, alteration or repair of a sewage disposal system by a licensee in violation of the provisions of Section 404.05 or refusal on the part of a licensee to correct such defective work performed by such licensee shall be cause for revocation of or refusal to renew a license.

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

an amount as provided in Chapter X of this code. Application for such license shall be made annually on a form furnished by the clerk.

404.04. PERMITS.

SUBD. 1. PERMIT REQUIRED. No person shall install, alter, repair, or extend any individual sewage disposal system in the city without first obtaining a permit therefor from the council or its authorized representative for the specific installation, alteration, repair, or extension; and, at the time of applying for the permit, shall pay a fee therefor in an amount as provided for in Chapter X of this code. Permits shall be valid for a period of six months from date of issue.

SUBD. 2. APPLICATIONS. Applications for a permit shall have thereon the correct legal description of the property on which the proposed installation, alteration, repair, or extension is to take place, and each application for a permit shall be accompanied by a plot plan of the land showing the location of any proposed or existing buildings located on the property with respect to the boundary lines of the property and complete plans of the proposed system with substantiating data, if necessary, attesting to the compliance with the minimum standards of this ordinance. A complete plan shall include the location, size, and design of all parts of the system to be installed, altered, repaired, or extended. The application shall also show the present or proposed location of water supply facilities and water supply piping, and shall provide further information as may be required by the council.

404.05. CONSTRUCTION REQUIREMENTS. Every individual sewage disposal system installed after the effective date of this ordinance and every alteration, extension, and repair to any system made after that date shall conform to the standards of the code adopted by reference in Section 404.02. Any individual sewage disposal system or pertinent part thereof, irrespective of the date of original installation, which is not located, constructed, or installed in accordance with Items I-B and I-C of the code shall be so relocated, reconstructed, or reinstalled as to comply with the standards of those items.

404.06. ADMINISTRATION. The wastewater operator shall enforce the provisions of this ordinance.

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

If, upon inspection, the wastewater operator discovers that any part of the system is not constructed in accordance with the minimum standards provided in this ordinance, he shall give the applicant written notification describing the defects. The applicant shall pay an additional fee in an amount as provided for in Chapter X of this code for each re-inspection that is necessary. The applicant shall be responsible for the correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated.

404.08. MAINTENANCE.

SUBD. 1. SLUDGE MEASUREMENT AND REMOVAL. At least once a year the owner, or his agent, of any septic tank shall measure or arrange for measurement of the depth of sludge and scum in such septic tank. When, as the result of such measurement, the top of the sludge layer in the tank or any compartment of the tank is found to be less than 12 inches below the bottom of the outlet baffle or submerged pipe, or if the bottom of the scum layer is less than 3 inches above

the bottom of the septic tank outlet baffle or submerged pipe, the owner or agent shall arrange for the removal and sanitary disposal of sludge and scum from the tank; provided that such requirement for measuring shall be waived for any septic tank which is cleaned as indicated at least once each calendar year.

SUBD. 2. REMOVAL OF SOLIDS FROM DISTRIBUTION BOX. At least once each year, the owner of any system equipped with a distribution box shall arrange for the opening of the distribution box and the removal of any settled solids therein. Such material shall be disposed of to the septic tank or by other means acceptable to the council.

SUBD. 3. SEEPAGE PIT LIQUID. At least once between May 1 and June 30 of each year, the depth of liquid in each seepage pit shall be measured. When, as a result of such measurement, it is found that the liquid level in the pit is less than one foot below the inlet, a second measurement shall be made 8 to 12 hours after the first measurement, during which time no liquid shall be discharged to the seepage pit. If, as a result of the second measurement, it is found that the liquid level in the pit has not lowered at least 2 feet during the indicated period of time, an additional seepage pit or other acceptable soil absorption system shall be provided.

404.09. OBJECTIVES. The objectives of this ordinance are to provide adequate and safe methods of sewage disposal and to prevent the contamination of any existing or future water supply by any existing or future sewage disposal system. Any system of special, unusual, or new design which will satisfy the stated objectives may be accepted as complying with this ordinance and any permit granted for the construction, installation, alteration, or repair of any such special system shall be subject to such conditions and guarantees as may be state in the permit.

PART 5. SANITARY SEWER INFLOW AND INFILTRATION

405.01. PURPOSE. The City Council finds that the discharge of water from roof, surface, groundwater, sump pump, footing tile or swimming pool, or other natural precipitation into the municipal sanitary sewer system has the potential to cause property damage and overload the municipal and regional sanitary sewer systems. The City Council therefore finds it essential for the maintenance of health, minimization of property damage, and to maintain the life and capacity of the wastewater treatment system that the provisions of this ordinance be strictly enforced.

405.02. APPLICABILITY. This ordinance shall apply to all water entering the sanitary sewer system unless explicitly exempted by the City. The City and its representatives are authorized to administer, implement, and enforce the provisions of this ordinance.

405.03. DEFINITIONS. For the purpose of this Ordinance, the following terms are defined:

Clear water means storm water, natural precipitation, melting snow, ground water, roof drainage, ground surface and subsurface drainage, down spout, yard drain, sump pump, foundation drain, yard fountain, pond, swimming pool, cistern overflow, or any other water that is not required to be treated by state or federal law, Swimming pool water that is required to be treated in accordance with city, county or state regulations shall not be considered clear water.

Sewer service lateral means all sewer pipes that extend from the municipal sewer main to the structure that it serves. This ordinance is not intended to modify or repeal any other ordinance, rule, regulations, or other provision of law.

405.04. COMPATIBILITY WITH OTHER REGULATIONS. This ordinance is not intended to modify or repeal any other ordinance, rule, regulations, or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall apply.

405.05. Prohibition against Discharge into the Sanitary Sewer System. No person shall discharge or cause to be discharged into the municipal sanitary sewer collection system, or infiltrate into the sanitary sewer system any clear water because of a sump pump, defective plumbing, a defective sewer service lateral or by any other means.

405.06. Sump Pump Regulation. Any dwelling, structure or building that has a sump pump discharge system to remove groundwater from its foundation drain must have a permanently installed discharge line. A “permanently installed discharge line” shall be one which provides for year-around discharge capability to either the outside of the dwelling, building or structure, or is connected to the City storm sewer. It shall consist of a rigid discharge line, without valving or quick connections for altering the path of discharge and, if connected to the City storm sewer line, include a check valve. It shall not be capable of connection or reconnection to the municipal sanitary sewer system.

405.07. Inspection.

Subd. 1. Every person owning improved real estate shall obtain an inspection of each building located on such property by a licensed plumber or inspector that is approved by the City and shall obtain a certificate of compliance issued by the City before such property is offered for sale, gifted or transferred, and before the owner or owner’s representative enters into any contract for deed or other transaction changing the party responsible for the property. The purpose of this inspection shall be to confirm that there is no prohibited discharge into the municipal sanitary sewer system.

Subd. 2. The licensed plumber or inspector must inspect and televise the property’s sump pump, sewer service lateral, and groundwater drainage system, and upon completion, return a recorded copy of the televising along with the inspection form provided by the City documenting the results of the inspection. All costs associated with an inspection by a privately retained inspector or licensed plumber shall be the responsibility of the property owner.

Subd. 3. A certificate of compliance shall be issued by the City upon successful completion of an inspection. A certificate of compliance shall be valid until the property is again offered for sale, gifted or transferred, and before the owner or owner’s representative enters into any contract for deed or other transaction changing the party responsible for the property.

405.08. Corrections. Upon notice that the discharge of clear water on a property is not in compliance with this ordinance, the owner or occupant of the property shall cease from discharging clear water in violation of this ordinance and shall make the necessary repairs and corrections to discharge the clear water in accordance with this ordinance. Discharge of clear water in compliance with this ordinance shall be completed within thirty (30) days of the date of notice of noncompliance, or as determined by the public works director or city administrator. A second inspection of the property will be completed after thirty (30) days following the notice of noncompliance.

405.09. Violations. A monthly surcharge in the amount of \$100.00 per month shall be assessed against any property on which clear water is discharged in violation of this ordinance. The monthly surcharge will be charged on the property’s municipal utility billing statement if one or more of the following conditions apply: (1) an inspection as required herein has not been allowed by the property owner or occupant or a certificate of compliance has not been issued by the city within thirty (30) days after the city’s notice of inspection; (2) the property owner or occupant fails to make the sewer line cleanout readily available for the inspection; (3) the necessary corrections have not been made within the time specified; and (4) the property owner or occupant reconnects a clear water discharge line to the municipal sanitary sewer system after it has been previously disconnected at the city’s or a court’s direction. A surcharge will be assessed for every month during which the property is not in compliance.

405.10. Temporary Waivers.

Subd. 1. The City may grant a temporary waiver from the provisions of this section where strict enforcement would cause a threat of damage or harm to other property, the environment, or public safety because of circumstances unique to the individual property or due to weather conditions. A written request for a temporary waiver must be first submitted to the city administrator specifying the reasons for the temporary waiver. If a temporary waiver is granted, the property owner shall pay an additional fee for sewage service charges based on the number of gallons discharged into the City's sanitary sewer system as estimated by the public works director.

Subd. 2. The public works director may set conditions to the temporary waiver. The public works director may terminate the temporary waiver upon a failure to comply with any conditions imposed on the temporary waiver. The public works director must give a five-day written notice of the termination to the property owner and occupant setting forth the reasons for the termination. After expiration or termination of a temporary waiver, the property owner shall comply with the provisions of this ordinance.

405.11. Appeals. Applications for appeal of any administrative determination made pursuant to this Ordinance shall be addressed in writing to the city administrator within 30 days of the determination. Applications shall at a minimum identify the property for the appeal is sought, the name of the property owner, and describe in detail the determination which is being appealed. Within 60 days of receipt of the application, the City Council shall make its decision on the matter and send a written copy of such decision to the property owner by mail.

405.12. Severability and Validity. The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances be declared by a court of competent jurisdiction to be invalid, such invalidity shall not affect the validity of other provisions or application of this ordinance.

405.13. Effective Date. This ordinance shall take full effect and be in full force from and after passage and publication according to law.

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CHAPTER V. MUNICIPAL REGULATION AND LICENSING

PART 1. GENERAL LICENSING AND PERMIT PROVISIONS

501.01 LICENSING 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. 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 \$10,000.00, 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 will indemnify the city and save it harmless from all loss or damage by reason of inadequate work performed by him or by reason of accident caused by the negligence of 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-cancelable 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:

- a. For injuries, including death therefrom, sustained by any one person - \$300,000.00.
- b. For injuries, including death resulting therefrom, sustained by two or more persons as a result of any one occurrence - \$500,000.00.
- c. For property damage - \$25,000.00.

501.02. FEES.

SUBD. 1. LICENSE FEES. License fees shall be in the amounts established in Chapter X of this code.

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 in this code or by law.

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.

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 the approval of the council or other licensing authority.

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 the 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.

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.

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.

PART 2. REFUSE COLLECTION AND DISPOSAL

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 wastes 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 tins cans, glass, paper, ashes, sweepings, etc.

502.02. GENERAL REGULATIONS.

SUBD. 1. UNAUTHORIZED ACCUMULATION. Any unauthorized accumulation of refuse on any 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 it approval to such composting after it finds that the composting will be done in accordance with these standards.

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 every week.

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 Subd.2.

SUBD. 2. CONTAINER REQUIREMENTS. Each container shall consist of a bag, box or can, of such size as may be reasonably handled by one person and shall be sufficiently sturdy so as not to break during pick-up.

SUBD. 3. PLACEMENT. Each container shall be placed near the curb for pickup. The container shall not be placed near the curb before 6:00 P.M. the night before collection and be removed by 5:00 P.M. the day of collection.

SUBD. 4. 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.

502.05. MUNICIPAL COLLECTION.

SUBD. 1. CITY SYSTEM CONTINUED. There is hereby continued a municipal system for the collection and disposal of refuse accumulated within the city. Any person may transport recyclables to a recycling center, but otherwise no person, except an authorized city employee, shall collect, convey over any street or alley of the city, or dispose of any refuse accumulated in the city except as provided in Section 502.02, Subdivision 4.

SUBD. 2. RESPONSIBILITY FOR CITY SYSTEM. The public works director shall supervise and control the collection and disposal of refuse. In accordance with regular personnel and purchasing procedures, he shall employ necessary personnel and acquire necessary equipment to provide for the collection and disposal of refuse accumulated within the city. Subject to council approval, he may adopt rules and regulations necessary to supplement the provisions of this ordinance.

502.06. RATES AND CHARGES.

SUBD. 1. SCHEDULE. The owner or occupant of any premises served by a city refuse collection contractor shall pay to the city a service charge assessed in accordance with Chapter X of this code.

SUBD. 2. BILLING. The service charge shall be made to the owner or occupant of each building or housing unit served. If the building is served by city water or sewer, the refuse collection charge shall be billed as a separate entry on the water or sewer bill. If the premises are not so served, the refuse collection charge shall be separately billed by the city clerk.

