

TITLE 9

BUILDING REGULATIONS

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CHAPTER 1
BUILDING CODE

SECTION:

- 9-1-1: State Building Codes Adopted By Reference
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9-1-1: **STATE BUILDING CODE ADOPTED BY REFERENCE:**

- A. Building Code: The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes chapter 326B, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit, is hereby adopted by reference with the optional chapters adopted in this ordinance. The Minnesota State Building Code is hereby incorporated in this ordinance as if fully set out herein.
- B. Optional Chapters Adopted: Minnesota State Building Code, Chapter 1300 allows the Municipality to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code. The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for this municipality:
 - 1. Chapter 1306 - Special Fire Protection Systems (Option – Subpart 2).

9-1-2: **APPLICATION, ADMINISTRATION AND ENFORCEMENT:**

- A. The application, administration, and enforcement of the code shall be in accordance with the Minnesota State Building Code.
- B. The code enforcement agency of the city is called "the Building Inspections Department".
- C. This code shall be enforced by the Minnesota Certified Building Official

designated by this Municipality to administer the code in accordance with Minnesota Statutes 326B.133, Subdivision 1.

9-1-3: **PERMITS AND FEES:**

- A. The issuance of permits and the collection of fees shall be as authorized in Minnesota Rules Chapter 1300.
- B. Permit fees shall be assessed for work governed by this code in accordance with Section 1-7-3 of this code and as amended by the City Council. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minnesota Statutes 326B.148.

9-1-4: **ARCHITECTURAL DESIGN (STRUCTURE):**

- A. Elevations Included In Permit Application: The application for a building permit, in addition to other information required by applicable laws or regulations, shall include exterior elevations of the proposed structure and drawings which will adequately and accurately indicate the height, size, design, and appearance of all elevations of the proposed structure and a description of the construction and materials proposed to be used. When the plans for a residence include a sliding door or other access for the addition of a deck, and the deck is not to be finished prior to occupancy of the residence, and there is less than twenty feet (20') of buildable space behind the house, the amount of buildable space shall be indicated on the proposed land survey submitted with the building permit application. (Amd. 2/20/07, Ord.340)
- B. Review Of Information; Decisions:
 - 1. When an application is filed with the city for a building permit for any structure to be built, enlarged, or altered within, or moved into the city, the Building Official shall review such application and accompanying documents to determine whether the exterior architectural design, appearance, or functional plan of such proposed structure, when erected, will be so at variance with, or so similar to the exterior architectural design of any structure already constructed or in the course of construction which is within three hundred feet (300') of the lot upon which the structure is located, or so at variance with the character of the applicable district as established by the zoning ordinance of the city as to cause a substantial depreciation in the property values of the neighborhood. The three hundred foot (300') restriction shall be determined by measurement along the street upon which the structure fronts.
 - 2. If the Building Official finds that the exterior architectural design of the

proposed structure, when erected, may be so at variance with, or so similar to, the exterior architectural design, appearance, or functional plan of structures already constructed or in the course of construction in the neighborhood, no building permit therefore shall be issued, and the Building Official shall, within ten (10) days after receipt of the building permit application and supporting documents, file the same and such opinion in writing, signed by the Building Official, with the secretary of the Board of Design Control, who shall review the determination of the Building Official.

- C. Review And Action By Board Of Design Control: The Andover Review Committee of the city shall be and is hereby appointed as the Board of Design Control. The Board shall review all building permit applications referred to it by the Building Official upon determination that the exterior architectural design of the proposed structure would violate the provisions of this chapter. The Andover Review Committee shall act upon all applications or other matters referred to it within twenty (20) days from the date such application was originally filed with the Building Official. It may approve, conditionally approve or disapprove the exterior design of any proposed building or structure, enlargement or alteration and may modify or request such modifications as it may deem necessary to carry out the purpose and intent of this section.
- D. Appeals: Any person aggrieved by the decision of the Andover Review Committee may take an appeal there from to the City Council. Such appeal shall be taken within five (5) days after the decision of the Andover Review Committee. The City Council shall act upon all applications or other matters referred to it within forty-five (45) days from the date of appeal. (Amended Ord. 205, 3-4-1997)

9-1-5: **REQUIRED IMPROVEMENTS:**

- A. Required Improvements: As determined by the city code, the general contractor, builder or property owner shall install all required improvements and meet all city codes and standards for required improvements on private property and connected boulevard(s).

Examples of required improvements include but are not limited to: building code requirements; design, construction and landscaping standards, erosion controls, grading, drainage, driveways, parking and other pavements, connections to public utilities, and septic systems.

For the purposes of this section, the term "boulevard" shall mean the area of a public right-of-way extending from the back of the curb, or the edge of a roadway where no curb is installed, to the private property line/s fronting on

right-of- way.)

B. Security Agreement and Surety; Completion Of Required Improvements:

1. If the required improvements are not completed prior to final inspection by the Building Official, the general contractor, builder or property owner shall furnish to the city a security agreement and surety, in the contract form and amount as may be determined by the Building Official, but not to exceed one hundred fifty percent (150%) of the Building Official's estimated cost for such improvements. The required improvements shall be completed within a time period as may be determined by the Building Official and as specified in the security agreement, but not to exceed eight (8) consecutive months. However, required landscaping improvements delayed by winter weather shall be completed before the date of July 1 following the date of the security agreement. Upon completion of required improvements, the party having furnished the security agreement and surety may request to the Building Official release of all or part of the surety provided hereunder. The Building Official shall verify completion of the required improvements and may release all or part of the surety to the party having provided the surety. If the Building Official denies release, the Building Official shall state in writing the reasons for such denial. The party having furnished the request for release of surety may appeal the decision to the City Council by filing with the Building Official a written request for such appeal within ten (10) days after receiving notice of denial from the Building Official. The appeal shall be placed on the agenda of the next regular City Council meeting. The party having furnished the request for release of surety shall be notified of the time and place of such meeting. The Council may affirm or reject the decision of the Building Official.
2. The surety referred to in this chapter may be furnished to the city as cash, money order or cashier's check to be deposited in a city escrow account, an irrevocable letter of credit or other instrument that provides an equal performance guarantee to the City.
3. If the improvements for which a security agreement and surety have been given are not completed within the time period specified in the security agreement, the party having furnished the surety shall upon written demand from the city, forfeit the security agreement and surety to the city. Thereafter, the city may use the proceeds from the surety to:
 - a. pay for reasonable administrative, enforcement and legal costs incurred by the city in its efforts to complete the required improvements;
 - b. pay for reasonable city incurred costs for its direct or contracted installation of the required improvements; and
 - c. reimburse others who may complete the required improvements.

4. After the required improvements have been completed, accepted by the Building Official and paid for, any excess proceeds of the surety shall be returned to the party having furnished the surety.
5. If proof of other surety covering the required improvements is provided by the general contractor, builder or property owner, the above surety will not be required.

9-1-6: **CONSTRUCTION NEAR WDE SITE:**

- A. No Construction Within Two Hundred Feet Of Site: No enclosed structure, except those permitted in the Closed Landfill Restricted Zoning District, shall be built within two hundred feet (200') of the limit of refuse disposal at the WDE qualified facility as depicted as Line E in Exhibit A attached to Ordinance 205 on file in the office of the City Clerk for public use and inspection (Exhibit A is a drawing of the WDE qualified facility), nor within the qualified landfill facility for any property north of Coon Creek. (AMENDED ORD. 335, 9-19-2006)
- B. Construction Within Two Hundred To Five Hundred Feet Of Site:
 1. Prior To Construction; Soil Gas Monitoring Probe Required:
 - a. For any enclosed structure to be erected within two hundred feet (200') to five hundred feet (500') of the limit of refuse disposal at the WDE qualified facility as depicted in Exhibit A attached to Ordinance 205 on file in the office of the City Clerk for public use and inspection, excluding property north of Coon Creek (the line 500 feet distant from the limit of refuse disposal is depicted as Line F), the property owner shall, prior to construction of the structure, install a soil gas monitoring probe located between the structure and the limit of refuse disposal at the WDE qualified facility. The soil gas-monitoring probe shall be of a design approved by the Commissioner of the Minnesota Pollution Control Agency ("Commissioner") and shall be installed in a location approved by the Commissioner. The soil gas-monitoring probe shall be installed by a water well contractor licensed in the State of Minnesota. Installation of a soil gas- monitoring probe pursuant to this Subsection B1a shall not be required if the Commissioner, in his/her sole discretion, determines that an existing soil gas-monitoring probe located in between the proposed enclosed structure and the limit of refuse disposal at the WDE qualified facility provided adequate monitoring.
 - b. The property owner and his/her successors and assigns shall grant the Commissioner and his/her designates access to the property in order

to conduct sampling of the soil gas-monitoring probe until such time as the Commissioner determines further monitoring is unnecessary.

- c. Within thirty (30) days of the Commissioner's determination that the soil gas-monitoring probe is no longer required, the property owner, at the time determination is made, shall have the soil gas-monitoring probe abandoned in accordance with Minnesota Department of Health water well abandonment requirements, including having a licensed water well contractor perform the abandonment using grout from the bottom up and cutting the monitoring probe riser below the ground surface.

2. Explosive Gas Monitor Installation Requirements: Installation Requirements: If the permanent gas probes located between the refuse limit and the new structures detect methane, then the property owners of all enclosed structures erected within two hundred feet (200') to five hundred feet (500') of the limit of refuse disposal at the WDE qualified facility, excluding property north of Coon Creek, shall be required to install and maintain one continuous explosive gas monitor (equipped with an alarm set to sound at an explosive gas concentration of twenty percent (20%) of the lower explosive limit (LEL) for methane).

C. Extraction Of Ground Water:

1. The extraction of ground water for any purpose, other than by the Commissioner as he/she deems necessary to carry out his/her duties and authorities under the Landfill Cleanup Act, Minnesota Statutes Sections 115B.39 to 115B.445 ("act"), and the landfill cleanup agreement between the county, the WDEPRP group and its members, and the Commissioner ("agreement"), from the upper sand aquifer within a distance of five hundred feet (500') from the limit of refuse disposal at the WDE qualified facility is prohibited. This prohibition shall not apply to the repair or replacement of existing wells, provided there is no material increase in the quantity of ground water extracted from the repaired or replaced well as compared to the existing well, and that the water used for drinking water purposes from the repaired/replaced well complies with all applicable drinking water standards. Any dewatering required for the installation of a public utility or for the repair, reconstruction, or expansion of public roads or highways within the area covered by this prohibition shall be subject to the advance written approval of the Commissioner and, if approved, shall be excluded from this prohibition.
2. The extraction of ground water for any purpose without the prior written approval of the Commissioner, other than by the Commissioner as he/she deems necessary to carry out his/her duties under the act and the agreement from the lower sand aquifer within the area designated by Line

G on Exhibit A attached to Ordinance 205 on file in the office of the City Clerk for public use and inspection, is prohibited. This prohibition shall not apply to the repair or replacement of existing wells; provided that there is no material increase in the quantity of ground water extracted from the repaired and replaced well as compared to the existing well and that the water used for drinking water purposes from the repaired/replaced well complies with all applicable drinking water standards. (Amended Ord. 205, 3-4-1997; amd. 2003 Code)

9-1-7: **VIOLATION; PENALTY:** A violation of this chapter is a misdemeanor according to Minnesota Statutes Section 16B.69 and Minnesota Rules, Chapter 1300. (Ord. 205B, 5-6-2003; Amended Ord. 458, 4-5-16)

CHAPTER 2

WATER-FED HEAT EXTRACTORS AND AIR CONDITIONING EQUIPMENT

SECTION:

9-2-1: Water – fed Heat Extractors and Air Conditioning Equipment

9-2-2: Violation: Penalty

9-2-1: **WATER-FED HEAT EXTRACTORS AND AIR CONDITIONING EQUIPMENT:** Water- fed Heat Extractors and Air Conditioning Equipment may be installed only in accordance with the city, county, state and federal law.

9-2-2: **VIOLATION; PENALTY:** Violations shall be considered a misdemeanor, and penalties assessed under this chapter shall be as prescribed by law. (Ord. 73, 11-5-1985; Amended Ord. 458, 4-5-16)

CHAPTER 3

MINIMUM ELEVATIONS AND STANDARDS FOR BUILDING AND DRIVEWAY CONSTRUCTION

SECTION:

- 9-3-1: Scope And Purpose
- 9-3-2: Definitions
- 9-3-3: Elevations And Slopes
- 9-3-4: Driveways
- 9-3-5: Culverts
- 9-3-6: Violation; Penalties

9-3-1: **SCOPE AND PURPOSE:** All buildings and driveways constructed in the city shall meet or exceed the minimum standards established by this chapter. The purpose of the minimum standards imposed by this chapter is to ensure that proper drainage is maintained and to prevent public liabilities from being caused inadvertently. (Ord. 204, 3-4-1997)

9-3-2: **DEFINITIONS:** For the purpose of this chapter, the meanings of certain words and terms shall be as defined in the Minnesota State Building Code as adopted by the city.¹ (Ord. 204, 3-4-1997)

9-3-3: **ELEVATIONS AND SLOPES:**

A. Standards:

1. Grading, Drainage and Slopes :

a. Grading and Drainage:

- i. Grading for buildings or other improvements to property shall not interrupt or alter the natural drainage course, the drainage plan for a subdivision or the existing drainage facilities in such a way as to damage or endanger by flooding, erosion, nuisance water or any other means. This includes altering surface sheet flow by the

¹ See Section 9-1-1 of this title.

erection of fences, berms, swales, curbs, retaining walls or any other excavation, fill or structure, if such alteration will affect flow in any existing drainage course or facility without specific approval from the Building Official.¹

ii. Building sites shall be graded and drained so as to be free of standing water that may constitute a detriment to health and safety.

b. Graded Slopes: Finished yards shall be graded to provide slopes not exceeding 4:1 (25% grade).

c. Front Of Building Grade: The minimum grade at the front of any building constructed on any lot within the city will not be less than one and one-half feet (1 1/2') above the elevation of the street directly in front of the building.

2. Garages And Driveways:

a. The elevation of all garage floors shall be above the grade elevation immediately in front of the vehicular access door. The garage floor shall be a minimum of eighteen inches (18") above the finished centerline street elevation.

b. All driveways shall slope upward from the curb or edge of street. All driveways shall slope downward from the garage toward the curb or edge of street. The slope of all driveways shall not be less than one percent (1%) nor more than eight percent (8%) overall rise. The driveway slope for the first eight feet (8') from the curb to the house shall not exceed a two percent (2%) rise.

3. Basements And Low Floors: Basement or low floor elevation shall be a minimum of three feet (3') above the seasonal high water mark or two feet (2') above the designated or designed 100-year flood elevation, whichever is higher, unless evidence is submitted and certified by a geotechnical engineer hired by the city at the expense of the developer and approval is granted by the City Council that a separation of less than three feet (3') can be achieved and is warranted. (Amended Ord. 375, 12-2-08)

B. Variances: If construction plans are submitted in sufficient detail to demonstrate that proper drainage and erosion control can be maintained at lesser elevations or with steeper slopes the City Building Official may, in his or her discretion, vary the terms of this section.

¹ (See also: 9-9-11, Title 10, Chapter 6, Title 12 and Chapter 11 Section 5; and 13-1-3; 13-4-2; 13-4-6; 13-5-3; 13-6-6)

- C. Appeals: Any party aggrieved by a decision of the Building Official shall have the right to appeal said decision to the City Council. (Ord. 204, 3-4-1997)

9-3-4: **DRIVEWAYS:**

- A. General Construction Standards: An access drive or driveway shall be provided to every principal building and shall be constructed according to the minimum standards of the city. When said building is one hundred fifty feet (150') or more from a thoroughfare or street, an access drive shall be constructed with a clear cut width of sixteen feet (16') and shall have a built up base twelve feet (12') wide consisting of four inches (4") of class 5 gravel (or equal). Said drive shall also have variable ditches for its entire length.
- B. Surfacing: All subdivisions served by municipal sanitary sewer and/or water shall have hard surfaced driveways constructed per city engineering design standards. All subdivisions not served by municipal sanitary sewer and/or water shall from the street to the property line have hard surfaced driveways, per city engineering design standards. All access driveways shall be surfaced with a sufficient amount of erosion resistance material so that driveway surfaces will remain intact during normal usage and weather conditions. (Ord. 204, 3-4-1997)

9-3-5: **CULVERTS:** For driveways that are constructed across drainage or road ditches or swales, culverts shall be installed under the driveway. The culverts shall be of such size deemed necessary by the Building Official to carry the expected flow rate of storm water, shall not be less than twelve inches (12") in diameter, and shall be corrugated metal or equal. Culverts located within the right-of-way of the County Highway Department shall meet all of its permit requirements. (Ord. 204, 3-4-1997)

9-3-6: **VIOLATION; PENALTIES:** Any person who violates any provision of this chapter shall be guilty of a misdemeanor and shall be subject to applicable fines and imprisonment defined by state law. (Ord. 204, 3-4-1997; Amended Ord. 458, 4-5-16)

CHAPTER 4
SWIMMING POOLS, SPAS AND HOT TUBS

SECTION:

- 9-4-1: Purpose
- 9-4-2: Definitions
- 9-4-3: Permit And Compliance Required
- 9-4-4: Construction Standards
- 9-4-5: Fence Requirements
- 9-4-6: Violation A Misdemeanor

9-4-1: **PURPOSE:** The purpose of this chapter is to regulate the location of outdoor swimming pools, spas and hot tubs on residentially zoned property and require fencing or barriers to protect the health, safety and general welfare of the public. (Amended Ord. 228, 7-1-1997)

9-4-2: **DEFINITIONS:** For the purpose of this chapter, certain terms, words and phrases are defined as follows:

ABOVEGROUND/
ONGROUND POOL: See definition of Swimming Pool.

BARRIER: A fence, wall, building wall, or a combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.

HOT TUB: See definition of Swimming Pool.

INGROUND POOL: See definition of Swimming Pool.

SPA: See definition of Swimming Pool.

SWIMMING POOL: Any structure intended for swimming or recreational bathing (noncommercial use) that contains water over twenty-four inches (24") deep. This includes in-ground, aboveground and on-ground swimming pools; hot tubs; portable and non-portable spas; and fixed in place wading pools.

SWIMMING POOL,

INDOOR: A swimming pool that is totally contained within a residential structure and surrounded on all four (4) sides by walls of said structure.

SWIMMING POOL,
OUTDOOR: Any swimming pool that is not an indoor pool.
(Amended Ord. 228, 7-1-1997)

9-4-3: **PERMIT AND COMPLIANCE REQUIRED:** No person shall construct, alter or renovate a swimming pool without an approved building permit. Permits are required for swimming pools that exceed two hundred (200) square feet in area. All swimming pools that require a permit shall comply with the fencing requirements as stated in Section 9-4-5 of this chapter. (Amended Ord. 228, 7-1-1997)

9-4-4: **CONSTRUCTION STANDARDS:** All swimming pools are required to meet the following construction standards in addition to all State Building Code requirements: (Amended Ord. 228, 7-1-1997; amd. 2003 Code)

A. Location:

1. Swimming pools shall not be located beneath utility lines nor over underground utility lines of any type.
2. No person, firm or corporation shall build, situate or install a swimming pool within ten feet (10') of any side or rear lot line, nor within six feet (6') of any principal structure, nor closer to the front lot line than the principal structure, except as herein provided. On residential parcels of land of one acre or more, a swimming pool may be constructed closer to the front lot line than the principal structure, however, the minimum distance it may be from the front line shall be two hundred feet (200').
3. No swimming pool shall be located within twenty feet (20') of any part of an on-site sewer system or area designated as an alternate drain field.