SUBD. 3. PAYMENT. Service charges shall be payable at the same time as bills for water service and subject to the same conditions of payment. If any charge is unpaid on September 1 of any year, the council shall levy an assessment equal to the unpaid charge as of that date plus interest the maximum rate provided by law from the due date of the service charge. The clerk shall certify the assessment to the county auditor for collection in the same manner assessments for local improvements.

SUBD. 4. FUND. All service charges shall be deposited in the garbage fund.

502.07. REFUSE COLLECTION SCHEDULE. Each licensee shall collect refuse from premises for which he has a collection contract in accordance with the following minimum schedule:

May to October - Twice weekly from restaurants, and other premises which in the judgment of the public works director requires such collection, and once a week from residences and other premises.

No refuse shall be collected before 5:30 a.m. or after 8:00 p.m. of any day.

502.08. COLLECTION VEHICLES. Every refuse collection vehicle shall be lettered on the outside so as to identify the see. Every vehicle used for hauling garbage shall be covered, leak-proof, durable, and of easy cleanable construction. Every vehicle used for hauling refuse shall be sufficiently airtight and so used as to prevent unreasonable quantities of dust, paper, or other collected materials to escape. Every vehicle shall be kept clean to prevent nuisances, pollution, or insect breeding, and shall be maintained in good repair.

PART 3. DOGS

503.01. RUNNING AT LARGE PROHIBITED. No dogs shall be permitted to run at large within the city limits of the city. This restriction does not prohibit the appearance of any dog upon the streets or public property when the dog is on a leash and is kept under control of the person charged with its care.

503.02. DOGS NUISANCES. The owner or custodian of any dog shall prevent the dog from committing in the city any act which constitutes a nuisance. It is a nuisance for any dog to habitually or frequently bark or cry, to frequent school grounds, or parks, to chase vehicles, to molest or annoy any person away from the property of his owner or custodian, or damage, defile, or destroy public or private property. Failure of the owner or custodian of a dog to prevent the dog from committing such nuisances is a violation of this ordinance.

503.03. CONFINEMENT OF CERTAIN DOGS. Every female dog in heat shall be confined in a building or other secure enclosure in such a manner that it cannot come into contact with another dog, except for planned breeding.

503.04. QUARANTINE OF CERTAIN DOGS. Any dog which bites a person shall be quarantined for such time as may be directed by the city health officer. During quarantine, the animal shall be securely confined and kept from contact with any other animal. At the discretion of the health officer, the quarantine may be on the premises of the owner; however, if the health officer requires other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or shall, at his own expense, place it in a veterinary hospital.

503.05. MUZZELING PROCLAMATION. When the prevalence of rabies renders such action necessary to protect the public health and safety, the council shall issue a proclamation ordering every person owning or keeping a dog to muzzle it securely so that it cannot bite. No person shall violate such proclamation and any un-muzzled dog unrestrained during the time fixed in the proclamation shall be subject to impoundment as heretofore provided, and the owner of such dog shall be subject to the penalty hereinafter provided.

503.06. PROCEEDINGS FOR DESTRUCTION OF CERTAIN DOGS. Upon sworn complaint to the Lyon County Court that any one of the following facts exist:

1. That any dog at any time has destroyed property or habitually trespasses in a damaging manner on the property of persons other than the owner;
2. That any dog at any time has attacked or bitten a person outside the owner's or custodian's premises;
3. That any dog is vicious or shows vicious habits or molests pedestrians or interferes with vehicles on the public streets; or
4. That any dog is a public nuisance as heretofore defined;

The judges shall issue a summons directed to the owner of the dog commanding him to appear before court to show cause why the dog should not be seized by any police officer, or otherwise disposed of in the manner authorized in this part. Such summons shall be returnable not less than two or more than six days from the date thereof and shall be served at least two days before the time of the scheduled appearance. Upon such hearing and finding the facts true as complained of, the court may either order the dog killed or may order the owner or custodian to remove it from the city, or may order the owner or custodian to keep it confined to a designated place. If the owner or custodian violates such order, any police officer may impound the dog described in such order. The provisions of this sections are in addition to and supplemental to other provisions of this part. Costs of the proceeding specified by this section shall be assessed against the owner or custodian of the dog, if the facts in the complaint are found to be true; or to the complainant, if the facts are found to be untrue.

503.07. IMPOUNDING.

SUBDIVISION 1. POLICE TO IMPOUND. Any dog found running at large contrary to the provisions of this ordinance may be impounded by any police officer, who shall give notice of the impounding to the owner of such dog, if known. If the owner is unknown, the officer shall post a notice at the pound and at city hall that if the dog is not claimed within five (5) days of the posting of the notice, it will be disposed of.

SUBD. 2. REDEMPTION. Any dog may be redeemed from the pound by the owner within the time stated in the notice by the payment to the clerk of an impounding fee as provided in Chapter X of this code together with all costs of impounding, including mileage.

SUBD. 3. DISPOSITION OF UNCLAIMED DOGS. Any dog which is not redeemed within the time specified in Subdivision 2 may be sold for not less than the amount provided in that subdivision to anyone desiring to purchase the dog if it is not requested by a licensed educational or scientific institution under Minnesota Statutes, Section 35.71. All sums received in addition to the fees fixed by Subdivision 2 shall be paid to the owner if he makes a claim within one year of the sale and furnishes satisfactory proof of owner ship. Any dog which is not claimed by the owner or sold shall be painlessly killed and buried by the pound-master.

503.08. PENALTY.

SUBD. 1. PETTY MISDEMEANOR. Any person keeping a dog without a license or allowing a dog under his control to run a large is guilty of a petty misdemeanor.

SUBD. 2. MISDEMEANOR. Any person who shall allow a dog under his control to commit a nuisance, as provided in Section 503.02, above is guilty of a misdemeanor.

PART 4. OTHER ANIMALS

504.01. GENERAL PROHIBITION. No person shall keep any horse, cattle, sheep or goat 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.

504.02. AREAS WHERE KEEPING PROHIBITED. No horse, cattle, sheep, goats or pigs shall be kept in the city except within the agricultural zone (or parcel of land exceeding one (1) acre.

504.03. TREATMENT. No person shall treat any animal in a cruel or inhumane manner.

504.04. ANIMALS AT LARGE. No person shall permit any horse, mule, donkey, pony, cattle, sheep, 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.

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

504.06. 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.

504.07. CARE OF PREMISES.

SUBD. 1. CLEAN SHELTERS. Except as otherwise provided in this Chapter, every structure and yard in which animals or chickens are kept shall be maintained in a clean and sanitary condition 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. Except as otherwise provided in this Chapter, manure shall be removed with sufficient frequency to avoid nuisance from odors or from the breeding of flies at least once per month from October 1 to May 1 of each year, and once every two weeks at other times. Unless used for fertilizer, manure shall be removed by hauling it beyond the city limits. If used for fertilizer, manure shall be spread upon the ground evenly and turned under once or as soon as the frost leaves the ground.

504.08. IMPOUNDING.

SUBD. 1. WHO IMPOUNDS. 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.

SUBD. 2. NOTICE. Within 24 hours after any animal has been impounded, the pound-master shall post notices in three conspicuous places in the city, one of them at the pound, describing the animal and stating that it has been impounded. He shall also make a reasonable attempt to give oral or written notice to the owner where known.

SUBD. 3. 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.

SUBD. 4. FEES. The fee for impounding shall be as provided in Chapter X of this code, together with all costs of impounding, including mileage.

SUBD. 5. SALE. If any impounded animal is not redeemed within six (6) days, the pound-master shall give an additional three-day posted notice, as provided in Subdivision 2, of the time and place when and where the animal shall be sold. If the pound-master is unable to sell the animal on the day stated, he may sell the animal as soon thereafter as possible without further notice.

SUBD. 6. PROCEEDS OF SALE. The clerk shall turn over the proceeds of such sale to the treasurer. The treasurer shall pay the pound-master the costs of impounding. The balance shall be paid, on order of the council, to the owner of the animal or fowl if claimed within one (1) year from the date of sale; otherwise, it shall be forfeited to the city.

SUBD. 7. ILLEGAL RELEASE. No authorized person shall break into the pound or release any animal legally placed therein.

504.09. REGULATION OF CHICKENS.

SUBD. 1. KEEPING OF CHICKENS. Chickens may be kept within the City of Balaton pursuant to the conditions prescribed by this chapter. The keeping of any other type of poultry or fowl is prohibited.

SUBD. 2. REQUIREMENTS. Any person keeping chickens within the City of Balaton must comply with the following requirements:

1. All chickens must be hens, no roosters are allowed or permitted. If a permit holder inadvertently keeps a rooster, the permit holder must remove the rooster from the City of

- Balaton within twenty-four (24) hours from the time of discovery.
2. No more than six (6) chickens may be kept on any lot at any time.
 3. Chicken food must be kept in containers designed to prohibit access by rodents and other pests.
 4. Chickens must not be kept in such a manner as to constitute a nuisance to the occupants of any adjacent property.
 5. Dead chickens must be disposed of according to applicable law and must be removed as soon as possible after death, no later than twenty-four (24) hours.
 6. Chicken manure is to be contained in a weather and pest proof container and removed weekly or composted or used as fertilizer and incorporated into the soil.
 7. Chickens kept under this chapter may not be slaughtered within the city limits.
 8. Chickens must be confined inside a coop or a fenced-in run at all times.
 9. Chickens may not be allowed to range freely.

SUBD. 3. PERMIT APPLICATION. A person seeking to obtain a chicken permit must complete and submit an application for a chicken permit to the City. The application must contain the following:

1. The number of chickens that will be kept on any lot.
2. If the applicant is a tenant or rents the property for which the permit is being applied for,
3. Site plans and coop designs.

SUBD. 4. PERMITS. A chicken permit must be obtained from the City to keep chickens within the City of Balaton. The following requirements apply to chicken permits issued by the City:

1. The fee for a chicken permit is \$25.00.
2. A chicken permit is valid for three years from the date of issuance.
3. A permit may only allow between one (1) and six (6) chickens.
4. Only one permit will be issued per lot. If a person wishes to keep chickens at multiple lots, a separate permit must be obtained for each lot.
5. A permit may be issued only if all of the owners of adjacent properties approve the application by signing the application form. Adjoining properties mean all properties within fifty (50) feet of the proposed location of the coop and run that the applicant is applying for a permit t
6. Permits are non-transferable and do not run with the land.
7. A permit constitutes a limited license granted to the holder and does not create a vested zoning right.

SUBD. 5. INSPECTION. As a condition of being granted a chicken permit, the permit holder authorizes the City to inspect the chickens and the areas where they are kept and housed. Absent exigent circumstances or an emergency, the City shall provide the permit holder and property written notice at least twenty-four (24) hours prior to the date and time they plan to inspect the permitted property.

SUBD. 6. COOPS AND RUNS. Coops and runs must be constructed and maintained as follows:

1. Coops must be separate from and may not be attached to any other structure.
2. Coops may not be inside any other structure such as a home or garage.
3. Only one (1) coop is permitted per lot.
4. The coop and run must be located in the rear-yard of the property.
5. The coop must comply with all setback requirements contained in Chapter 9 of the City Code.
6. The coop must not be placed in a utility easement.
7. The coop must be fully enclosed.
8. The coop must have an attached run.
9. The maximum height shall not exceed six (6) feet.

10. The maximum total square area of a coop and run shall not exceed one hundred-twenty (120) square feet. Chicken coops are not classified as an accessory structure.
11. The maximum coop size shall not exceed twenty-four (24) square feet and must have at least four (4) square feet per chicken.
12. The run size shall not exceed ninety-six (96) square feet and must have at least ten (10) square feet per chicken. The run must be fenced in on all sides and include a roof. The height of the run fence and roof must not exceed six (6) feet.
13. The coop must be at least twenty-four (24) inches off the ground, or in the alternative, the coop may be placed on a concrete pad.
14. The coop must have sufficiently sized windows to permit natural light inside. Windows must be able to be opened for ventilation. Sufficient ventilation and insulation is required.
15. Construction must be done in a workmanlike manner and with durable material. Coop building materials and exterior colors shall be similar to or compatible with primary structure.
16. There must be sufficient moisture drainage to keep the coop well-drained.
17. The coop must be rodent and predator proof. Any door or access point to the coop or run shall be able to close or otherwise be secured.
18. Coop designs must meet basic humane needs of chickens including heat, cooling, food, water, and protection from the elements.
19. The coop must be removed within thirty (30) days if the permit is revoked or allowed to expire.

SUBD. 7. VIOLATIONS. Any person who commits, causes, permits, or allows a violation of the Provisions of this chapter shall be guilty of a petty misdemeanor punishable by a twenty-five (\$25.00) dollar fine. Each day during which a condition exists which is in violation of this section shall be deemed a separate offense. A permit shall be revoked if a permit holder has two convictions of this chapter within any three-year permit period. Upon revocation, all chickens shall be removed from the property within forty-eight (48) hours.