B. Fence Required During Construction: While being constructed, the swimming pool must be fenced with a portable fence not less than four feet (4') in height. (Amended Ord. 228, 7-1-1997)

9-4-5: **FENCE REQUIREMENTS:**

A. Outdoor Swimming Pools:

1. All outdoor swimming pools constructed shall be completely enclosed by a fence or wall of the non-climbing type, so as not to be penetrable by toddlers, afford no external handholds or footholds, and be a minimum of

four feet (4') in height; except that aboveground pools with a side wall height of at least four feet (4') need not be fenced but shall have removable steps.

2. All outdoor fence openings or outdoor points of entry into the swimming pool area shall be equipped with self-closing and self-latching devices. The opening between the bottom of the fence and the ground or other surface shall not be more than three inches (3").

- B. Outdoor Spas And Hot Tubs: All outdoor spas and hot tubs shall either have a fence as described in this section or a latchable cover. The cover should be constructed of a material not to be penetrable by toddlers and is subject to inspection by the Building Official or designee. (Amended Ord. 228, 7-1-1997)

9-4-6: **VIOLATION A MISDEMEANOR:** Any person, firm or corporation violating any provision of this chapter shall be guilty of a misdemeanor as defined by state law. (Amended Ord. 228, 7-1-1997)

CHAPTER 5

NUMBERING PROPERTIES AND BUILDINGS

SECTION:

- 9-5-1: Purpose
- 9-5-2: Assignment of Numbers
- 9-5-3: Display Of Numbers; Specifications
- 9-5-4: Administration Of Numbering System
- 9-5-5: Violation: Penalty

9-5-1: **PURPOSE:** For the purpose of providing for the health, safety and general welfare of the residents, a uniform system of numbering properties and principal buildings is hereby adopted for use in the city as indicated on certain maps identified as the City of Andover on file at City Hall and in the County Surveyor's office. (Ord. 239, 11-4-1997)

9-5-2: **ASSIGNMENT OF NUMBERS:** All properties and principal buildings within the city shall hereafter be identified by reference to the uniform numbering system adopted herein. Each principal building shall bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than one business or family dwelling unit, each separate front entrance of such building shall bear a separate number. (Ord. 239, 11-4-1997)

9-5-3: **DISPLAY OF NUMBERS; SPECIFICATIONS:** It shall be the duty of the property owner of every house and industrial, commercial or other building, to have proper house or building numbers by affixing such numbers in either metal, glass, plastic, or other durable material approved by the Building Official; the numbers shall be not less than three inches (3") in height, in a contrasting color to the building; said numbers shall either be lighted or made of some reflective material and so placed to be easily seen from the street or placed on the mailbox if the mailbox is located on the street of the property and the house cannot be seen from the street. All auxiliary buildings within a unit having an assigned number, such as garages, barns, and buildings of like nature, are not affected by this chapter. (Ord. 239, 11-4-1997)

9-5-4: **ADMINISTRATION OF NUMBERING SYSTEM:** The Building Official or designee shall be responsible for maintaining the numbering system and shall keep a record of all numbers assigned under this chapter. The Building Official or designee may assign additional numbers in accordance with the official uniform numbering system whenever a property has been subdivided or a new front entrance has been established. The property owner shall be responsible for

obtaining suitable numbers for property identification pursuant to Section 9-5-2 of this chapter. (Ord. 239, 11-4-1997)

9-5-5: **VIOLATION; PENALTY:** Any person, firm or corporation who violates any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished as defined by state law. (Ord. 239, 11-4-1997)

CHAPTER 6

MANUFACTURED HOME PARKS; MOBILE HOMES

SECTION:

- 9-6-1: Purpose
- 9-6-2: Definitions
- 9-6-3: Manufactured Home Park Standards
- 9-6-4: Covenants And Bylaws
- 9-6-5: Temporary Mobile Homes
- 9-6-6: Exemptions From Provisions
- 9-6-7: Violation; Penalties

9-6-1: **PURPOSE:** The purpose of this chapter is to allow manufactured home parks in permitted zoning districts in the city with appropriate design and site requirements. (Amended Ord. 201, 2-18-1997)

9-6-2: **DEFINITIONS:** The following words and terms shall have the following meanings in this chapter:

DWELLING UNIT: A residential building or portion thereof intended for occupancy by a family and it shall include manufactured homes.

MANUFACTURED HOME: A dwelling unit, transportable in one or more sections, that is eight feet (8') or more in width or forty feet (40') or more in length, or when erected on site complies with the minimum floor area requirements as stated in the zoning ordinance¹, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except, that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certificate required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the Minnesota State Building Code.

¹ See section 12-2-2 of this code, definition of "manufactured home".

MANUFACTURED
HOME PARK:

Any premises (minimum acreage 20 acres, which is contiguous) that has facilities (public sewer and public water) to accommodate more than one occupied manufactured home on a parcel of land and is properly zoned for such use.

UNIT:

A section of ground in a manufactured home park that meets the minimum lot area per dwelling unit and other minimum requirements as stated in the zoning ordinance and complies with all other requirements as stated in this chapter. No more than one manufactured home shall be placed on any single lot or unit. (Amended Ord. 201, 2-18-1997; amd. 2003 Code)

9-6-3: **MANUFACTURED HOME PARK STANDARDS:** A manufactured home park plan shall show and comply with the platting ordinance which establishes regulations and procedures for the subdivision and platting of land in the city ¹ and all other applicable city ordinances. The manufactured home park plan shall also include and comply with the following site requirements and design standards:

A. Minimum Setback Requirements:

1. Minimum distance between manufactured homes is thirty feet (30').
2. Where a manufactured home park abuts a commercial, industrial or residential zoning district, there shall be a setback of at least one hundred feet (100') that shall be landscaped and maintained (landscaping and design to be approved by City Council).

B. Decks And Patios: A concrete patio (4 inch thickness) or deck shall be constructed on the ground not less than five feet (5') from each manufactured home. The patio or deck shall not be less than two hundred (200) square feet in area.

C. Landscaping:

1. At least one tree shall be placed and maintained on each lot (tree type and location to be approved by the city).
2. Each lot shall be sodded and maintained with grass with the exception of areas covered by the home, patios, sidewalks, decks, parking areas

¹ See title 11 of this code.

and off street parking areas.

D. Access, Parking And Garages:

1. An off street parking area of at least two hundred twenty (220) square feet and a garage (minimum 220 square feet) shall be provided for each manufactured home lot. The parking area shall be asphalt or concrete and meet city construction and design standards¹.

2. Two (2) or more parking areas (guest/overflow parking) shall be provided in the manufactured home park. One space for each manufactured home lot shall be provided.

3. Each manufactured home shall have driveway access to a street.

E. Screening Of Refuse Containers: All refuse containers that are shared by the residents in the park shall be screened from view of adjacent properties and roads by a wood fence or other material approved by the city.

F. Enclosed Storage Of Boats And Trailers: All boats and trailers located in the park shall be stored within enclosed structures.

G. Parks/Open Space: A minimum of ten percent (10%) of the total manufactured home park shall be devoted to park and recreation and/or open space. (Amended Ord. 201, 2-18-1997)

H. Facility Buildings: Each manufactured home park shall contain one or more enclosed facility buildings with space devoted to office, emergency services shelter (basement), laundry, sanitary and recreational facilities. The building shall be designed to accommodate at least fifteen (15) square feet of space per manufactured home lot, but in no case shall the building be less than two thousand five hundred (2,500) square feet. (Amended Ord. 201, 2-18-1997; amd. 2003 Code)

9-6-4: **COVENANTS AND BYLAWS:** The owner of the manufactured home park shall furnish a copy of covenants, restrictions and bylaws of the manufactured home park to the city. (Amended Ord. 201, 2-18-1997)

9-6-5: **TEMPORARY MOBILE HOMES:** The Building Official may issue a permit for a mobile home to be placed on a single-family residentially zoned lot outside the Metropolitan Urban Service Area only when the principal structure has been damaged by a disaster. The mobile home shall be used for temporary dwelling purposes and shall be removed from the residential lot within one

¹ See chapter 3 of this title.

hundred eighty (180) days from the date the permit was issued. (Amended Ord. 201, 2-18-1997)

9-6-6: **EXEMPTIONS FROM PROVISIONS:** The provisions contained in this chapter shall not apply to manufactured homes or travel trailers that are used for office space by construction companies or firms while in the process of working on projects approved by the city. Such units shall not be allowed to be utilized for the purposes of habitation and shall be allowed for a period not to exceed six (6) months. (Amended Ord. 201, 2-18-1997; amd. 2003 Code)

9-6-7: **VIOLATION; PENALTIES:** Any person who violates any provision of this chapter shall be guilty of a misdemeanor and shall be subject to applicable fines and imprisonment defined by state law. In addition to the penalties imposed by this chapter, the city may exercise, with or separately from such penalties, all and any other legal and equitable remedies then available to the city by this chapter, or by statute, or by other ordinance of the city, or by applicable rules or regulations, to enforce this chapter, including, without limitation, injunction. (Amended Ord. 201, 2-18-1997)

CHAPTER 7

COMMERCIAL BUILDING CONSTRUCTION STANDARDS

SECTION:

- 9-7-1: Findings And Purpose
- 9-7-2: Submission And Review Of Plans
- 9-7-3: Construction Standards
- 9-7-4: Occupancy Of Uncompleted Building
- 9-7-5: Nonconforming Structures And Uses
- 9-7-6: Violation; Penalty

9-7-1: **FINDINGS AND PURPOSE:** The City Council finds that certain lands within the city are uniquely suited for commercial and industrial development by reason of their proximity to major transportation routes, soil type and quality, adjacent land uses and market value. In order to preserve the general welfare and safety of the general public, to promote economic growth and employment opportunity, to promote orderly commercial and industrial growth and to protect and enhance municipal investment in commercial and industrial park improvements, the city finds it necessary to implement controls within the lands zoned nonresidential. (Ord. 249, 12-1-1998; amd. 2003 Code)

9-7-2: **SUBMISSION AND REVIEW OF PLANS:**

- A. Persons making application for a building permit shall submit building designs along with a commercial building application form to the Community Development Department. All commercial building applications shall be reviewed by the Andover Review Committee. All building designs and site plans shall be colored.
- B. All other exterior building items as noted on the site plan such as, but not limited to, fencing, landscaping, parking, paving, outdoor storage, refuse containers etc., shall be reviewed and approved by the Andover Review Committee. (Ord. 249, 12-1-1998)

9-7-3: **CONSTRUCTION STANDARDS:**

- A. Materials Of Construction:
 - 1. All buildings located within a non-residentially zoned district (NB, LB, SC,

GB, I or GR) shall be of masonry construction, its equivalent or better. Upon approval of the Andover Review Committee, wood frame construction may be considered equivalent to masonry. (Ord. 249, 12-1-1998; amd. 2003 Code)

2. Walls of such buildings facing on streets must be finished with face brick, stone, glass, wood or their aesthetic equivalent. Any building wall facing a residentially zoned district shall not be finished with exposed plain-faced poured concrete or concrete block.
- B. Building Design: The building design shall exhibit architectural control that seeks to be creative and maximize building lines, shades, and angles to maximize architectural uniqueness. (Ord. 249, 12-1-1998)

9-7-4: **BUILDING OCCUPANCY PRIOR TO COMPLETION OF REQUIRED IMPROVEMENTS:** As may be determined by the Building Official, when circumstances do not permit the substantial completion of required improvements for a commercial building project, the general contractor, builder or owner may apply for a Certificate of Occupancy and enter into a security agreement with the city and furnish a surety as provided in Section 9-1-5 of this Title.