PART 5 RESERVED FOR LATER USE

PART 6 - ADULT BUSINESSES

506.01. PURPOSE AND INTENT. It is the purpose of this chapter 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:

1. Prevent additional criminal activity within the city;
2. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
3. To locate adult-oriented businesses away from residential areas, schools, churches, parks and playgrounds, and other areas commonly frequented by children;
4. Prevent concentration of adult-oriented businesses within certain areas of the city; and
5. To promote societal order, public health, and to protect children

The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including adult-oriented materials. Similarly, it is not the intent nor effect of this chapter 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.

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

SUBD. 1. Adult Book and/or Media Store. An establishment that has at least 30%, or 3000 square feet, whichever is less, of its floor area, not including storerooms, stock areas, bathrooms, basements, attics, or any portion of the business not open to the public, or at least 30% of its merchandise on display to the public devoted to 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.

SUBD. 2. 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.

SUBD. 3. Adult Hotel or Motel. A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing, or relating to SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS.

SUBD. 4. Adult Mini-Motion Picture Theater.

- a. A theater in an enclosed building, from which minors are excluded from all or part of the establishment with a capacity for less than 50 persons used for presenting motion pictures, including but not limited to film and videotape, 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.
- b. 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 depicting, 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 excerpts of motion pictures offered for sale or rent.

SUBD. 5. Adult Modeling Studio. An establishment which excludes minors from all or part of the establishment whose major business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or 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.

SUBD. 6. Adult Motion Picture Arcade. Any place which excludes minors from all or part of the establishment wherein coin or token-operated or electronically, electrically, or mechanically controlled or operated, still or motor picture machines, or other image-producing devices are maintained to show images of 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.

SUBD. 7. 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 50 or more persons used regularly

and routinely for presenting live entertainment or motion picture, including but not limited to film and videotape, having as a dominant theme material distinguished or characterized by videotape, 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.

SUBD. 8. 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.

SUBD. 9. Adult-Oriented Business. A business that is engaged in any of the following activities or which utilizes any of the following business procedures or practices:

- a. A business that is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage, either by operation of law or by the owners of such business;
- b. An establishment that has at least 30%, or 3000 square feet, whichever is less, of its floor area, not including storerooms, stock areas, bathrooms, basements, attics, or any portion of the business not open to the public, or at least 30% of its merchandise on display to the public devoted to items, merchandise or other material that is distinguished or characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to SPECIFIED SEXUAL ACTIVITIES or SPECIFIED ANATOMICAL AREAS; or
- c. Any other use or business defined in this section.

SUBD. 10. Specified Anatomical Areas. Any of the following conditions:

- a. Less than completely and opaquely covered:
 - (1) Human genitals, pubic region, or pubic hair;
 - (2) Buttock; and
 - (3) Female breast below a point immediately above the top of the areola; and
- b. Human male genitals in a discernibly turgid state, even if opaquely covered.

SUBD. 11. Specified Sexual Activities. Any of the following conditions:

- a. 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 an animal.
- b. 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 fettered, bound, or otherwise physically restricted on the part of the one so clothed.
- c. Masturbation or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ.
- d. 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.

SUBD. 12. Youth Facility. Any facility or outdoor area where a substantial portion of its use or programs are devoted to, or offered for, activities or recreation for minors, regardless of whether such facility is public or private. Such facilities include, but are not limited to, playgrounds, swimming pools, libraries or day care facilities.

506.03. APPLICATION OF REGULATIONS.

1. Except as in this chapter specifically provided, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this chapter.
2. 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, or the United States of America. Nothing in this chapter shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to, statutes or ordinances prohibiting the exhibition, sale, or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.

506.04. LOCATION RESTRICTIONS. During the term of this chapter, no adult-oriented businesses shall be located less than 500 feet from any residential zoning district boundary or from the property line of a site used for residential purposes, or less than 2,800 feet from the property line of any church site, any school site, any day care facility, or any park. In addition, no adult-oriented business may be located within 1,500 feet of another adult-oriented business. For purposes of this chapter, this distance shall be a horizontal measurement from the nearest existing residential district boundary or the property line of any site used for residential purposes, church site, school site, day care site, youth facility, park site, or another adult-oriented business site to the nearest property line of the proposed adult-oriented business site.

506.05. OPERATING REGULATIONS.

SUBD. 1. Hours of Operation. No adult-oriented business site shall be open to the public from the hours of 10:00 p.m. to 8:00 a.m.

SUBD. 2. Off-Site Viewing. An establishment operating as an adult-oriented business shall prevent off-site viewing of its merchandise, which is viewed by a minor, would be in violation of M.S. chapter 617 or other applicable federal or state statutes or local ordinances.

SUBD. 3. Entrances. All entrances provided for the general public shall be visible from a public street with the exception of emergency fire exits which are not usable by patrons.

SUBD. 4. Layout. The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing, including but not limited to, books, magazines, photographs, video tapes, or any other material.

SUBD. 5. Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

SUBD. 6. Signs. Signs for adult-oriented businesses shall comply with the city's sign ordinance; in addition, signs for adult-oriented businesses shall not contain representational depictions of an adult nature or graphic descriptions of the adult theme of the operation.

506.06. ADDITIONAL CONDITIONS FOR ADULT CABARETS. The following additional conditions apply to adult cabarets.

1. No owner, operator or manager of an adult cabaret shall permit or allow any dancer or other live entertainer to display specified anatomical areas.
2. No dancer, live entertainer, performer, patron or any other person shall display specified anatomical areas in an adult cabaret.
3. The owner, operator or manager of an adult cabaret shall provide the following information to the city concerning any persons who dance or perform live entertainment at the adult cabaret: The person's name, home address, home telephone number, date of birth, and any aliases.
4. No dancer, live entertainer, or performer shall be under 18 years old.
5. All dancing or live entertainment shall occur on a platform intended for that purpose and which is raised at least two (2) feet from the level of the floor.
6. No dancer, live entertainer, or performer shall perform any dance or live entertainment closer than ten (10) feet to any patron.
7. No dancer, live entertainer, or performer shall fondle or caress any patron and no patron shall fondle or caress any dancer or performer.
8. No patron shall pay or give any gratuity to any dancer, live entertainer, or performer.
9. No dancer, live entertainer, or performer shall solicit any pay or gratuity from any patron.

506.07. LICENSES; FEES.

SUBD. 1. License Required. All establishments, including any business operating at the time this chapter becomes effective, operating or intending to operate an adult-oriented business, shall apply for and obtain a license with 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.

- 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 (6) inches.
- b. The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with the appropriate state, county, and local laws and codes by the fire marshal and building official.
- c. Application for licenses shall contain the address and legal description of the property to be used; the name, address, phone number, date of birth of the owner/lessee, if any, the operator or manager, and all employees; the names, addresses, and phone numbers of two persons who shall be residents of the state 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 the accurate information as to the time, place, and nature of such crime or offense including the disposition thereof; the names and addresses of all creditors of the applicant, owner, lessee or manager insofar as 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 its 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, owners, 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 any creditors who have extended credit for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation.
- 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. Insurance or Renewal of License. The city administrator shall issue or renew a license to an applicant within thirty (30) days after receipt of an application unless the administrator denies the application, having found one or more of the following to be true:

- a. An applicant is under 18 years of age.
- b. An applicant is overdue in his payment to the city, county, or state of taxes, fees, fines, or penalties assessed against him or her or imposed upon him or her in relation to an adult-oriented business, or if the state prohibits the issuance of such a license because of taxes, fees, fines, or penalties assessed against him or her.
- c. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
- d. An applicant has been convicted of a violation of a provision of this chapter, other than the offense of operating an adult-oriented business without a license, within two (2) years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
- e. The premises to be used for the adult-oriented business have not been approved by the fire marshal as being in compliance with applicable laws and ordinances. Such inspections shall be completed within thirty (30) days from the date the application was submitted, provided that the application contains all of the information required by this chapter. If the application is deficient, the inspections shall be completed within thirty (30) days from the date the deficiency has been corrected.
- f. The license fee required by this chapter has not been paid.
- g. An applicant has been convicted of a crime involving any of the following offenses:
 - 1) Any sex crimes as defined by M.S. §§609.29 through 609.352, inclusive, or as defined by any ordinance or statute in conformity therewith;
 - 2) Any obscenity crime as defined by M.S. §§617.23 through 617.299, inclusive, or as defined by any ordinance or statute in conformity therewith; for which:

- (a) Less than two (2) 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;
 - (b) Less than five (5) 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
 - (c) Less than five (5) 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 offense or combination of misdemeanor offense occurring within any 24-month period.
- 3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.

SUBD. 4. Requalification. An applicant who has been convicted of an offense listed in Section 506.07.3(1) and (2) above may qualify for an adult-oriented business license only when the time period required by Section 506.07.3(1) and (2) has elapsed.

SUBD. 5. Notice of Decision on Application. The city administrator shall send notice of a decision on the application within the 30-day review period to the applicant by mail, postage prepaid, at the address on the application. The notice shall state whether the city administrator finds the application acceptable and a license is to be issued or renewed, or whether the application is denied and the reasons for the denial.

SUBD. 6. Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the adult-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. 7. Council Action. If an application is denied by the city administrator, the applicant may appeal to the city council by filing a written notice of appeal within ten (10) days after the notice of decision. Any such appeal must be acted on by the council within thirty (30) days after the notice of appeal is received by the city.

SUBD. 8. Correction of Deficiency. If the application is denied by the city administrator, the applicant may correct any deficiency and the administrator shall act on the corrected application within thirty (30) days from the date the deficiency has been corrected. If the determination of deficiency has been appealed to the city council, the council shall act on the corrected application within thirty (30) days from the date that the city receives the appeal.

SUBD. 9. Appeals. If the city council denies the appeal, the applicant may commence an action in state court within fifteen (15) days after notification by the city of the denial for the purpose of determining whether the city acted properly. The applicant may not commence doing business unless the action is concluded in his favor.

SUBD. 10. Notification. Any notification required to be sent by the city is deemed completed when mailed by first class mail to the applicant or licensee at the address listed in the application.

SUBD. 11. Fees. Fees shall be set by city council resolution.

506.08. INSPECTIONS.

SUBD. 1. Access. An applicant or license holder shall permit 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 Inspections. A person who operates an adult-oriented business or his or her agent or employee commits an offense if he or she refuses to permit a lawful inspection of the premises by representatives of the police department or fire department at any time is occupied or open for business. Refusal to permit inspections may result in the suspension of the license as provided in 506.09.

SUBD. 3. Exceptions. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

506.09. EXPIRATION AND RENEWAL.

1. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in Section 506.07. Application for renewal should be made at least sixty (60) days before the expiration date, and when made less than sixty (60) days before the expiration date, the license may expire, depending on the timing of the application and possible appeals as described in Section 506.07
2. When the city denies renewal of a license, the applicant shall not be issued a license for one (1) 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 denial date became final.

506.10. SUSPENSION.

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

- a. Violated or is not in compliance with any provisions of this chapter.
- b. Engaged in the use or sale of alcoholic beverages or controlled substances 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 chapter.
- 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 by the city council shall be preceded by written notice to the licensee and a 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 business premises with the person in charge thereof.

SUBD. 3. Appeal. If the city council suspends a license, the licensee may commence an action in state or federal court within fifteen (15) days after notification by the city of the suspension for purposes of determining whether the city council acted properly. The licensee may continue doing business until the conclusion of the action.

506.11. REVOCATION.

SUBD. 1. Causes of Revocation. The city council may revoke a license if it determines that:

- a. A licensee 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 alcoholic beverages or 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 licensee has been convicted of an offense listed in Section 506.07.3(1) for which the time period required in Section 506.07.3(1) has not elapsed;
- f. If, 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 506.07.3(2) 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. If a cause of suspension in Section 506.10 occurs within 36 months after suspension of a license.

SUBD. 2. Appeals. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

SUBD. 3. Exceptions. Section 506.11.9 above 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. 4. Granting a License After Revocation. When the city revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued an adult-oriented business license for one (1) 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 506.10 above an applicant may not be granted another license until the appropriate number of years required under Section 506.07.3.9 has elapsed.

SUBD. 5. Notice. A revocation by the city council shall be by written notice to the licensee and a 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.

SUBD. 6. Appeal. If the city council revokes a license, the licensee may commence an action in state or federal court within fifteen (15) days after notification by the city of the revocation for purposes of determining whether the city council acted properly. The licensee may continue doing business until the conclusion of the action.

506.12. TRANSFER OF LICENSE. A licensee shall not transfer this license to another, 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.

506.13. PENALTY. Any person who intentionally violates any provision of this chapter is guilty of a misdemeanor.

505.14. SEVERABILITY. Every section, provision, or part of this ordinance is declared severable from every other section, provision, or part thereof to the extent that if any section, provision, or part of this ordinance be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

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CHAPTER VI. LIQUOR AND BEER

PART 1. INTOXICATING LIQUOR LICENSING

601.01. PROVISIONS OF STATE LAW ADOPTED. The provisions of Minnesota Statutes, Chapter 340A, relating to the definition of terms, licensing, consumption, sales, financial responsibility of licensees, hours of sale, and all consumption of intoxicating liquor are adopted and made a part of this ordinance as if set out in full.

601.02. LICENSE REQUIRED.

SUBD. 1. GENERAL REQUIREMENT. No person, except a wholesaler or manufacturer to the extent authorized under state license, shall directly or indirectly deal in, sell, or keep for sale in the city any intoxicating liquor without a license to do so as provided in this ordinance. Liquor licenses shall be of three kinds: (1) "on-sale" (2) "on-sale" wine (3) club licenses.

SUBD. 2. ON-SALE LICENSES. "On-sale" licenses shall be issued only to hotels, clubs, restaurants, and exclusive liquor stores and shall permit "on-sale" of liquor only.

SUBD. 3. ON-SALE WINE LICENSES. "On-sale" wine licenses shall be issued only to restaurants meeting the qualifications of Minnesota Statutes Section 340A.404, Subdivision 5, and shall permit only 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.

SUBD. 4. SPECIAL CLUB LICENSES. Special club licenses shall be issued only to incorporated clubs or congressionally chartered veteran's organizations which have been in existence at least three years.

601.03. APPLICATION FOR LICENSE.

SUBD. 1. FORM. Every application for a license to sell 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 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. FINANCIAL RESPONSIBILITY. No liquor license may be issued, maintained, or renewed unless the applicant demonstrates proof of financial responsibility as defined in Minnesota Statutes Section 340A.409 with regard to liability under the statutes, Section 340A.801. Such proof shall be filed with the Commissioner of Public Safety. (Applicants for liquor licenses to whom the requirement for proof of financial responsibility applies include applicants for wine licenses with sales of less than \$10,000 of wine per year.) Any liability insurance policy filed as proof of financial responsibility under this subdivision shall conform to Minnesota Statutes Section 340A.409.

SUBD. 3. APPROVAL OF SECURITY. The security offered under Subdivision 2 shall be approved by the city council and in the case of applicants for "on-sale" wine licenses by the state Commissioner of Public Safety. Liability insurance policies required by this ordinance but not by state law and surety bonds required under Subdivision 2 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.

601.04. LICENSE FEES.

SUBD. 1. FEES. The annual fees for an "on sale" license, an "on sale" wine license, and special club license shall be provided in Chapter X of this Code.

SUBD. 2 PAYMENT. Each application for a 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 under Section 601.05, Subdivision 1, if any. All fees shall be paid into the general fund. If an application for a 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 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.

601.05. GRANTING OF LICENSES.

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 as provided in Chapter X of this code and the city shall conduct a preliminary background and financial investigation of the applicant. The application in such case shall be made on a form prescribed by the state Bureau of Criminal Apprehension and contain such additional information as the council may require. If the council deems it in the public interest to have an investigation made on a particular application for renewal of an "on-sale" license it shall so determine. If the council determines that a comprehensive background and 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 issuance would not be in the public interest. If an investigation outside the state is required, the applicant shall be charged the actual cost not to exceed \$10,000. The fee, after deducting any initial investigation fee already paid, 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 "on-sale" wine 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 LICENSE; 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 to stock or 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.

SUBD. 4. RESTRICTION ON NUMBER OF LICENSES ISSUED. The number of "on-sale" liquor licenses which may be issued shall be governed by the provisions of Minnesota Statutes Section 340A.413, as amended.

- a. in statutory cities of 500 – 2,500 population, not more than four (4) licenses;
- b. in statutory cities under 500 population, not more than three (3) licenses.

601.06. PERSONS INELGIBLE 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.

601.07. PLACES INELIGIBLE FOR LICENSE.

SUBD. 1. GENERAL PROHIBITION. No license shall be issued or 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 bus except an exclusive liquor store, until it has been in operation continuously for one year.

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 within 500 feet of any school or within 100 feet of any church. In applying this restriction, the distance shall be measured between the main front entrances of the two buildings following the route or ordinary pedestrian travel.

601.08. CONDITION OF LICENSE.

SUBD. 1. IN GENERAL. Every license is subject to the conditions of this ordinance and of any other applicable ordinance, state law or regulation.

SUBD. 2. INSURANCE. Compliance with financial responsibility requirements of state law and of this ordinance is a continuing condition of any license granted pursuant to this ordinance.

SUBD. 3. 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 in this ordinance and the law equally with the employee.

SUBD. 4. 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. 5. DISPLAY DURING PROHIBITED HOURS. No "on-sale" establishment shall display liquor to the public during hours when the sale of liquor is prohibited.

601.09. RESTRICTIONS ON PURCHASE AND CONSUMPTION. 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 340A.414 and no person shall consume liquor in any such place.

601.10. SUSPENSION AND REVOCATION.

The council shall either suspend for up to 60 days or revoke any liquor license, or impose a civil fine not to exceed \$2,000, for each violation upon a finding that the licensee has failed to comply with any applicable statute, regulation, or ordinance relating to alcoholic beverages. Except in cases of failure of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to Minnesota Statutes Sections 14.57 to 14.70 of the administrative procedure act.

Lapse of required dram shop insurance or bond, or withdrawal of a required deposit of cash or securities, shall effect an immediate suspension of any license issued pursuant to this ordinance without further action of the city council. Notice of cancellation, lapse of a current liquor liability policy or bond, or withdrawal of deposited cash or securities shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance

or bond, or withdrawal of a required deposit, or of suspension or revocation of a license, may request a hearing thereon and if such a request is made in writing to the clerk, a hearing shall be granted within 10 days or such longer period as may be requested. Any suspension under this paragraph shall continue until the city council determines that the financial responsibility requirements of this ordinance have again been met.

PART 2. MUNICIPAL LIQUOR DISPENSARY

602.01. PROVISIONS OF STATE LAW ADOPTED. The provisions of Minnesota Statutes, Chapter 340A, 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 in or by a municipal liquor dispensary are adopted and made a part of this ordinance as if set out in full.

602.02. DISPENSARY CONTINUED. The municipal liquor dispensary previously established is hereby continued for the "on-sale" and "off-sale" of intoxicating liquor. No liquor may be sold at retail elsewhere in the City or by anyone not employed in the dispensary, except that the "on-sale" of such liquor is permitted in such clubs, hotels, or restaurants as may lawfully be authorized and licensed by the council.

602.03. LOCATION AND OPERATION.

SUBD. 1. LOCATION. The dispensary shall be located at such suitable place in the City as the council shall determine, but no premises upon which taxes, assessments, or other public charges are delinquent shall be leased for dispensary purposes.

SUBD. 2. MANAGER. The dispensary shall be in the immediate charge of a liquor store manager selected by the council and paid such compensation as is fixed by the council. The liquor store manager shall furnish a surety bond to the municipality, conditioned upon the faithful discharge of the manager's duties, in such sum as the council shall specify. The bond premium shall be paid by the City. The manager shall operate the dispensary under the council's direction and shall perform such duties in connection with the dispensary as may be imposed upon the manager by the council. The manager shall be responsible to the council for the conduct of the dispensary in full compliance with this ordinance and with the laws relating to the sale of liquor and beer.

SUBD. 3. OTHER EMPLOYEES. The council shall also appoint such additional employees as may be required for the dispensary and shall fix their compensation. All employees, including the manager, shall hold their positions at the pleasure of the council. No minor shall be employed in the dispensary. In the discretion of the council, such employees may be required to furnish surety bonds conditioned for the faithful discharge of their duties, in such sums as the council may specify. The premium on such bonds shall be paid by the City.

602.04. DISPENSARY FUND CONTINUED.

SUBD. 1. FUND CONTINUED. The municipal liquor dispensary fund previously created is hereby continued. All revenues received from the operation of the dispensary shall be deposited and from which all ordinary operating expenses shall be paid. Any amounts it may be necessary to borrow from the general fund of the City for initial costs of rent, fixtures and stock or for operating expenses shall be reimbursed to that fund out of the first available moneys coming into the dispensary fund thereafter. Surpluses accumulating in the dispensary fund may be transferred to the general fund or to any other appropriate fund of the City by resolution of the council and expanded for any municipal purpose.

SUBD. 2. RECEIPTS AND DISBURSEMENTS. The handling of municipal liquor dispensary receipts and disbursements shall comply with the procedure prescribed by law for the receipts and disbursements of the City funds generally.

SUBD. 3. AUDIT. The council shall provide as soon as possible following the close of each fiscal year for an audit of the accounts of the municipal liquor dispensary for that fiscal year by the state auditor or a qualified public accountant.

SUBD. 4. PROHIBITED BUSINESS. No business other than the sale of liquor shall be carried on in the dispensary except the retail sale of cigars, cigarettes, all forms of tobacco, soft drinks and beer, both "on-sale" and "off-sale".

602.05. ENFORCEMENT. It shall be the duty of all police officers in of the City to enforce the provisions of this ordinance, to search and seize evidence of law violation and preserve the same as evidence against any person alleged to be violating this ordinance, and to prepare the necessary processes and papers therefor.

PART 3. BEER LICENSING

603.01. DEFINITION OF TERMS.

SUBD.1. BEER. As used in this ordinance, "beer" or "non-intoxicating malt liquor" means any malt beverage with an alcoholic content of 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.

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"; and (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. Regular "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 nonprofit 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.

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.

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 in each year. Each license except a temporary license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the license is granted, the license shall be issued for remainder of the year for a pro rata fee. In computing such fee, any un-expired fraction of a month shall be counted as one month. A temporary license shall be issued for a specific period in which a special event to which the sale in incident is being held and such period shall be stated on the license.

SUBD. 3. FEES. The annual fees for a regular “on-sale” license, “off-sale” license, and temporary “on-sale” license shall be provided in accordance with Chapter X of this code.

SUBD. 4. REFUNDS. No part of the fee paid for any license under this ordinance shall be refunded except in the following instances upon application to the council with 30 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.

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 reuse 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.

603.06. PERSONS INELIGIBLE FOR LICENSE. No license shall be granted to or held by any person who:

1. is under 21 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, 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 licensee;
3. is a manufacturer of beer or is interested in the control of any place where beer is manufactured;
4. is an alien of the City;
5. is not of good moral character;
6. 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
7. is not the proprietor of the establishment for which the license is issued.

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 of 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 500 feet of any public school or within 100 feet of any church. In applying this restriction, the distance shall be measured between the main front entrances of the two buildings following the route of ordinary pedestrian travel.

SUBD. 3. SIX MONTHS PRIOR ELIGIBILITY. No "on-sale" license shall be granted for a business or club which has not been in regular operation and eligible to receive a license for at least six months immediately preceding the application for a license.

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 UNDER-AGE OR INTOXICATED PERSONS. No beer shall be sold or served to any intoxicated person or to any person under 21 years of age.

SUBD. 3. CONSUMPTION BY UNDER-AGE PERSONS. No person under 21 years of age shall be permitted to consume beer on the licensed premises unless accompanied by his parent or legal guardian.

SUBD. 4. EMPLOYMENT OF UNDER-AGE PERSONS. No person under 18 years of age 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.

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, Section 340.031. No retail licensee and or wholesaler of beer shall be parties to any exclusive contract. No retail licensee shall receive 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 DEALER'S 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 liquor 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 liquor 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 six persons.

603.09. CLOSING HOURS. No sale of beer shall be made on any Sunday between the hours of 1:00 a.m. and 12:00 noon, nor shall any sale be made between the hours of 1:00 a.m. and 8:00 a.m. on any other day, nor at any other time prohibited by Minnesota Statutes Section 340A.

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

603.11. RESTRICTIONS ON PURCHASE AND CONSUMPTION.

SUBD. 1. AGE MIS-REPRESENTATION. 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. CONSUMPTION PROHIBITED – WHERE. No beer shall be consumed in any theater, recreation hall or center, dance hall, street, alley, or any other public thoroughfare, or other place of public gathering used for the purpose of entertainment, unless the same has been duly licensed by the City of Balaton for the sale of beer.

SUBD. 7. 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.

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.

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CHAPTER VII. TRAFFIC AND MOTOR VEHICLES

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.

701.02. TURNING.

SUBD. 1. RESTRICTIONS 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 turning of vehicles to the left or to the right, or both, is to be restricted at all times or during specified hours. The public works director shall mark by appropriate signs any intersection so designated until the consent of the Commissioner of Transportation 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 sign.

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

701.04. TRUCK RESTRICTIONS. The city council by resolution may designate any streets on which travel by commercial vehicles in excess of 28,000 pounds gross weight is prohibited. The public works director shall erect appropriate signs on such streets. No person shall operate a commercial vehicle on such posted streets in violation of the restrictions stated.