9-7-5: **NONCONFORMING STRUCTURES AND USES:** Except as otherwise provided by law, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:

- A. The nonconformity or occupancy is discontinued for a period of more than one year; or
- B. Any nonconforming use is 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. In this case, a municipality may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. When a nonconforming structure in the shoreland district with less than 50 percent of the required setback from the water is destroyed by fire or other peril to greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

9-7-6: **VIOLATION; PENALTY:** Any person violating any provision of this chapter shall be guilty of a misdemeanor as defined by state law and subject to the penalties therefore. (Ord. 249, 12-1-1998; Amended Ord. 458, 4-5-16)

CHAPTER 8
RENTAL HOUSING DWELLINGS

SECTION:

- 9-8- 1: Purpose And Intent
- 9-8- 2: Definitions
- 9-8- 3: Types of Licenses Required
- 9-8- 4: Application For Rental Dwelling License
- 9-8- 5: Fees
- 9-8- 6: License Terms And Renewals
- 9-8- 7: Conditions Of License Issuance
- 9-8- 8: Inspections, Investigations And Maintenance
- 9-8- 9: Non-transferability Of License
- 9-8-10: Conduct On Licensed Property
- 9-8-11: Provisional Rental License
- 9-8-12: Single Family Rental License
- 9-8-13: Landscaping; Lighting; Snow Removal
- 9-8-14: Fire Control Regulations
- 9-8-15: License Revocation Or Suspension
- 9-8-16: No Retaliation
- 9-8-17: Summary Action
- 9-8-18: Appeals
- 9-8-19: Applicable Laws

9-8-1: **PURPOSE AND INTENT:**

- A. Purpose: It is the purpose of this chapter to protect the public health, safety and welfare of citizens of the city who have as their place of abode a living unit furnished to them for the payment of a rental fee to another. This chapter is the initial step in the city's effort to provide a housing maintenance code.
- B. Intent: It is the intent of this chapter that uniform standards be established and applicable for all rental dwellings in the city. (Ord. 266A, 5-6-2003)

9-8-2: **DEFINITIONS:** The following words and terms used in this chapter are construed and defined as follows:

IMMEDIATE FAMILY: Direct descendants, parents, grandparents, sibling or any such person of traditional or blended family.
(Ord. 381, 5-19-09)

MULTI-FAMILY

RENTAL LICENSE: A rental license established for any rental dwelling with two (2) or more living units are subject to interior and exterior inspections. (Ord. 381, 5-19-09)

OPERATE: To charge a rental fee for the use of a living unit in a rental dwelling.

PROVISIONAL RENTAL LICENSE: A Multi-Family or Single Family rental license containing certain provisions and/or criteria as required by the City Council. (Ord. 381, 5-19-09)

RENTAL DWELLING: Means any dwelling or dwelling unit used for residential occupancy by one or more persons who are not the owner or a member of the owner's immediate family. "Rental dwelling" does not include hotels, motels, senior living facilities, and hospitals. (Ord. 381, 5-19-09; Amended Ord. 438, 6-3-14)

SINGLE FAMILY RENTAL LICENSE: A rental license established for any rental dwelling with less than two (2) living units which is subject to exterior inspections only, with the exception of interior inspections in the event of emergency or life threatening situations as determined by the Building Official, Fire Chief, and/or their designated representative. (Ord. 381, 5-19-09)

VALID COMPLAINT: A valid complaint is a violation that is visible at the time of inspection. (Ord. 381, 5-19-09)

9-8-3: **TYPES OF RENTAL LICENSES REQUIRED:** No person, firm or corporation shall allow to be occupied or let to another a living unit in a rental dwelling for which a license has not been granted by the city. There shall be three (3) types of licenses: multi-family, single family and provisional. (Ord. 381, 5-19-09)

9-8-4: **APPLICATION FOR RENTAL DWELLING LICENSE:** Requests for rental dwelling licenses shall be made by the owner of the rental dwelling units or his/her legally constituted agent by submitting an application to the city. (Ord. 381, 5-19-09)

Before any rental dwelling license shall be issued or renewed, the owner shall

complete a rental license application and allow an onsite inspection of the property as necessary. Each parcel identification number requires a separate application. The following persons shall be authorized to sign and submit the application:

- A. If the owner is a natural person, by the owner thereof.
- B. If the owner is a corporation, by an officer thereof.
- C. If the owner is a partnership, by a partner thereof.

The application shall be made on forms prescribed by the city and shall include:

- A. The name, address, and telephone numbers of the owner of the rental dwellings.
- B. The name, address, and telephone numbers of any operator or agent actively managing the rental dwelling.
- C. If the operator or agent is a business entity, the application shall include the names, telephone numbers, and addresses of individuals who will be involved in such management, together with a description of the scope of services and manner of delivering these services by the manager.
- D. If the applicant is a partnership, the name and address of all partners.
- E. If the applicant is a corporation, the name and address of all officers.
- F. If the rental dwelling is being sold on a contract for deed, the name and address of the vendees.
- G. The legal address of the rental dwelling.
- H. The number of units within the rental dwelling.

Notification by the rental operator shall be given to the city within five (5) business days of any change of information required, and stated in the initial application. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-5: **FEES¹ :**

A. License Fees:

- 1. Fees Established; And Due Date: License fees as set by the City Council shall be due sixty (60) days prior to the license expiration date. In

¹ See subsection 1-7-3B of this code.

the case of a new unlicensed rental dwelling, the license fee shall be submitted with the application. A license fee shall be collected for each unit in a rental dwelling, except owner occupied units. License fees are non-refundable.

2. Filing Due Date And Penalty: If a renewal application is made less than sixty (60) days before the beginning date of the renewal license period applied for, then the fee shall be accompanied by an additional amount equal to one hundred percent (100%) of such license fee. The additional amount shall be a penalty for a late application, with the exception of the first year of the adoption of this chapter. In no case shall there be a lapse in the license period. The late penalty is established for those licensees who have failed to submit an application as specified in this chapter. All new owners must submit an application and obtain a new rental license; previously approved rental licenses are not transferable.

- B. Re-inspection Fee: An initial inspection shall be required at the time of application, the cost of which shall be included in the license application fee. A fee, as set by the City Council, shall be charged thereafter for all re-inspections necessitated by the receipt of any valid complaint(s) of the property. The re-inspection fee(s) will be payable at the time of license renewal for the property. (Ord. 381, 5-19-09)

9-8-6: **LICENSE TERMS AND RENEWALS:**

- A. Multi-Family and Single Family rental licenses:

Initial and renewal applications shall be issued for a period of two (2) years and shall expire the second year after the date that it was issued. The license period shall commence on the date of the approved application. Renewal applications shall be filed at least sixty (60) days prior to license expiration date.

- B. Provisional Rental Licenses:

Provisional licenses shall be issued only upon approval by the City Council and shall expire six (6) months after issuance. A multi-family or single family rental license may be re-established pursuant to Subsection 9-8-11B1. (Ord. 381, 5-19-09)

9-8-7: **CONDITIONS OF LICENSE ISSUANCE:**

- A. Compliance With Chapter: The city shall issue a rental dwelling license if the building and the application are found to be in compliance with the provisions of this chapter.