701.05. PARKING REGULATIONS.

SUBDIVISION 1. ANGLE AND PARALLEL PARKING. Angle parking shall be required on the following streets:

1. The southwesterly boundary of Lake Avenue from Second Street to Third Street.
2. The southwesterly boundary of Lake Avenue from Third Street to 3rd/4th alley.
3. The northwesterly boundary of Third Street from Lake Avenue to Mound Avenue.
4. The southeasterly boundary of Third Street from Lake Avenue to Mound Avenue.
5. The northeasterly boundary of Central Avenue from Second Street to Third Street.
6. The southwesterly boundary of Central Avenue from Second Street to Third Street.
7. All of Summit Avenue from Second Street to Third Street.

On any such street, every vehicle parked shall be parked with the front of the vehicle facing the curb or the edge of the traveled portion of the street at an angle of approximately forty-five (45) 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 public works director 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.

SUBD. 3. TIME LIMIT PARKING ZONE. The city council may by resolution designate certain areas where the right to park is limited during the hours specified. The public works director 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. IMPOUNDMENT. The following motor vehicles parked in the city are subject to towing and impoundment:

1. Any vehicle found to be in violation of the winter parking rules provided in Paragraph 701.06, hereafter.
2. Any vehicle parked in such a manner as to create a significant public safety hazard.
3. Any vehicle parked on private property without the consent of the property owner.

Any officer of the Lyon County Sheriff's Department may ticket and require the owner or driver of any vehicle parked in violation of this Subdivision to move the offending vehicle, or if the owner is not available, remove or cause the vehicle to be removed and impound the offending vehicle. Such vehicle shall not be released from impoundment until the fees for towing and storage are paid in addition to any fine imposed for violation of this ordinance.

SUBD. 5. TRUCK PARKING. It is unlawful to park a semi-trailer, truck-tractor, detached semitrailer or any other truck with a capacity of over nine (9) tons on any street within the City, except for the period of time reasonably necessary for loading and unloading; provided, however, that any such truck may be parked in any area, or areas, that have been designated and marked by appropriate signs as "Truck Parking" zones pursuant to city council resolution.

SUBD. 6. PRIMA FACIE VIOLATION. The presence of any motor vehicle on any street when standing or parking in violation of this ordinance is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of this violation.

701.06. WINTER PARKING.

SUBD. 1. DEFINITIONS. The following words, terms and phrases, when used in this section shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

- a. "Designated official shall be the Director of Public Works or the City Clerk.
- b. "Snow Emergency" means a condition created on city streets because of the presence of snow, freezing rain, sleet, ice or snow drifts thereon, or other natural phenomenon which create or are likely to create hazardous road conditions or impede or are likely to impede the free movement of fire, health, police, emergency or other vehicular traffic when such emergency has been duly declared by a designated official.
- c. "Notice of Snow Emergency." After or during a snow emergency, a designated official is authorized to declare in writing a snow removal emergency which shall be announced by radio broadcast as soon as possible on the local radio stations and shall be posted at city hall. Such notice shall constitute due and proper notice to the public. A snow removal emergency shall end at the expiration of a 24-hour period unless the emergency shall be renewed and be announced by a designated official.

SUBD. 2 PROHIBITED PARKING. It is unlawful for any person to park a vehicle or permit a vehicle to remain parked on any city street, alley, boulevard, or utility right of way adjacent to a public street after a snow removal emergency has been declared.

701.07. 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 chief of police may establish safety zones, lanes of traffic, and stop intersections, and he may order installation by the public works director of stop signs, yield signs, warning signs, signals, pavement markings, or other devices. No regulation may be established on a trunk highway unless the consent of the Commissioner of Transportation is first secured.

SUBD. 1. PROHIBITED FISHING AREAS. No person shall take fish by angling, spearing or netting from the following areas located within the city limits of the City of Balaton:

- a. the right-of-way of US Highway 14 at Department of Transportation Bridge No. 5774;
And
- B. the suspended drainage line located next to US Highway 14.

701.08. REMOVING KEYS. No person shall leave a motor vehicle, except a truck which is engaged in loading or un-loading, unattended on any street, used car lot, or unattended parking lot without first stopping the engine, locking the ignition, and removing all ignition keys from the vehicle. Whenever any police officer finds any motor vehicle standing in violation of this provision, he shall remove the keys from the vehicle and deliver them to police headquarters.

701.09. 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, and throwing of sand or gravel, or in a manner simulating a race. Unreasonable squealing or screeching sounds emitted by tires, or the throwing of sand or gravel by the tires is prima facie evidence of a violation of this section.

701.10. SNOWMOBILES.

SUBD 1. SCOPE OF APPLICATION. Notwithstanding provisions of this chapter to the contrary, this section shall apply to control of traffic and regulation of that certain class of vehicles falling within the definition of snowmobiles as to matters set forth herein. For the purpose of this section, a snowmobile means a self-propelled vehicle designed for travel on snow or ice or a natural terrain steered by wheels, skis or runners. All provisions of this chapter, not relating to matters herein stated, apply as equally to snowmobiles as other vehicles.

SUBD. 2. CERTAIN STATUTES ADOPTED. Minnesota Statutes, Sections 84.81 through 84.89, inclusive, as amended, together with rules and regulations promulgated there under, are hereby adopted by reference, incorporated herein, and made a part thereof, except as otherwise provided herein.

SUBD. 3. PRIVATE PROPERTY. It is a misdemeanor to operate a snowmobile on private property without the permission or consent of the owner or occupant.

SUBD. 4. SIDEWALKS AND BOULEVARDS. It is a misdemeanor to operate a snowmobile on a sidewalk or boulevard, except that a direct crossing may be made in the same manner as provided for direct crossing of a city street.

SUBD. 5. OPERATION ON ROADWAYS, PUBLIC LANDS AND WATERS. Snowmobiles may be operated on roadways, public lands or waters except as herein prohibited. It is a misdemeanor to operate a snowmobile upon roadways or public lands or waters as follows:

1. Other than on the right-hand side of any roadway not otherwise prohibited herein.
2. Other than single file on a roadway.

3. On publicly owned land, except roadways, but including cemetery grounds, park property, playgrounds, recreational areas or other public property without express permission from the appropriate governmental authority.

SUBD. 6. DIRECT CROSSINGS. It is a misdemeanor to cross a roadway, except at a controlled intersection, in any manner other than as follows:

1. The crossing shall be made at an angle of approximately ninety (90) degrees to the direction of the street and at a place where no obstruction prevents a quick and safe crossing.
2. The snowmobile shall be brought to a complete stop before crossing the shoulder or main-traveled way of the street.
3. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.
4. In crossing a divided street, the crossing shall be made only at an intersection of such street with another public street.
5. If the crossing is made between the hours of one-half hour after sunset to one-hour before sunrise or under conditions of reduced visibility, the front and rear lights shall be illuminated.

SUBD. 7. PROHIBITED ACTS. It is a misdemeanor for any person to operate a snowmobile in the following ways:

1. At a rate of speed greater than reasonable or proper under all the surrounding circumstances, but in no event in excess of twenty (20) miles per hour.
2. In a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
3. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.
4. To tow any person or object except through use of a rigid tow-bar attached to the rear of the snowmobile except when the object being towed is a mechanically disabled snowmobile.
5. To intentionally drive, chase, run over or kill any animal with a snowmobile.
6. In any tree nursery or planting in a manner which damages or destroys growing stock.
7. In such manner as to annoy or disturb the rest or repose of the public.
8. Abreast with one or more snowmobiles upon any street or other public property.
9. So as to pass or attempt to pass another snowmobile while on any street or other public property.
10. A person fourteen (14) years of age or older, but less than eighteen (18) years, must have a valid snowmobile license to operate on the street within the city limits of Balaton.
11. Any person under eighteen (18) years of age, while operating a snowmobile within the city limits of Balaton, must wear a helmet, including a passenger.
12. No person shall operate a snowmobile within the city limits of Balaton on a street where snow removal equipment is in operation.

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 provision of this ordinance and the state traffic laws. Officers of the fire department may direct or assist the police in directing traffic at the scene of a fire or in the immediate vicinity.

701.12. PENALTY. Any person convicted of violating any provision of this code is guilty of a petty misdemeanor by the specific code section.

CHAPTER VIII. NUISANCES AND OFFENSES

PART 1. NUISANCE

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 the purpose of this ordinance, a person that does any of the following is guilty of maintaining a public nuisance:

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

801.02. PUBLIC NUISANCES AFFECTING HEALTH. The following are hereby declared to be nuisances affecting health:

- A. Exposed accumulation of decayed or unwholesome food or vegetable matter.
- B. All diseased animals running at large.
- C. All ponds or pools of stagnant water.
- D. Carcasses of animals not buried or destroyed within twenty-four (24) hours after death.
- E. Accumulations of manure, refuse, or other debris.
- F. 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.
- G. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances.
- H. All noxious weeds and other rank growths of vegetation upon public or private property.
- I. Dense smoke, noxious fumes, gas and soot, or cinders in unreasonable quantities.
- J. All public exposure of persons having contagious disease; and
- K. Any offensive trade or business as defined by statute not operating under local license.

801.03. PUBLIC NUISANCES AFFECTING MORALS AND DECENCY. The following are hereby declared to be nuisances affecting public morals and decency:

- A. All gambling devices, slot machines, and punch boards, except otherwise authorized and permitted by federal, state, or local law;
- B. Betting, bookmaking, and all apparatus used in those occupations;
- C. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- D. 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
- E. 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.

801.04. PUBLIC NUISANCES AFFECTING PEACE AND SAFETY. The following are declared to be nuisances affecting public peace and safety:

- A. All snows and ice not removed from public sidewalks twenty-four (24) hours after the snow or other precipitation causing the condition has ceased to fall;
- B. All trees, hedges, billboards, or other obstructions which prevents persons from having a clear view of all traffic approaching an intersection;
- C. 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;
- D. Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet, or repose of another person;
- E. All unnecessary noises and annoying vibrations;

- F. Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks, or public grounds except under such conditions as are permitted by this code or other applicable law;
- G. Radio aerials or television antennae erected or maintained in a dangerous manner;
- H. 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 uses of the streets or sidewalk;
- I. 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;
- J. The allowing of rain water, ice, or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- K. Any barbed wire fence less than six (6) feet above the ground and within three (3) feet of a public sidewalk or way;
- L. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- M. Waste water cast upon or permitted to flow upon streets or other public properties;
- N. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies 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 to fire, health, or safety hazards from such accumulation;
- O. 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;
- P. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
- Q. The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substances that may injure a person or animal or damage any pneumatic tire when passing over such substance;
- R. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
- S. 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
- T. All other conditions or things which are likely to cause injury to the person or property of another.

801.05. NOISE VIOLATIONS.

- A. **Prohibited Noises:** It shall be unlawful for any person to make or cause to be made any loud, unnecessary, or unusual noise which either annoys, disturbs, or affects the comfort, repose, health, or peace of others. The following acts are declared to be loud, disturbing, and unnecessary noises in violation of this section, but shall not be deemed to be exclusive:
 - 1) The sounding of any horn or signaling device on any automobile, motorcycle, recreational vehicle, or other vehicle, except as a danger or emergency warning.
 - 2) The using, operating, or permitting of a radio receiving set, tape or disk player, or other machine or device for the production or reproduction of sound in such manner considering the time, place and purpose for which the sound is produced, as to disturb the peace, quiet or repose of a person or persons of ordinary sensibilities.
 - a. The play, use, or operation of any radio, tape or disk player, or other machine or device for the production or reproduction of sound in such a manner which is plainly audible at a distance of 50 feet from such machine or device shall be prima facie evidence of a violation of this section.
 - b. When sound violating this section is produced or reproduced by a machine or device that is located in or on a vehicle, the vehicles owner is guilty of the violation; provided, however, that if the vehicle's owner is not present at the time of violation, the person in charge or control of the vehicle at the time of the violation is guilty of the violation.
 - c. This section shall not apply to sound produced by the following:

- i. Amplifying equipment used in connection with activities which are authorized, sponsored or permitted by the city, as long as this activity is conducted pursuant to the conditions of the license, permit, or contract authorizing such activity.
 - ii. Church bells or chimes.
 - iii. School bells.
 - iv. Machines or devices for the production of sound on or in authorized emergency vehicles.
 - v. Governmental warning systems.
 - d. With the exception of the machines or devices listed in subsection (2)c of this section, this section shall apply to all radios, tape and disk players, and machines and devices for the production or reproduction of sound, whether on public or private property.
- 3) The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, or rattling.
- 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 other recreational device, except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complied with all applicable state laws and regulations.
- 5) Any loud or excessive noise in the loading, unloading, or unpacking of any vehicle.
- 6) The use of an engine retarding brake on any public highway, street, parking lot, or alley within the city limits which causes abnormal or excessive noise from the engine, except in an emergency.
 - a. "Engine retarding brake" shall mean a Dynamic Brake, Jake Brake, Jacobs Brake, C Brake, Paccar Brake, transmission brake or other similar engine retarding brake system which alters the normal compression of the engine and subsequently releases that compression.
 - b. "Abnormal or excessive noise" shall mean: (a) distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value, (b) noise in excess of that permitted by Minn. Stat. § 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order, or (c) noise in excess of that permitted by Minn. Stat. § 169.693 and Minnesota Rules parts 7030.1000 through 7030.1050, as this statute and these rules may be amended from time to time, which establish motor vehicle noise standards.
- 7) Minn. Stat. §§ 169.69 and 169.693 (motor vehicle noise limits) and Minnesota Rules parts 7030.1000 through 7030.1050, as these statutes and rules may be amended from time to time, are hereby adopted by reference.
- 8) Signs may be installed at locations deemed appropriate by the city council to advise motorists of the prohibitions contained in this subsection, except that no sign shall be installed on a state highway without a permit from the Minnesota Department of Transportation. The provisions of this subsection are in full force and effect even if no signs are installed.