- B. Conformance To Laws: No rental dwelling license shall be issued or renewed unless the rental dwelling and its premises conform to the Andover City Code of Ordinance; and the laws of the State of Minnesota; and all re-inspection fees have been paid. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-8: **INSPECTIONS, INVESTIGATIONS AND MAINTENANCE:**

- A. No rental dwelling license shall be issued or renewed unless the owner of the rental units agrees in his/her application to permit inspections pursuant to this section.
- B. Every rental dwelling unit shall maintain the standards as stated in Chapter 9, "Housing Maintenance Code", and standards established within all other sections of the Andover City Code of Ordinance and Minnesota State Statutes.
- C. The Building Official, Fire Chief, and/or their designated representatives are hereby authorized to make any and all inspections reasonably necessary to enforce this chapter.
- D. Persons inspecting any rental dwelling, as provided herein, shall notify the license holder of all violations, if any, by issuing a written compliance order. Said compliance order shall direct that compliance on housing maintenance code violations be made within no more than ten (10) business days from the date of the notice, unless extended by the Building Official, Fire Chief, and/or designated representative for good cause. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-9: **NONTRANSFERABILITY OF LICENSE:** No rental dwelling license shall be transferable to another person or to another rental dwelling. Every person holding a rental dwelling license shall give notice in writing to the city within five (5) business days after having legally transferred or otherwise disposed of the legal control of any licensed rental dwelling. Such notice shall include the name and address of the person succeeding to the ownership or control of such dwelling or dwellings. (Ord. 266A, 5-6-2003)

9-8-10: **CONDUCT ON LICENSED PROPERTY:**

- A. Disorderly Premises: It shall be the responsibility of the licensee to see that persons occupying the living units conduct themselves in a manner as not to cause the premises to be disorderly. For the purpose of this section, a premises is disorderly when any of the following activities occur:

1. Violation of the city's noise ordinance¹.
 2. Violation of state laws relating to the possession or sale of illegal drugs or controlled substances.
 3. Violation of disturbing the peace.
 4. The unlawful sale of liquor.
 5. Violation of laws relating to gambling.
 6. Violation of state laws relating to acts of prostitution.
 7. The unlawful use or possession of a firearm per state law.
 8. Violation of Minnesota Statutes, Chapter 609 (i.e., disorderly conduct; unlawful assembly; riot; terroristic threat; presence at unlawful assembly).
- B. Enforcement Authority: The City Administrator shall be responsible for enforcement and administration of this chapter. Authority to take any action authorized by this chapter may be delegated to the City Administrator's designee.
- C. Other Rules: Other rules and regulations as set forth in Minnesota State Statute Chapter 504B, standards established within all other sections of the Andover City Code of Ordinance, and Minnesota State Statutes shall also apply to this chapter.
- D. Notice Of Violation: Upon determination by the city that a living unit was used in a disorderly manner, as described in this section, the city shall give notice to the licensee of the violation and direct the licensee to take steps to prevent further violations. The disorderly manner shall be as defined in this section.
- E. Second Instance: If a second instance of disorderly use of the living unit occurs within three (3) months of an incident for which a notice was given as specified in Subsection D of this section, the city shall notify the licensee to submit a written report of the actions taken, and proposed to be taken by the licensee to prevent further disorderly use of the living unit. This written report shall be submitted to the city within five (5) days of receipt of the notice/report of disorderly use of the living unit and shall detail all actions taken by the licensee in response to all notices of disorderly use of the living unit within the preceding three (3) months.
- F. Third Instance: If a third instance of disorderly use of the living unit

¹ See title 5, chapter 6 of this code.

- occurs within three (3) months after a second instance of disorderly use for which a notice was given to the licensee pursuant to Subsections of this section, the rental dwelling license for the rental dwelling may be denied, revoked, suspended or not renewed. An action to deny, revoke, suspend, or not renew a license under this section shall be initiated by the city, who shall give the licensee written notice of a hearing before the City Council to consider such denial, revocation, suspension or non-renewal. Such written notice shall specify all violations of this section, and shall state the date, time, place and purpose of the hearing. The hearing shall be held no less than ten (10) days and no more than thirty-(30) days from the date of such notice.
- G. **Action Of The City Council:** Following the hearing, the City Council may deny, revoke, suspend or decline to renew the license for all or any part or parts of the rental dwelling or may grant a license upon such terms and conditions as it deems necessary to accomplish the purposes of this section.
 - H. **Eviction Proceedings:** No adverse license action shall be imposed where the instance of disorderly use of the living unit occurs during the pendency of eviction proceedings (unlawful detainer) or within thirty (30) days of notice given by licensee to a tenant to vacate the premises where the disorderly use was related to conduct by that tenant or by other occupants or guests of the tenant's living unit. Eviction proceedings shall not be a bar to adverse license action, however, unless they are diligently pursued by the licensee. Further, any action to deny, revoke, suspend, or not renew a license based upon violations of this section may be postponed or discontinued at any time if it appears that the licensee has taken appropriate measures to prevent further instances of disorderly use.
 - I. **Evidence Of Disorderly Manner:** A determination that the rental dwelling unit has been used in a disorderly manner as described in this section shall be made upon substantial evidence to support such determination. It shall not be necessary that criminal charges be brought in order to support a determination of disorderly use, nor shall the fact of dismissal or acquittal of such criminal charge operate as a bar to adverse license action under this section.
 - J. **Serving Notice:** All notices given by the city under this section shall be personally served on the licensee, sent by certified mail to licensee's last known address or, if neither method of service effects notice, by posting on a conspicuous place on the licensed rental dwelling.
 - K. **Council Action Not Exclusive:** Enforcement actions provided in this section shall not be exclusive, and the City Council may take any action with respect to a licensee, a tenant, or the licensed rental dwelling as is

authorized by this chapter, other sections of the Andover City Code Ordinance, or state law. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-11: **PROVISIONAL RENTAL LICENSE:**

A. Police Or Fire Calls: Licensed dwelling units that have generated two (2) police calls per dwelling unit over any consecutive twelve (12) month period during the license period shall only be eligible for a provisional license at the time of next renewal, as specified in this section.

1. Police calls that are counted in determining whether a provisional license is required include the following types of calls or events:

a. Calls or events listed in this section or Section 9-8-10 of this chapter.

b. Calls or events categorized as part one crimes in the uniform crime reporting system, including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft, and arson.

c. Calls or events categorized by the Public Safety Department: miscellaneous juvenile status crimes; liquor offenses or curfew violations; disturbing the peace or harassing communications; property damage; criminal damage to property or trespass; domestic incidents; public disturbance or disorderly conduct; loud party or noise complaints; disorderly juveniles; assault in the fifth degree or non-domestic related assaults. The Sheriff shall maintain for public inspection a description of the coding system and a list of the codes and crimes included within each of these categories or calls or events. The Sheriff may determine that multiple incidents shall be counted as a single call in appropriate cases.

2. Calls not counted for purposes of determining whether a provisional license is required includes calls where the victim and suspect are "family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subdivision 2(b) and where there is a report of "domestic abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subdivision 2(a).

3. The city will provide a report by mail to each licensee for calls described in this section. The violation report will describe the nature and type of call that became an instance that will be counted for purposes of determining whether the license will be denied, revoked, or suspended or not renewed.

4. The City Council may require a Single Family Rental License to

become provisional as specified in Section 9-8-12 (D) of this chapter.

- B. Mitigation Plan: Prior to consideration of a provisional license, the applicant for a provisional license must work with the city staff to prepare and submit a mitigation plan to be reviewed for approval by the City Council.
1. The mitigation plan shall describe steps proposed by the applicant to reduce the number of police or fire calls described in Subsection A1 of this section over the six (6) month period of the provisional license to a level that would entitle the property to qualify for a regular license at the end of the six (6) month provisional license period.
 2. The mitigation plan may include such steps as: changes in tenant screening procedures, changes in lease terms, security measures, rules and regulations for tenant conduct, and security personnel.
- C. Decision Of City Council: The application and a proposed mitigation plan will be presented to the City Council, together with a disposition recommendation by the City Administrator. After giving the applicant an opportunity to be heard and present evidence, the City Council shall approve, disapprove, or approve with conditions the mitigation plan and the provisional license. If the City Council disapproves an application and mitigation plan or approves a provisional license with conditions, it shall state the reasons for its decision in writing.
- D. Monthly Reports: The provisional licensee shall comply with the approved mitigation plan. No later than the tenth day of each month, the licensee shall mail or deliver to the city a written report describing all steps taken in furtherance of the mitigation plan during the preceding month. If the required monthly reports are not submitted in a timely fashion by the property owner, the city may begin proceedings to revoke the provisional license for all or any part or parts of the licensed premises. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-12: **SINGLE FAMILY RENTAL LICENSE:**

- A. Inspections: Onsite inspections shall be required at the time of receipt of an initial application or a renewal application and upon receipt of a complaint regarding the property.
1. Inspections may be conducted by the Building Official, Fire Chief, and/or a designated representative.
 2. Inspections may be conducted on the property to include only the exterior portion of the rental dwelling and property with the following

exceptions:

a. In emergency and/or life threatening situations as deemed necessary by the Building Official, Fire Chief, and/or designated representative, inspections may be conducted on the property to include the interior and exterior portions of the rental dwelling and without permission from the property owner, after reasonable attempts to contact the owner have failed.

b. Abatement may be scheduled for a property as outlined in Title 4 of the City Code, if there are failed attempts at bringing the property into compliance, at which time no permission is needed from the property owner to abate the property.

B. Re-inspection fees: Re-inspection fees shall only be required after receipt and inspection of a valid complaint. Re-inspection fees shall not be incurred for required annual inspections.

C. Enforcement: A violation shall be enforced as specified within the established guidelines process of the particular Title within the City Code of Ordinances violated. (ie. A nuisance violation would be enforced through the established process within Title 4 of the City Code of Ordinance.)

D. City Council Action: Upon repeat violations, or failure of a property owner to bring the property into compliance, the City Council may do the following:

1. Require a single-family rental license to become provisional as specified in Section 9-8-11 of this chapter.
2. Revoke, suspend, deny, or decline to renew a single family rental license as specified in Section 9-8-15 of this chapter.
3. Order the property to be abated.