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 9:00 a.m. and 9:00 p.m. on any weekend or holiday. 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 9:00 a.m. and 9:00 p.m. on any weekend or holiday.
 - 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.
- C. 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.

801.06. NUISANCE PARKING AND STORAGE.

- A. Declaration of nuisance.** The outside parking and storage on residentially zoned property of large numbers of vehicles and vehicles, materials, supplies, or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it:
- 1) Obstructs views on streets and private property,
 - 2) Creates cluttered and otherwise unsightly areas,
 - 3) Prevents the full use of residential streets for residential parking,
 - 4) Introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited,
 - 5) Decreases adjoining landowners' and occupants' use and enjoyment of their property and neighborhood, 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, playhouses, 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, 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 follow 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 that are parked or stored outside in the front yard areas must be on a paved or graveled parking surface or driveway area.
 - c) Vehicles, watercraft, and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away from school for periods of time but still claim the property as their legal residence will be considered residents on the property.

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, store, 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 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.

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 commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no peace officer or designated city official will enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing entry.

801.09. ABATEMENT.

- A. **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. 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 seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.
- B. **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 or record or occupant of the premises either in person or be 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.
- C. **Emergency procedure; summary enforcement.** In cases of emergency, where delay in abatement required to complete the procedure and notice requirements as set forth in subdivision 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 require to complete the procedure set for in subdivision A of this section and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.
- D. **Immediate abatement.** Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.
- E. **Unlawful parties or gatherings.** When law enforcement determines that a gathering is creating such a noise disturbance as prohibited under Section 4, Subdivision D, the officer may order all

persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disburse 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.

- F. **Judicial remedy.** Nothing in this section shall prevent the city from seeking a judicial remedy when no other adequate administrative remedy exists.

801.10. RECOVERY OF COST.

- A. **Personal liability.** The owner of premises on which a nuisance has been abated by the city, or a person who has caused a public nuisance on 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.
- B. **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 infected trees, the city clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other 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.

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.

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 provision shall not be affected.

801.13. EFFECTIVE DATE. This ordinance becomes effective on the date of its publication or upon the publication of a summary of the ordinance as provided by Minn. Stat., 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn., state 331.A.01, subd. 10, as it may be amended from time to time.

The city Council of the city of Balaton does hereby ordain that Chapter VIII is amended by adding Sections 802.01 to 802.11 to provide for the administration of citations and civil penalties:

802.01. ADMINISTRATIVE CITATION AND CIVIL PENALTIES.

Sections 802.02 through 802.11 shall govern administrative citations and civil penalties for violations of the Balaton City Code.

802.02. PURPOSE. The City Council finds that there is a need for additional alternative methods of enforcing the City Code. While criminal fines and penalties have been the most frequent enforcement mechanism, the administrative enforcement of the municipal code may increase compliance with the Code, encourage citizens to become involved in the process of enforcement, and is more informal and cost effective by keeping minor violations out of the criminal court system. Accordingly, the City Council finds that the use of administrative citations and the imposition of civil penalties is a legitimate alternative method of enforcement of the Municipal Code that is also an effective way to promote the health, safety, and welfare of the citizens. This method of enforcement shall be in addition to and not exclusive of any other legal remedy including the filing of criminal charge which may be pursued for City Code violations.

802.03. GENERAL PROVISIONS.

- A. A violation of any provision of the City Code is an administrative offense, which may be subject to an administrative citation and civil penalties pursuant to sections 802.01 through 802.11. Each day a violation exists constitutes a separate offense.
- B. An administrative offense may be subject to a civil penalty not exceeding two thousand dollars (\$2000.00).
- C. The City Council shall adopt by resolution a schedule of fines for offenses initiated by administrative citation. The city council is not bound by that schedule when a matter is appealed to it for administrative review. The City Council shall adopt a schedule of fees to be paid to administrative hearing officers.
- D. The City Council must adopt procedures for administering the administrative citation program.

802.04. ADMINISTRATIVE CITATION.

- A. Any person authorized to enforce provisions of the City Code may issue an administrative citation upon belief that a code violation has occurred. The citation will be issued in person or by mail to the person responsible for the violation or attached to the motor vehicle in the case of a vehicular offense. The citation must state the date, time, and nature of the offense, the name of the issuing officer, the amount of the scheduled fine, and the manner for paying the fine of appealing the citation.
- B. The person responsible for the violation must either pay the scheduled fine or request a hearing within fourteen (14) days after issuance. Payment of the fine constitutes admission of the violation. A late payment fee of ten (10) percent of the scheduled fine amount shall be imposed in accordance with section 802.08.
- C. The following persons are specifically authorized to issue administrative citations:
 - 1. Lyon County Sheriff and Deputies and persons authorized by the Balaton City Council.

802.05. ADMINISTRATIVE HEARING.

- A. The City Council shall periodically approve a list of people, from which the City Council or any city employee who has been delegated such authority, will randomly select a hearing officer to hear and determine a matter for which a hearing is requested. The hearing officer is a public officer as defined by Minnesota Statutes section 609.415. The hearing officer must not be a city employee. The city council shall establish a procedure for evaluation the competency of the hearing officers, including comments from people charged with violations and city staff. These reports shall be provided to the city council.
- B. The person charged with a violation may request a hearing before a single hearing officer or a panel of three (3) hearing officers.
- C. The person charged with a violation shall have the right to request no later than five (5) days before the date of the hearing that the assigned hearing officer(s) be removed from the case. One such request for each case will be granted automatically by the City Council. A subsequent request must be directed to the assigned hearing officer(s) who will decide whether he or she can fairly and objectively review the case. The city enforcement officer may remove a hearing officer(s) only requesting that the assigned hearing officer(s) find that he or she cannot fairly and objectively review the case. If such a finding is made, the hearing officer shall remove himself or herself from the case, and another hearing officer(s) shall be assigned.
- D. Upon hearing officer's own initiative or upon the written request of the person charged with a violation, or at the request of the city, the officer may issue a subpoena for the attendance of a witness or the production of books, papers, records, or other documents that are material to the matter being heard. The party requesting the subpoena shall be responsible for serving the subpoena in the manner provided for in civil actions and for paying the fees and expenses of any witness. A person served with a subpoena may file an objection with the hearing officer promptly but no later than the time specified in the subpoena for compliance. The officer may cancel or modify the subpoena if it is unreasonable or oppressive. Any person who, without just cause, fails or refuses to attend and testify or to produce the required documents in obedience to a subpoena shall be guilty of a misdemeanor. Alternatively, the party requesting the subpoena may seek an order from district court directing compliance.
- E. Notice of the hearing must be served in person or by mail on the person charged with the violation at least ten (10) days in advance of the hearing, unless a shorter time period is agreed to

by all parties. At the hearing, the parties will have the opportunity to present testimony and question any witnesses, but strict rules of evidence shall not apply. The hearing officer shall tape record the hearing and receive testimony and exhibits. The officer shall receive and give weight to evidence, including hearsay evidence, which possesses probative value that is not outweighed by prejudicial effect.

- F. The hearing officer has the authority to determine that a violation occurred, to dismiss a citation, to impose the scheduled fine, and to reduce, stay or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions. When imposing a penalty for a violation, the hearing office will consider the following factors:
 - 1. The duration of the violation;
 - 2. The frequency or reoccurrence of the violation;
 - 3. The seriousness of the violation;
 - 4. The history of the violation;
 - 5. The violator's conduct after issuance of the notice of hearing;
 - 6. The good faith effort by the violator to comply;
 - 7. The economic impact of the penalty on the violator;
 - 8. The impact of the violation upon the community; and
 - 9. Any other factors appropriate to a just result.
- G. The hearing officer may exercise discretion to impose a fine for more than one day of the continuing violation, but only upon a finding that (1) the violation caused a serious threat of harm to the public health, safety, or welfare or that (2) the accused intentionally and unreasonably refused to comply with the code requirement. The hearing officer's decision and supporting reasons must be in writing.
- H. Except for matters subject to administrative review under section 802.06, the decision of the hearing officer is final without any further right of administrative appeal. In a matter subject to administrative review under section 802.06, the hearing officer's decision may be appealed to the City Council by submitting a request in writing to the City Clerk within ten (10) days after the hearing officer's decision.
- I. The failure to pay the fine or request an appeal within thirty (30) days after the citation or the failure to attend the hearing constitutes a waiver of the violator's rights to an administrative hearing and an admission of the violation. A hearing officer may waive this result upon good cause shown. Examples of "good cause" are: death or incapacitating illness of the person charged with a violation; a court order requiring the person charged to appear for another hearing at the same time; and lack of proper service of the citation or notice of the hearing. "Good cause" shall not include: forgetfulness and intentional delay.

802.06. ADMINISTRATIVE REVIEW.

- A. The hearing officer's decision in any of the following matters may be appealed by any party to the City Council for administrative review;
 - 1. An alleged failure to obtain a permit, license, or other approval from the City Council as required by an ordinance;
 - 2. An alleged violation of a permit, license, other approval, or the conditions attached to the permit, license, or approval, which was granted by the City Council; and
 - 3. An alleged violation of regulations governing a person or entity who has received a permit, license, or approval granted by the City Council.
- B. The appeal shall be heard by the City Council after notice of the hearing is served in person or by registered mail upon the person charged. The notice shall be served at least ten (10) days in advance of the hearing. The parties to the hearing shall have an opportunity to present oral or written arguments regarding the hearing officer's decision.
- C. The City Council shall consider the record, the hearing officer's decision, and any additional arguments before making a determination. The council is not bound by hearing officer's decision, but may adopt all or part of the officer's decision. The Council's decision must be in writing.
- D. If the Council makes a finding of a violation, it may impose a civil penalty not exceeding two thousand dollars (\$2000.00) per day per violation, and may consider any or all of the factors contained in section 802.05 F. The council may also reduce, stay, or waive a fine unconditionally or based on reasonable and appropriate conditions.

- E. In addition, to imposing a civil penalty, the council may suspend or revoke any city-issued license, permit, or other approval associated with the violation, if the procedure in city code section 501.07 (Chapter V. Municipal Regulation and Licensing) has been followed. The hearing required in that section shall be satisfied by the hearing before the hearing officer with the right of appeal to the City Council.

802.07. JUDICIAL REVIEW. An aggrieved party may obtain judicial review of the decision of the hearing officer or the City Council in accordance with state law. The request for judicial review shall be filed in the Lyon County District Court and served upon the city clerk within thirty (30) days of the final decision.

802.08. RECOVERY OF CIVIL PENALTIES.

- A. If a civil penalty is not paid within the time specified, it shall constitute:
 - 1. A lien upon the real property upon which the violation occurred if the property or improvements on the property was the subject of the violation and the property owner was found responsible for the violation, or
 - 2. A personal obligation of the violator in all other situations.
- B. A lien may be assess against the property and collected in the same manner as real estate taxes.
- C. A personal obligation may be collected by any appropriate legal means.
- D. A late payment fee of ten (10) percent of the fine shall be assess for each thirty (30) day period, or part thereof, that the fine remains unpaid after the due date.
- E. During the time that a civil penalty remains unpaid, the provisions of City Code section 501.06 shall apply to any license, permit, or other city approval sought by the violator or for property under the violator's ownership or control.
- F. Failure to pay a fine is grounds for suspending or revoking a license associated with the violation.

802.09. CRIMINAL PENALTIES. The following are misdemeanors, punishable in accordance with state law.

- A. Failure, without good cause, to pay a fine or request a hearing within thirty (30) days after issuance of an administrative citation.
- B. Failure, without good cause, to appear at a hearing which was scheduled under section 802.05.
- C. Failure to pay a fine or comply with conditions imposed by a hearing officer within thirty (30) days after it was imposed, or such other time as may be established by the hearing officer, unless the matter is appealed under section 802.06.
- D. Failure to pay a fine or comply with conditions imposed by the City Council within thirty (30) days after it was imposed, or such time as may be established by the City Council.