9-8-13: **LANDSCAPING; LIGHTING; SNOW REMOVAL:** Each rental dwelling shall be maintained by its owner, occupant, operator or agent so that the yards, open spaces and parking facilities are kept in a safe and attractive condition. In addition, adequate lighting facilities shall be provided and operated between the hours of sunset and sunrise; and snow plowing or snow shoveling shall be regularly accomplished to maintain all sidewalks and parking areas in a safe condition. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-14: **FIRE CONTROL REGULATIONS:** An owner, operator or agent of a rental dwelling shall be responsible for compliance with the applicable provisions of the fire code of the city¹, including the keeping of all fire lanes open

¹ See title 7, chapter 2 of this code.

for emergency purposes. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-15: **LICENSE REVOCATION OR SUSPENSION:**

- A. Reason For Action: The Council may revoke, suspend, deny or decline to renew any license issued under this chapter upon any of the following grounds:
 - 1. False statements on any application or other information or report required by this chapter to be given by the applicant or licensee.
 - 2. Failure to pay any application, penalty, re-inspection, or reinstatement fee required by this chapter or resolution of the City Council.
 - 3. Failure to correct deficiencies noted in notices of violation in the time specified in the notice.
 - 4. Failure to comply with the provisions of an approved mitigation plan in the case of provisional licenses.
 - 5. Any other violation of this chapter.
- B. Applicable Sections: Revocation, suspension, and non-renewal may be brought under this section or Section 9-8-10 of this chapter.
- C. Multi-Family and Single Family License: A Multi-Family or Single Family license may be revoked, if at midterm, or not renewed, if at the end of a term, upon a finding that the premises are only eligible for a provisional license as provided in Section 9-8-11 of this chapter.
- D. Written Notice: A decision to revoke, suspend, deny or not renew a license shall be preceded by a written notice to the applicant or licensee of the alleged grounds therefore, and the applicant or licensee will be given the opportunity for a hearing before the City Council before final action to revoke, suspend, deny, or not renew a license.
- E. Action Of City Council: The City Council shall give due regard to the frequency and seriousness of violations, the ease with which such violations could have been cured or avoided, and good faith efforts to comply, and shall issue a decision to deny, not renew, suspend, or revoke a license only upon written findings. The City Council may suspend or revoke a license or not renew a license for part or all of the rental dwelling.
- F. Reinstatement Of License: Upon a decision to revoke, deny, or not renew

a license, no new application for the same facility will be accepted for a period of time specified in a written decision of the City Council, not exceeding one year. Such new applications must be accompanied by a reinstatement fee, as specified by resolution, in addition to all other fees required by this chapter.

- G. **No New Rentals:** A written decision to revoke, suspend, deny, or not renew a license or application shall specify the part or parts of the rental dwelling to which this applies. Thereafter, and until a license is reissued or reinstated, no living unit becoming vacant in such part or parts of the rental dwelling may be re-let or occupied. Revocation, suspension, or non-renewal of a license shall not excuse the owner from compliance with all terms of this chapter for as long as any units in the rental dwelling are occupied.
- H. **Failure To Comply:** Failure to comply with this chapter is a misdemeanor. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-16: **NO RETALIATION:** No licensee shall evict, threaten to evict, or take any other punitive action against any tenant by reason of good faith calls made by such tenant to law enforcement agencies related to criminal activity, suspected criminal activity, suspicious occurrences, or public safety concerns. This section shall not prohibit the eviction of tenants from a dwelling unit for unlawful conduct of a tenant or invitee or violation of any rules, regulations, or lease terms other than a prohibition against contacting law enforcement agencies. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-17: **SUMMARY ACTION:** When the conduct of any licensee or his/her agent, representative, employee or lessee or the condition of his/her dwelling is detrimental to the public health, safety and general welfare as to constitute a nuisance, fire hazard or other unsafe or dangerous condition and thus give rise to an emergency, the city shall have the authority to summarily condemn or close off such area of the rental dwelling. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-18: **APPEALS:** Any person aggrieved by a decision of the city to cease business or revoke or suspend the license shall be entitled to appeal to the City Council immediately by filing a notice of appeal. The city shall schedule a date for hearing before the City Council and notify the aggrieved person of the date. The hearing shall be conducted in the same manner as if the aggrieved person had not received summary action. The decision of the city shall not be voided by the filing of such appeal. Only after the City Council has held its hearing will the decision of the city be affected. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

9-8-19: **APPLICABLE LAWS:** Licensees shall be subject to all of the ordinances of the city and laws of the state related to rental dwellings. This chapter shall not be construed or interpreted to supersede or limit any other such

applicable ordinance or law. (Ord. 266A, 5-6-2003; Ord. 381, 5-19-09)

CHAPTER 9
HOUSING MAINTENANCE CODE

SECTION:

- 9-9- 1: Purpose And Intent
- 9-9- 2: Application Of Provisions
- 9-9- 3: Definitions
- 9-9- 4: Responsibilities Of Owners And Occupants
- 9-9- 5: Minimum Standards For Basic Equipment And Facilities
- 9-9- 6: Stairways, Porches And Balconies
- 9-9- 7: Access To Dwelling Units
- 9-9- 8: Security for Rental Units
- 9-9- 9: Minimum Standards For Light and Ventilation
- 9-9-10: Minimum Standards for Heat
- 9-9-11: General Maintenance Requirements
- 9-9-12: Construction Requirements
- 9-9-13: Maximum Density, Minimum Space For Rental Units
- 9-9-14: Administration And Enforcement Official; Inspections
- 9-9-15: Unfit Conditions
- 9-9-16: Compliance Order; Appeals; Penalty

9-9-1: **PURPOSE AND INTENT:**

- A. Purpose: The purpose of this chapter is to protect the public health, safety and the general welfare of the people of the city. These objectives include the following:
1. To protect the character and stability of residential areas within the city.
 2. To correct and prevent housing conditions that adversely affect or are likely to adversely affect the life, safety, general welfare or health of Andover residents.
 3. To provide minimum standards for heating and sanitary equipment and for light and ventilation necessary to protect the health and safety of occupants of buildings.
 4. To prevent the overcrowding of dwellings.
 5. To provide minimum standards for the maintenance of existing residential buildings and to thus prevent substandard housing and blight.
 6. To preserve the value of land and buildings throughout the city.

B. Intent: With respect to disputes between tenants and landlords, and except as otherwise specifically provided by the terms of this chapter, it is not the intention of the City Council to intrude upon the accepted contractual relationship between the tenant and landlord. The City Council does not intend to intervene as an advocate of either party, nor to act as arbiter, nor to be receptive to complaints from tenant or landlord which are not ordinance related. In the absence of such relevancy with regard to rental disputes, it is intended that the contracting parties exercise such legal sanctions as are available to them without the intervention of city government. In enacting this chapter, it is not the intention of the City Council to interfere or permit interference with legal rights to personal privacy. (Ord. 267, 7-20-1999)

9-9-2: **APPLICATION OF PROVISIONS:** This chapter establishes minimum standards for maintaining dwelling units, accessory structures and related premises. This chapter is intended to provide standards for rental housing and to provide standards to allow resolution of complaints regarding owner occupied housing. (Ord. 267, 7-20-1999)

9-9-3: **DEFINITIONS:** Whenever the words "dwelling", "dwelling unit", "premises", or "structures" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof". The following definitions shall apply in the interpretation and enforcement of this chapter:

ACCESSORY USE OR STRUCTURES:

A use or structure subordinate to, and serving the principal use or structure on the same lot and customarily incidental thereto which is not used for living or sleeping by human occupants.

ANDOVER BUILDING CODE:

The Minnesota State Building Code, International Building Code (IBC) and International Residential Code (IRC) adopted by the city¹ (Amended Ord. 314 10-4-2005).

BUILDING:

Any structure having a roof which may provide shelter or enclosure for persons, animals, or chattels, and when said structure is divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

BUILDING OFFICIAL:

The designated agent authorized by the City Council to administer and enforce this chapter.

¹ See section 9-1-1 of this title.

DWELLING:	A building, or one or more portions thereof, occupied or intended to be occupied for residential purposes, but not including rooms in motels, hotels, nursing homes, boarding houses, trailers, tents, cabins or trailer coaches.
DWELLING UNIT:	A single-family dwelling or unit designed to accommodate one family.
FAMILY:	<p>A. An individual or two (2) or more persons related by blood, marriage or adoption living together; or</p> <p>B. A group of not more than five (5) persons who need not be related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit, exclusive of usual servants.</p>
GARBAGE:	Animal and vegetable waste resulting from the handling, preparation, cooking, marketing or processing of food, or the non-consumed waste resulting from animals or humans consuming food.
HABITABLE BUILDING:	Any building or part thereof that meets minimum standards for use as a home or place of abode by one or more persons.
HABITABLE ROOM:	A room with enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, unfinished basements (those without required ventilation, required electric outlets and required exit facilities), pantries, utility rooms of less than fifty (50) square feet of floor space, foyers, communicating corridors, stairways, closets, storage spaces, workshops, and hobby and recreation areas in parts of the structure below ground level or in attics.
HEATED WATER:	Water heated to a temperature of not less than one hundred ten degrees Fahrenheit (110°F), or such lesser temperature required by government authority, measured at faucet outlet.
KITCHEN:	A space which contains a sink with counter working space, space for installing cooking and refrigeration equipment, and space for the storage of cooking

utensils.

MAINTENANCE:	Upkeep of property and equipment in a safe working condition for which it was installed and/or constructed.
MULTIPLE-FAMILY DWELLING:	A dwelling or portion thereof containing two (2) or more dwelling units.
OCCUPANT:	Any person (including owner operator) living, sleeping, cooking and eating in a dwelling unit or living and sleeping in a rooming unit.
OPERATE:	To charge rent for the use of a unit in a rooming unit.
OPERATOR:	The owner or his/her agent who has charge, care, control, or management of a building, or part thereof, in which dwelling units or rooming units are let.
OWNER:	Any person, firm or corporation who, alone, jointly, or severally with others, shall be in actual possession of, have charge of, care of, or control of any dwelling, dwelling unit, or rooming unit within the city as owner, employee or agent of the owner, or as trustee or guardian of the estate or person of the title holder. Any person representing the actual owner shall be bound to comply with the provisions of this chapter to the same extent as the owner.
PERMISSIBLE OCCUPANCY:	The maximum number of persons permitted to reside in a dwelling unit or rooming unit.
PERSON:	An individual, firm, partnership, association, corporation, company or joint venture or organization of any kind.
PLUMBING:	All of the following supplied facilities and equipment in a dwelling: gas pipes, gas burning equipment, water pipes, steam pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents and any other similar fixtures and the

installation thereof, together with all connections to water, sewer and gas lines.

PREMISES: A platted lot or part thereof or unplatted parcel of land, and adjacent right-of-way, either occupied or unoccupied by any dwelling or non-dwelling structure, including such building or accessory structure.

PUBLIC HALL: A hall, corridor or passageway for providing egress from a dwelling unit to a public way and not within the exclusive control of one family.

REFUSE: Personal leavings, trash, garbage.

RENTAL DWELLING: A dwelling unit for hire.

REPAIR: The construction or renewal of any part of an existing building or its utilities, facilities or equipment for the purpose of its maintenance.

RODENT HARBORAGE: A place where rodents commonly live, nest, or establish their habitat.