802.10. STATE ADMINISTRATIVE CITATIONS. The authority to issue administrative citations for the enforcement of city ordinances provided by this chapter is separate and distinct from the authority to issue administrative citations for the enforcement of certain state law offenses provided by Minnesota Statutes, Section 169.999.

802.11. PUBLICATION IN SUMMARY. This ordinance shall take effect and be in force from and after its publication or a summary thereof in the official newspaper of the City of Balaton. Summary Published in the Balaton Press-Tribune on the 12th day of June 2019.

PART 2. TREE DISEASES.

803.01. DECLARATION OF POLICY. The city council of Balaton determines that the health of the elm and oak trees within the municipal limits is threatened by fatal diseases known as Dutch Elm and Oak Wilt Diseases, and other trees may be threatened by other epidemic diseases of shade trees. It further determines that the loss of elm, oak, and other trees growing upon public and private property would substantially depreciate the value of property within the city and impair the safety, good order, general welfare, and convenience of the public. It is declared to be the intention of the council to control and prevent the spread of those diseases and this ordinance is enacted for that purpose.

803.02. FORESTER. SUBDIVISION 1. POSITION CREATED. The powers and duties of the city forester as set forth in this ordinance are hereby conferred upon the city clerk.

PART 3. OFFENSES.

803.01 PROHIBITION OF USE OF CANNABIS AND CANNABIS PRODUCTS IN PUBLIC PLACES

SUBD. 1. DEFINITIONS

- A.** For purposes of this article, the terms “cannabis flower”, “cannabis products”, “lower-potency hemp edibles”, and “hemp-derived consumer products” shall have the definitions given to them in Minnesota Statutes, section 342.01, as amended.
- B.** For purposes of this article, “public place” is defined as any indoor or outdoor area that is used or held out for use by the public whether owned or operated by public or private interests, which includes, but is not limited to any public street, public sidewalk, public easement, publicly owned property, public park, publicly owned or operated parking lot or parking facility. Pursuant to Minnesota Statutes, section 152.0263, subd. 5, “public place” does not include the following: (i) a private residence, including the person’s curtilage or yard, (ii) private property not generally accessible by the public; and (iii) the premises of an establishment or event licensed to permit on-site consumption of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products.
- C.** For purposes of this article, “electronic cigarette” is defined as any electronic smoking device that can be used to deliver nicotine or any other substances to the person inhaling from the device. The term shall include such devices whether they are manufactured as electronic cigarettes, electronic cigars, electronic pipes or any other product name, including but not limited to “mods”, “vape pens”, “vapes”, “tank systems”, and “electronic nicotine delivery systems (ENDS)”.
- D.** For purposes of this article, “smoking” is defined as inhaling or exhaling smoke or vapor from any instrumentality, including but not limited to any cigar, cigarette, pipe, rolling papers, joint, hookah pipe, or an operating electronic cigarette.

SUBD. 2. USE OF CANNABIS AND CANNABIS PRODUCTS PROHIBITED IN PUBLIC PLACES.

- A.** No person shall use, smoke, or ingest cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place.
- B.** A violation of this section shall be a petty misdemeanor offense, punishable by a fine of \$200.

SUBD. 3. THIS ORDINANCE REPEALS ORDINANCE NO. 2023-4, AN EMERGENCY ORDINANCE PROHIBITING THE USE OF CANNABIS AND CANNABIS PRODUCTS IN PUBLIC PLACES.

SUBD. 4. THIS ORDINANCE SHALL BECOME EFFECTIVE 30 DAYS AFTER PASSAGE AND PUBLICATION.

CHAPTER IX. BUILDING AND LAND USE REGULATION

PART 1. REGULATING, ADMINISTRATING, AND ENFORCEMENT.

901.01. DEFINITIONS. The terms defined in this sections have the meanings given them:

- a. Board. The zoning board of appeals and adjustment established in 901.07, Subd. 5.
- b. Lot. A single parcel of land (located within a block if in a platted area), which, at the time of application for a permit for a building on the land, is designated by its owner or developer as a parcel to be used, developed, or built upon as a unit under single ownership or control. A lot may or may not coincide with a lot of record.
- c. Lot, corner. A lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides by street lines.
- d. Lot, interior. A lot other than a corner lot.
- e. Yard. An open space other than a court on the same lot with a building, which open space is unoccupied and unobstructed from the ground upward except as otherwise provided in this ordinance.
- f. Yard, front. A yard extending across the front of the lot between the inner side yard lines and lying between the front street line or lake shore line of the lot and the nearest line of the building.
- g. Yard, rear. A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.
- h. Yard, side. A yard between the side line of the lot and the nearest line of the building and extending from the front line of the lot to the rear yard.

901.02. PURPOSE AND INTENT OF CHAPTER. This chapter is enacted for the following purposes: To promote the health, safety, morals and general welfare of the inhabitants of the city by lessening congestion in the public rights-of-way; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewage, schools, parks and the public requirements; conserving the value of properties; and encouraging the most appropriate use of land, and to achieve the goals and policies of the city comprehensive plan.

901.03. INTERPRETATION. In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of this chapter impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this chapter shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, other ordinance or regulation shall be controlling. At all times the interpretation of this chapter must be interpreted to meet the goals and objectives of the city comprehensive plan.

901.04 DISTRICTS AND DISTRICT REGULATIONS.

SUBD. 1. ESTABLISHMENT OF DISTRICTS. For the purpose of this ordinance the City of Balaton is divided into the following districts:

<u>Description:</u>	<u>District:</u>
a. Residential – single and multi-family	R1

- | | |
|---------------------|-----|
| b. Mobile Home | R2 |
| c. General Business | B1 |
| d. Flood Plain | F1 |
| e. Open Space | OS1 |

The districts are shown on the accompanying map entitled "Zoning Map of Balaton, Minnesota," which map is hereby made a part of this ordinance.

Any land hereafter annexed to the city shall be placed in the R1 district until otherwise classified.

SUBD. 2. COMPLIANCE WITH ORDINANCE. Land may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used only as this ordinance permits.

SUBD. 3. SCHEDULE OF REGULATIONS. The attached "Schedule of District Regulations" applying to land and structures as indicated for the various districts established by this ordinance is hereby adopted and declared to be part of this ordinance and may be amended in the same manner as any other part of this ordinance.

901.05. SUPPLEMENTARY REGULATIONS.

SUBD. 1 GENERAL. The regulations specified elsewhere in this ordinance are supplemented and modified by the provisions of this article.

SUBD. 2. ROADSIDE STANDS. Nothing in this ordinance prohibits the construction or maintenance of any stand or shelter for the sale of agricultural products produced on the premises if it is at least 50 feet back from the nearest roadway surface and parking spaces are provided off the road right-of-way.

SUBD. 3. VISIBILITY AT INTERSECTIONS. On a corner lot in any residential district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of 2-1/2 feet and 10 feet above the centerline grades of the intersecting streets in the area bounded by the street lines of the lot and a line joining points along the street lines 50 feet from the point of the intersection.

SUBD. 4. OFF-STREET PARKING AND LOADING SPACE. Off-street parking and loading spaces shall be provided in accordance with the specifications in this section whenever any new use is established or existing use is enlarged in any district. For any dwelling, three (3) parking space(s) shall be provided for each dwelling unit. For any commercial, industrial, or institutional use, off-street parking spaces and where appropriate, loading spaces shall be provided in accordance with a schedule prescribed by rule of the planning commission. Such schedule shall be based on accepted standard, shall take into account the anticipated demand for parking or loading space by employees and patrons of the use, and shall be related to number of employees, floor space, seats, or other measure or combination of measures appropriate to the particular use. Parking and loading spaces shall be adequate in size to accommodate the vehicles expected to use them and shall be properly drained and maintained.

901.06. NONCONFORMING USES.

SUBD. 1. GENERAL RULE. Any conforming use other than a use specified in Section 4.2 and 4.3 may be continued, including through repair, replacement, restoration, maintenance, or improvement, until expiration of the time fixed by Section 4.4, except that any nonconforming use or occupation of land or premises may not be:

- a. Changed to another nonconforming use;
- b. Re-established after discontinuance for one year, or being unoccupied for one year;
- c. Extended or expanded; or
- d. Rebuilt after being destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, and no building permit has been applied for within 180 days of when the property is damaged.

SUBD. 2. OUTDOOR ADVERTISING STRUCTURE. No outdoor advertising structure may continue as a nonconforming use for more than three years after the effective date of this ordinance.

SUBD. 3. AMORTIZATION PERIOD. No nonconforming use of a building and no nonconforming building may be continued for more than the end of a reasonable period for amortization of the building specified in this subdivision or more than ten (10) years after the effective date of this ordinance, whichever is after. Such amortization period, commencing with the completion of erection of the building, is fixed at:

- a. 30 years for any building of ordinary wood frame construction;
- b. 40 years for any building of wood and masonry construction;
- c. 50 years for any building of other construction.

901.07. ADMINISTRATION AND ENFORCEMENT.

SUBD. 1. ADMINISTRATIVE OFFICER. The wastewater treatment operator shall serve as the zoning administrator and shall be responsible for enforcing this ordinance.

SUBD. 2. BUILDING PERMITS. No structure shall be erected, added to, structurally altered, or moved until a permit therefore has been issued by the zoning administrator. Except upon written order of the board, no building permit shall be issued for any structure where the construction, addition, moving or use thereof would be a violation of this ordinance. Application for a building permit shall be made to the city clerk on a form furnished by the city. With every application for a building permit, there shall be submitted two (2) copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such information as may be necessary to determine compliance with this ordinance. The fee for a building permit shall be as provided in Chapter X of this code. The zoning administrator shall issue the building permit only if he or she determines that the buildings plans and the application comply with the terms of this ordinance.

SUBD. 3. CERTIFICATES OF OCCUPANCY; CERTIFICATE REQUIRED. A certificate of occupancy shall be obtained before:

- a. Any vacant land is hereafter occupied or used, except for agricultural purposes other than livestock farming or dairying;
- b. Any building hereafter erected or structurally altered is occupied or used; or

c. The use of any such building or any existing building is altered.

SUBD. 4. PROCEDURE. Application for a certificate of occupancy for a new building or for an existing building which has been structurally altered shall be made to the zoning administrator as part of the application for a zoning permit. The certificate shall be issued after completion of construction if the building or proposed use of the building or land complies with all provisions of law and this ordinance and the certificate shall state that there is such compliance. A record of all certificates shall be kept on file in the office of the person having a proprietary or tenancy interest in the building or land affected.

SUBD. 5 FEES. Fees shall be established pursuant to Minn. Stat. 462.353, as amended.

SUBD. 6. BOARD OF APPEALS AND ADJUSTMENTS. There is hereby created a board of adjustments and appeals consisting of one member of the planning commission and four citizens, appointed by the council. The term of the member of the planning commission shall be coterminous with his term on the commission. Each other member shall serve for a term of four (4) years except that terms of the initial members shall be so arranged that the term of one member expires each year. Each member shall serve until his successor is appointed. Three (3) members of the board constitutes a quorum, and all action by the board requires the affirmative vote of a quorum. The board shall serve without compensation. The board shall elect one of its members as chairman and appoint a secretary who may, but need not, be one of its members. Staff services for the board shall be furnished by the council.

SUBD. 7. POWERS AND DUTIES OF BOARD OF APPEALS AND ADJUSTMENTS. The board shall have the power and duty of hearing and deciding, subject to appeal to the city council as herein provided, appeals or requests in the following cases:

- a. Appeals where it is alleged that there is an error in any order, requirement, decision or determination made by an administration officer in the enforcement of this ordinance.
- b. Requests for variances from the requirements of the zoning ordinance including restrictions placed on nonconformities.

Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

In granting a variance, the board, or the council on appeal, may prescribe appropriate conditions to insure compliance and to protect adjacent properties and shall make findings as to: (1) whether or not the variance is in harmony with the purpose and intent of the zoning ordinance, and (2) whether or not the variance is consistent with the comprehensive plan.

The board may not permit as a variance any use that is not permitted under this ordinance for the property in the district where the affected person's land is located, except the temporary use of a one-family dwelling as a two-family dwelling for not to exceed two (2) years.

SUBD. 8. DECISION BY BOARD. Upon filing with the board a request for variance or an appeal from an administrative order or determination, the board shall hold such hearings on the proposal as it may consider necessary, but at least one public hearing shall be held pursuant to Minn. Stat. 462.357, subd. 3. Pursuant to the deadlines contained in Minn. Stat. 15.99, as amended, the board shall make its order deciding the matter and serve a copy of such order upon the appellant or the

petitioner by mail, but the board shall not make its order until the planning commission has had a reasonable time, not to exceed sixty (60) days, to review and report to the board upon the appeal or petition. The appellant or petitioner may within forty-five (45) days file with the city clerk, an appeal to the council from the decision of the board.

SUBD. 9. HEARING AND DECISION BY THE COUNCIL. The council shall at its next regular meeting after the filing of an appeal to it from a decision of the board set a date for hearing thereon which shall not be later than sixty (60) days after the meeting. After hearing the oral or written views of all interested persons, the council shall make its decision pursuant to the deadlines contained in Minn. Stat. 15.99, as amended.

SUBD. 10. FORM OF ACTION TAKEN AND RECORD THEREOF. The board, and the council on appeal, shall provide for a record of its proceedings, which shall include the minutes of its meetings, its findings, and the action taken on each matter heard by it, including its final order. The city clerk shall maintain a permanent record of the disposition of all appeals to the council from decisions of the board.

901.08. SPECIAL USE PERMITS.

SUBD. 1. PROCEDURE. A special use permit may be issued in accordance with this section for any use or purpose for which such a permit is required or permitted in a particular district by the schedule adopted in Section 23. Application for a special use permit shall be made by the owner to the planning commission on a form prescribed by the commission. The commission may hold such hearings on the proposal as it considers necessary and it shall thereafter make such recommendations on the proposal to the council as it deems advisable. Upon receipt of such recommendations, the council shall hold whatever hearings it deems advisable and shall make its decision upon the proposal to grant a special use permit pursuant to the deadlines contained in Minn. Stat. 15.99, as amended.

SUBD. 2. STANDARDS. The planning commission shall recommend a special use permit and the council shall order the issuance of such permit only if it finds that such use at the proposed location will be consistent with the general and applicable specific objectives of the comprehensive plan and this ordinance, will be harmonious and appropriate in the area, will not be hazardous or disturbing to neighboring uses, will not result in traffic congestion, and will not create excessive additional public expense. If the planning commission recommends denial of a special use permit or the council orders such denial, it shall include in its recommendations or determination findings as to the ways in which the proposed use does not comply with the standards imposed by this ordinance. In recommending or approving any special use permit, the planning commission and the council may impose conditions which it considers necessary to meet the standards of this ordinance and to protect the best interests of the surrounding area and the city as a whole. Violation of any such condition is a violation of this ordinance.

SUBD. 3. AMENDMENT. An amendment to this ordinance may be initiated by the city council or the planning commission or by the petition of not less than 50% of the property owners affected by the proposed amendment. When the amendment involves changes of district boundaries affecting an area of 5 acres or less and an amendment is initiated by petition, the petition shall be signed by not less than 50% of the owners of property situated within 350 feet of the proposed change. Amendments shall be considered and adopted in accordance with procedural requirements imposed by statute.

SUBD. 4. PENALTY. Any person who violates any provision of this ordinance is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not to exceed \$700.00, or by imprisonment for not to exceed 90 days for each offense, or both, plus the costs of prosecution in either case. Each day that the violation is permitted to exist constitutes a separate violation.

SUBD. 5. FEES. Fees shall be established pursuant to Minn. Stat. 462.353, as amended.

Part 2. Area, Yard, Building Requirements

Section Requirement	R1 Residential Single and Multi-family	R2 Mobile Home	B1 General Business	F1 Flood Plain	OS1 Open Spaces
Minimum Requirements Lot Sizes in sq. ft.	8,250	8,250	8,250	n/a	n/a
Yard Set Back in feet					
Front Yard (based on 66 foot r-o-w)	30	30	5	n/a	n/a
Side Yard	10	10	0	n/a	n/a
Rear Yard	15	15	0	n/a	n/a

901.09. OPT-OUT OF MINNESOTA STATUTES, SECTION 462.3593. Pursuant to the authority granted by Minn. Stat. 462.3593, Subd. 9, the City of Balaton opts-out of the requirements of Minn. Stat.462.3593, which defines and regulates Temporary Family Health Care Dwellings.

PART 2. MINNESOTA STATE BUILDING CODE

902.01. APPLICATION, ADMINISTRATION, AND ENFORCEMENT. The Minnesota State Building Code, Minnesota Administrative Rules, Chapter 1300, as amended, is hereby adopted and incorporated herein. The application, administration, and enforcement of the code shall be in accordance with Minnesota Administrative Rules, Chapter 1300, as amended.

902.02. PERMITS AND FEES. The issuance of permits and the collection of fees shall be as authorized in Minn. Stat. 326B.153, as amended, and as provided in the code and Minnesota Administrative Rules, Chapter 1300.0160. Permit fees shall be assessed for work governed by this code in accordance with Table No. 1-A of this ordinance.

902.03. VIOLATIONS AND PENALTIES. A violation of the code is a misdemeanor pursuant to Minnesota Administrative Rules, Chapter 1300.0150 and Minn. Stat. 326B.082.

902.04. BUILDING CODE FOR ACCESSIBILITY. The Minnesota Accessibility Code, established pursuant to Minnesota Administrative Rules, Chapter 1341, as amended, is hereby adopted as the building code for accessibility in the City of Balaton.

TABLE 1-A BUILDING PERMIT INSPECTION FEES
TOTAL VALUATION

\$1.00 to \$500.00	\$21.00
\$501.00 to \$2,000.00	\$21.00 for the first \$500 plus \$2.75 for each additional \$1000 or a fraction thereof, to and including \$2,000.
\$2,001.00 to \$25,000.00	\$62.25 for the first \$2,000 plus \$12.50 for each additional \$1,000 or fraction thereof, to and including \$25,000.
\$25,001.00 to \$50,000.00	\$349.75 for the first \$25,000 plus \$9 for each additional \$1,000 or fraction thereof to and including \$50,000.
\$50,001.00 TO \$100,000.00	\$574.75 for the first \$50,000 plus \$6.25 for each additional \$1,000 or fraction thereof to and including \$100,000.
\$100,001.00 to \$500,000.00	\$887.25 for the first \$100,000 plus \$5 for each additional \$1000 or fraction thereof to and including \$500,000.
\$500,001.00 to \$1,000,000.00	\$2,887.25 for the first \$500,000 plus \$4.25 for each additional \$1,000 or fraction thereof to and including \$1,000,000.
\$1,000,001.00 and up	\$5,012.25 for the first \$1,000,000 plus \$2.75 for each additional \$1,000 or fraction thereof.
Other Inspections and Fees:	
1. Inspections outside of normal business hours (minimum charge – two hours)	\$63.25 per hour – 1
2. Reinspection fees assessed under provisions of Section 305.8	\$63.25 per hour – 1
3. Inspections for which no fee is specifically indicated. (minimum charge – one-half hour)	\$63.25 per hour – 1
4. Additional plan review required by changes, additions or revisions to plans. (minimum charge – one-half hour)	\$63.25 per hour – 1
5. For use of outside consultants for plan checking and inspections, or both	Actual Cost – 2

1 – Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

2 – Actual costs include administrative and overhead costs.

CHAPTER X. FEES, SALARIES AND FINES

PART 1.SALARIES AND COMPENSATION

1001.01. SALARIES OF MAYOR AND COUNCIL MEMBERS. Effective January 1, 2024, the salary of the mayor and each council member shall be set by annual resolution of the City Council.

1001.02. COMPENSATION OF FIRE DEPARTMENT. Effective January 1, 2024, the members and officers of the fire department, including the positions of chief, assistant chief, secretary, treasurer, ambulance captain, and training officer shall receive compensation as set by the annual resolution of the City Council.

PART 2. FEES

1002.01. FEE TO CONNECT TO CITY WATER SYSTEM. An applicant shall pay a fee as set by the annual resolution of the City Council to connect to the city water system. (Section 401.03)

1002.02. FEE TO CONNECT TO CITY SEWER SYSTEM. An applicant shall pay a fee as set by the annual resolution of the City Council to connect to the city sewer system. (Section 401.03)

1002.03. FEE FOR PERMIT FOR SERVICE CONNECTIONS. The fee for the permit required by Section 401.04 of this code shall be set by the annual resolution of the City Council.

1002.04. FEE FOR RESTORATION OF WATER SERVICE. The fee for restoration of water service after termination thereof in accordance with Section 401.05, subd. 3 of this code shall be set by annual resolution of the City Council.

1002.05. FEE FOR VIOLATION OF WATER RESTRICTIONS. The fee for a violation of section 402.01, subd. 7 of this code, and any successive violations, shall be as set by annual resolution of the City Council. The City Clerk may refer for criminal prosecution any person having three or more violations.

1002.06. WATER RATE AND SEWER FLAT. Effective January 1, 2024, the city water/sewer rates shall be set by annual resolution of the City Council.

1002.07. REFUSE COLLECTION RATES. Effective January 1, 2024, refuse collection rates in the city shall be set by the annual resolution of the City Council.

1002.08. FEE FOR REDEMPTION OF DOGS OR OTHER IMPOUNDED ANIMALS. The fee required by Sections 503.07, subd. 2 and 504.08, subd. 4 of this code shall be set by annual resolution of the City Council.

1002.09. FEES FOR LICENSE TO SELL BEER. The annual fees for the licenses required by Section 603.04 of this Code shall be set by annual resolution of the City Council.

1002.10. FEES FOR LICENSES TO SELL LIQUOR. The annual fees for the licenses required by Section 601.04 of this Code shall be set by annual resolution of the City Council.

1002.11. INVESTIGATION FEE FOR ISSUANCE OF LIQUOR LICENSES. The fee for the investigation required by Section 601.05 of this Code shall be set by annual resolution of the City Council.

1002.12. FEES FOR ZONING PERMITS. The fee for issuance of the Zoning permit required by Section 901.05, subd. 2 of this Code shall be set by annual resolution of the City Council.

1002.13. ZONING PERMIT PENALTY. The penalty and fee for issuance of a zoning permit "after the fact" shall be \$100.00.

1002.14. FEE FOR LICENSE FOR OPERATION OF ADULT BUSINESS. The annual fee for operation of an adult-oriented business set by annual resolution of the City Council.

1002.15. Fire Call Rates. The annual rate for fire calls shall be set by annual resolution of the City Council.

1002.16. Ambulance Run Rates. The annual rate for ambulance runs shall be set by annual resolution of the City Council.

1002.17 COMMUNITY CENTER RENTAL FEES. The annual rate for community center rental fees shall be set by annual resolution of the City Council.

1002.18. EQUIPMENT RENTAL FEES. The annual rate for equipment rental fees shall be set by annual resolution of the City Council.

PART 3. FINES

1003.01 FINE FOR VIOLATION OF THE WINTER PARKING RESTRICTION. The fine for violation of the Winter Parking Restriction provided in Section 701.06 of the code shall be set by annual resolution of the City Council.

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CHAPTER XI. EMPLOYMENT BACKGROUND CHECKS

PART 1. APPLICANTS FOR CITY EMPLOYMENT

1101.01 PURPOSE. The purpose and intent of this part 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 Part 2.

PART 2. CRIMINAL HISTORY EMPLOYMENT BACKGROUND INVESTIGATIONS

1102.01 AUTHORIZATION. The Lyon County Sheriff is hereby authorized and required, as the exclusive entity on behalf of the City of Balaton, to do a criminal history background investigation on the applicants for the following positions within the City, unless the City's hiring authority concludes that background investigation is not required.

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

Volunteer fire department applicants

Volunteer ambulance department applicants

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

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

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

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CHAPTER XII. LICENSE BACKGROUND CHECKS

PART 1. APPLICANTS FOR CITY LICENSES

1201.01 PURPOSE. The purpose and intent of this part is to establish regulations that will allow law enforcement access to Minnesota's Computerized Criminal History information for specified non-criminal purposes of licensing background checks for the City licenses described in Part 2.

PART 2. CRIMINAL HISTORY LICENSE BACKGROUND INVESTIGATIONS

1202.01 AUTHORIZATION. The Lyon County Sheriff is hereby authorized and required, as the exclusive entity on behalf of the City of Balaton, to do a criminal history background investigation on the applicants for the following licenses issued by the City:

City Licenses: Licenses to operate adult business (Balaton City Code Section 506.07)

License to sell liquor (Balaton City Code Section 601.02)

License to see beer (Balaton City Code Section 603.02)

In conducting the criminal history background investigation in order to screen license applicants, the Lyon County Sheriff 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 office of the Lyon County Sheriff under the care and custody of the Lyon County Sheriff, or his or her designee. A summary of the results of the Computerized Criminal History data may be released by the Lyon County Sheriff to the licensing authority, including the City Council, the City Clerk-Treasurer, or other city staff involved in the license approval process.

Before the investigation is undertaken, the applicant must authorize the Lyon County Sheriff to undertake the investigation by providing the Lyon County Sheriff the applicant's written consent to the investigation. The written consent must fully comply with the provisions of Minn. Stat. Chapter 13 regarding the collection, maintenance and use of the information. Except for the positions set forth in Minnesota Statutes Section 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 the denial.
- B. The applicant complaint and grievance procedure set forth in Minnesota Statutes Section 364.06.
- C. The earliest date the applicant may reapply for a license.
- D. That all competent evidence of the rehabilitation will be considered upon reapplication.

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