ROOMING UNIT: Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking and eating purposes.

SAFETY: The condition of being reasonably free from danger and hazards which may cause accidents or diseases.

SUBSTANDARD DWELLING: Any dwelling that does not conform to the minimum standards established by city ordinances.

SUPPLIED: Paid for, furnished by, provided by or under the control of the owner, operator, or agent of a dwelling. (Ord. 267, 7-20-1999; amd. 2003 Code)

WATER CLOSET: A toilet with a bowl and trap made in one piece, that is connected to the city water and sewer system or other approved water supply and sewer system.

9-9-4: **RESPONSIBILITIES OF OWNERS AND OCCUPANTS:** No owner or other person shall occupy or let to another person any dwelling, dwelling unit or rooming unit unless it and the premises are fit for human occupancy and comply with all applicable legal requirements of the state and the city, and as set forth specifically in this section:

- A. Maintenance Of Shared Or Public Areas: Every owner of a dwelling containing two (2) or more dwelling units shall maintain or shall provide for maintenance of the units shared along with all public areas of the dwelling and premises thereof.
- B. Housekeeping Of Occupied Areas: Every occupant of a dwelling, dwelling unit or rooming unit shall properly housekeep the dwelling unit and premises thereof that he/she occupies and controls.
- C. Storage And Disposal Of Garbage And Refuse:
 - 1. Every occupant of a dwelling, dwelling unit or rooming unit shall store and dispose of all his/her refuse and garbage and any other organic waste that might provide food for insects and/or rodents in a manner approved by the city. The city requires that refuse and garbage be disposed of by a garbage hauler¹.
 - 2. Every owner of a multiple-family dwelling shall supply facilities for the storage and/or disposal of refuse and garbage. In the case of single- or two-family dwellings, it shall be the responsibility of the occupant to furnish such facilities as prescribed by city ordinance.
- D. Storm And Screen Doors And Windows: The owner of a rental dwelling unit shall be responsible for providing, maintaining and hanging all screen and storm doors and storm windows whenever the same are required under the provisions of this chapter.
- E. Pest Extermination: Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of vermin infestations and/or rodents on the premises. Every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his/her dwelling unit is the only one infested. Notwithstanding, however, whenever infestation is caused by the failure of the owner to maintain a dwelling in a reasonable rodent proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two (2) or more dwelling units, extermination thereof shall be the responsibility of the owner.

¹ See section 4-2-3 of this code.

F. Rodent Harborages Prohibited:

1. Occupied Areas: No occupant of a dwelling or dwelling unit shall accumulate boxes, firewood, lumber, scrap metal or any other similar materials in such a manner that may provide a rodent harborage in or about any dwelling or dwelling unit. Outside stored materials shall be stacked neatly in piles at least four inches (4") above bare soil or ground.

2. Public Areas: No owner of a dwelling containing two (2) or more dwelling units shall accumulate or permit the accumulation of boxes, lumber, scrap metal or any other similar materials in such a manner that may provide a rodent harborage in or about shared or public areas of a dwelling or premises. Materials stored outside by the owner or permitted to be stored by the owner shall be stacked neatly in piles at least four inches (4") above bare soil or ground.

G. Storage Of Food For Rodent Prevention: No owner or occupant of a dwelling unit shall store, place or allow to accumulate any materials that may serve as food for rodents in a site accessible to rodents.

H. Maintenance Of Plumbing Fixtures And Facilities: The owner or occupant of a dwelling unit shall maintain all supplied plumbing fixtures and facilities therein.

I. Minimum Heating Capability And Maintenance: In every dwelling unit or rooming unit, when the control of the supplied heat is the responsibility of a person other than the occupant, a temperature of at least sixty-eight degrees Fahrenheit (68°F) at a point three feet (3') above the floor when the outside temperature is sixteen degrees below zero Fahrenheit (-16°F) (Amended Ord. 314 10-4-2005)

J. Removal Of Snow And Ice: The owner of any rental dwelling shall be responsible for the removal of snow and ice from parking lots and/or driveways, steps and walkways on the premises. Individual snowfalls of three inches (3") or more or successive snowfall accumulations to a depth of three inches (3") shall be removed from walkways and steps within forty-eight (48) hours after cessation of the snowfall. (Ord. 267, 7-20-1999)

K. Minimum Exterior Lighting: The owner of rental dwellings shall be responsible for providing and maintaining in good condition lighting fixtures and levels required by State Building Code for tenants. (Ord. 267, 7-20-1999; amd. 2003 Code)

L. Maintenance Of Driveway And Parking Areas: The owner of a multiple-

family dwelling shall be responsible for providing and maintaining in good condition paved and delineated parking areas and driveways for tenants. (Ord. 267, 7-20-1999)

9-9-5: **MINIMUM STANDARDS FOR BASIC EQUIPMENT AND**

FACILITIES: No person shall rent or let to another for occupancy any dwelling or dwelling unit for the purposes of living, sleeping, cooking and eating therein which does not comply with the following minimum standards for basic equipment and facilities:

- A. Kitchen Sink: Provide a kitchen sink in good working condition which is properly connected to an approved water supply system and which provides at all times an adequate amount of heated and unheated running water under pressure and which is connected to an approved sewer system per city ordinances.
- B. Cabinets/Shelves, Counter/Table: Provide cabinets and/or shelves for the storage of eating, drinking and cooking equipment and utensils and for food that does not require refrigeration for safekeeping; and a counter or table for food preparation. Said cabinets and/or shelves and counter or table shall be of sound construction and finished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food. (Ord. 267, 7-20-1999)
- C. Cooking And Storage Facilities: Provide a stove or similar device for cooking food and a refrigerator or similar device for the safe storage of food at or below forty degrees Fahrenheit (40°F), which are properly installed with all necessary connections for safe, sanitary and efficient operation. Such stove, refrigerator or similar devices need not be installed when a dwelling unit is not occupied, but sufficient space and adequate connections for the installation and operation of said stove, refrigerator or similar device must be provided. (Ord. 267, 7-20-1999; amd. 2003 Code)
- D. Toilet Facilities: Within every dwelling unit there shall be a non-habitable room which is equipped with a water closet in compliance with the Minnesota State Plumbing Code. Such room shall have an entrance door that affords privacy. Said flush water closet shall be equipped with easily cleanable surfaces, shall be connected to an approved water system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly, and all shall be connected to a sewer system in compliance with city ordinances.
- E. Lavatory Sink: Within every dwelling unit there shall be a lavatory sink. Said lavatory sink may be in the same room as the water closet, or if located in another room, the lavatory sink shall be located in close

proximity to the door leading directly into the room in which said water closet is located. The lavatory sink shall be in good working condition and shall provide at all times an adequate amount of heated and unheated running water under pressure and shall be connected to an approved sewer system in compliance with city ordinances.

- F. Bathtub Or Shower: Within every dwelling unit there shall be a non-habitable room which is equipped with a bathtub or shower in good working condition. Such room shall have an entrance door that affords privacy. Said bathtub or shower may be in the same room as the water closet, or in another room, and all shall be properly connected to an approved water supply system and shall provide at all times an adequate amount of heated and unheated water under pressure and shall be connected to an approved sewer system in compliance with city ordinances. (Ord. 267, 7-20-1999)

9-9-6: **STAIRWAYS, PORCHES AND BALCONIES:** Every stairway, inside or outside of a dwelling, and every porch or balcony shall be kept in safe condition and sound repair. Stairs and handrails shall conform to the Andover Building Code standards¹. Every porch, balcony or deck that is thirty inches (30") or more above grade shall have a guardrail and shall be firmly fastened and maintained in good condition. No flight of stairs shall have settled out of its intended position or have pulled away from the supporting or adjacent structures enough to cause hazard. No flight of stairs shall have rotting, loose or deteriorating supports. Excepting spiral and winding stairways, the treads and risers of every flight of stairs shall be essentially uniform in width and height. Stairways shall be capable of supporting a live load of one hundred (100) pounds per square foot of horizontal projection. (Ord. 267, 7-20-1999)

9-9-7: **ACCESS TO DWELLING UNITS:** Access to or egress from each dwelling unit shall be provided without passing through any other dwelling unit. (Ord. 267, 7-20-1999)

9-9-8: **SECURITY FOR RENTAL UNITS:** No owner shall let or rent to another for occupancy any dwelling or dwelling unit unless all exterior doors of the dwellings or dwelling units are equipped with safe, functioning locking devices. Rental dwellings shall be furnished with door locks as follows:

- A. For the purpose of providing a reasonable amount of safety and general welfare for persons occupying multiple-family dwellings with common areas, an approved security system shall be maintained for each multiple-family building to control access. The security system shall consist of locking building entrance or foyer doors, and locked doors leading from hallways into individual dwelling units. Dead latch type door locks shall be provided with releasable lever knobs (or doorknobs) on the inside of

¹ See chapter 1 of this title.

building entrance doors and with key cylinders on the outside of the building entrance doors. Building entrance door latches shall be of a type that is permanently locked.

- B. Every door that provides ingress or egress for a dwelling unit within a multiple-family building shall be equipped with an approved lock that has a deadlocking bolt that cannot be retracted by end pressure; provided however, that such door shall be able to be opened from the inside without the use of a key or any special knowledge or effort. (Amended Ord. 314, 10-4-2005)
- C. All multiple-family dwellings in existence prior to April 21, 1992, which were not previously required to have an approved security system, shall not be subject to the requirements of Subsection A of this section. (Ord. 267, 7-20-1999)

9-9-9: **MINIMUM STANDARDS FOR LIGHT AND VENTILATION:** No person shall occupy as owner or occupant or let to another for occupancy any dwelling or dwelling unit for the purpose of living therein which does not comply with the following minimum standards for light and ventilation:

- A. **Habitable Room Ventilation:** Except where there is supplied some other device affording ventilation and approved by the Building Official, every habitable room shall have at least one window facing directly outdoors that can be opened easily. The minimum total of window area that can be opened in every habitable room shall be a minimum of eight percent (8%) of the floor area of the room (Amended Ord. 314 10-4-2005).
- B. **Non-habitable Room Ventilation:** Every bathroom and water closet compartment, and every laundry and utility room shall be provided with natural ventilation by means of windows, or skylights having an area of not less than four percent (4%) of the floor area of such rooms; except, that no windows shall be required if such rooms are equipped with a ventilation system that is approved by the Building Official. (Ord. 267, 7-20-1999; amd. 2003 Code, Amended Ord. 314 10-4-2005)
- C. **Electric Service, Outlets And Fixtures:** Every dwelling unit and all public and common areas shall be supplied with electric service, functioning over-current protection devices, electric outlets, and electric fixtures which are properly installed, which shall be maintained in a safe working condition, and shall be connected to a source of electric power in a manner prescribed by ordinance, rules and regulations of the city and bylaws of the state. The minimum capacity of such electric service and the minimum number of electric outlets and fixtures shall be as follows:

1. A dwelling containing one or two (2) dwelling units shall have at least

the equivalent of 100-ampere, 3-wire electric service per dwelling unit.

2. Each dwelling unit shall have at least one branch electric circuit for each six hundred (600) square feet of dwelling unit floor area. (Ord. 267, 7-20-1999)

3. Every habitable room shall contain one electrical convenience outlet for each twelve (12) lineal feet, or major fraction thereof, measured horizontally around the room at the baseboard line; provided, that in each room, a ceiling type electric light fixture may be substituted for one of the required electrical convenience outlets. (Ord. 267, 7-20-1999; amd. 2003 Code)

4. Every water closet compartment, bathroom, kitchen, laundry room, and furnace room shall contain at least one supplied ceiling type or wall type electric convenience outlet.

5. Every public hall and public stairway in every multiple dwelling shall be adequately lighted to provide at least ten (10) foot-candles of illumination of all parts thereof at all times by means of properly located electric light fixtures; provided that such electrical lighting may be omitted from sunrise to sunset where there are windows or skylights opening directly to the outside and where the total window or skylight area is at least one-tenth (1/10) of the combined horizontal area of the floor and stairway of each such public hallway and where such windows or skylight provide adequate natural light to all parts of each public hallway. Every public hall and stairway in dwellings containing two (2) dwelling units shall be supplied with convenient light switches, controlling an adequate lighting system that will provide at least ten (10) foot-candles of illumination on all parts thereof, which may be turned on when needed.

6. A convenient switch or equivalent device for turning on a light in each dwelling unit shall be located near the point of entrance to such unit. (Ord. 267, 7-20-1999)

9-9-10: **MINIMUM STANDARDS FOR HEAT:**

A. Standards Established: No person shall occupy as owner or occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not have heating facilities which are properly installed and maintained in a safe and working condition and which are capable of safely heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit located therein to a temperature of at least sixty-eight degrees Fahrenheit (68°F) at a point three feet (3') above the floor when the outside temperature is -16 degrees Fahrenheit. (Amended Ord. 314 10-4-2005)

B. Prohibited Heating Methods:

1. Gas or electric appliances designed primarily for cooking or water heating purposes shall not be considered as heating facilities within the meaning of this section.
2. Portable heating equipment employing flame and the use of liquid fuel does not meet the requirement of this section and is prohibited.
3. No owner or occupant shall install, operate or use a space heater employing a flame that is not vented outside the structure in an approved manner. (Ord. 267, 7-20-1999)

9-9-11: **GENERAL MAINTENANCE REQUIREMENTS:** No person shall occupy, as owner or occupant, or let to another for occupancy, any dwelling or dwelling unit for the purpose of living therein which does not comply with the following requirements:

- A. Foundations, Exterior Walls And Roofs: The foundation, exterior walls and exterior roof shall be substantially watertight and protected against vermin and rodents and shall be kept in sound condition and repair. The foundation element shall adequately support the building at all points. Every exterior wall shall be free of structural deterioration or any other condition that might admit rain or dampness to the interior portion of the walls or to the interior spaces of the dwelling. The roof shall be tight and have no defects that admit rain and roof drainage and shall be adequate to prevent rainwater from causing dampness in the walls. All exterior surfaces, other than decay resistant materials, shall be protected from the elements and decay by paint or other protective covering or treatment. If approximately twenty five percent (25%) or more of the total exterior surface is unpainted or lacks protective coating or is determined by the Building Official to be deteriorated, the surface shall have a protective covering applied. If approximately twenty five percent (25%) or more of the total exterior surface of any brick, block or stone wall is loose or has fallen out, the surface shall be repaired. Any shingles, siding, or other protective element that has become damaged or deteriorated beyond effectiveness or is missing shall be repaired or replaced in a timely manner. (Ord. 267, 7-20-1999; amd. 2003 Code, Amended Ord. 314 10-4-2005)
- B. Windows And Doors: Every window, exterior door and hatchway shall be substantially tight and shall be kept in good repair. Every window, other than a fixed window or storm window, shall be capable of being easily opened and closed. Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction as to completely exclude rain, vermin and rodents from entering the building.

- C. Floors, Interior Walls And Ceilings: Every floor, interior wall and ceiling shall be protected against the passage and harborage of vermin and rodents and shall be kept in sound condition and good repair. Every floor shall be free of loose, warped, protruding or rotting flooring materials. Every interior wall and ceiling shall be maintained in a tight, waterproof condition. Toxic paints or materials with a lasting toxic effect shall not be used. Every toilet room and bathroom floor surface shall be capable of being easily maintained.
- D. Rodent Infested Buildings: Buildings found to be rodent infested shall be made rodent resistant. All openings in the exterior walls, foundations, basements, ground or first floors and roofs which have one-half foot (1/2') diameter or larger openings shall be rodent proofed in an approved manner. Interior floors or basements, cellars and other areas in contact with the soil shall be paved with concrete or other rodent impervious material.
- E. Fences: All fences shall conform to Chapter 12-7 of this code. (Amended Ord. 314 10-4-2005)
- F. Accessory Structures: Accessory structures shall be structurally sound and be maintained in good repair. The exterior of such structures shall be made weather resistant through the use of decay resistant materials such as paint or other preservatives. All accessory structures shall conform to Chapter 12-6 of this code. (Amended Ord. 314, 10-4-2005)
- G. Safe Building Elements: Every foundation, roof, floor, exterior and interior wall, ceiling, inside and outside stair, every porch and balcony, and every appurtenance thereto, shall be safe to use and capable of supporting normal structural loads.
- H. Facilities To Function: All equipment or utilities required under city ordinances and every chimney and flue shall function effectively in a safe and working condition.
- I. Grading And Drainage: Every yard, court, or passageway on the premises on which a dwelling stands shall be graded and drained so as to be free of standing water that constitutes a detriment to health and safety.
- J. Yard Maintenance: Every yard of a premises on which a dwelling stands shall be maintained to prevent dust and erosion. (Ord. 267, 7-20-1999)

9-9-12: **CONSTRUCTION REQUIREMENTS:** Every dwelling within the city shall conform to the Andover Building Code. (Ord. 267, 7-20-1999; amd. 2003

Code, Amended Ord. 314 10-4-2005)

9-9-13: **MAXIMUM DENSITY, MINIMUM SPACE FOR RENTAL UNITS:**

No person shall permit or let to be occupied any rental dwelling for the purpose of living therein which does not comply with the following requirements:

- A. Permissible Occupancy Of Dwelling Unit: The maximum permissible occupancy of any rental dwelling unit shall be determined as follows:
 - 1. For the first occupant, one hundred fifty (150) square feet of habitable room floor space and for every additional occupant thereof, at least one hundred (100) square feet of habitable room floor space.
 - 2. In no event shall the total number of occupants exceed two (2) times the number of habitable rooms, less the kitchen, in the dwelling unit.
- B. One Family Per Dwelling Unit: Not more than one family, except for temporary guests, shall occupy a dwelling unit. (Ord. 267, 7-20-1999)

9-9-14: **ADMINISTRATION AND ENFORCEMENT OFFICIAL;
INSPECTIONS:**

- A. The Building Official shall administer and enforce the provisions of this chapter when reason exists to believe that a violation of the provisions of this chapter has been or is being committed. Inspections shall be conducted during reasonable hours, and the Building Official shall present evidence of his/her official capacity to the owner or occupant in charge of the dwelling unit. The Building Official shall keep confidential all evidence, exclusive of the inspection record, which he/she may discover or obtain in the course of an inspection made pursuant to this section, and such evidence shall be considered privileged.
- B. If any owner, occupant, or other person in charge of a dwelling, dwelling unit, rooming unit, or of a multiple dwelling fails or refuses to permit free access and entry to the structure or premises under his control, or any part thereof, with respect to which an inspection authorized by this chapter is sought to be made, the Building Official may, upon a showing that probable cause exists for the inspection and for the issuance of an order directing compliance with the inspection requirements of this section with respect to such dwelling, dwelling unit, rooming unit, or multiple dwelling, petition and obtain such order from a court of competent jurisdiction. (Ord. 267, 7-20-1999)

9-9-15: **UNFIT CONDITIONS:**

A. Unfit For Human Habitation:

1. Any dwelling, dwelling unit or rooming unit or portion thereof which is damaged, decaying, dilapidated, unsanitary, unsafe, vermin or rodent infested or which lacks provision for basic illumination, ventilation or sanitary facilities to the extent that the defects create a hazard to the health, safety or welfare of the occupants or of the public may be declared unfit for human habitation. Whenever any dwelling, dwelling unit or rooming unit has been declared unfit, the Building Official shall order same vacated within a reasonable time and shall post a placard on same indicating that it is unfit for human habitation, and any operating license previously issued for such dwelling shall be revoked pursuant to law.

2. It shall be unlawful for such dwelling, dwelling unit or rooming unit or portion thereof to be used for human habitation until the defective conditions have been corrected and written approval has been issued by the Building Official. It shall be unlawful for any person to deface or remove the declaration placard from any such dwelling unit.

B. Unfit And Vacant Dwellings To Be Secured: The owner of any dwelling, dwelling unit or rooming unit which has been declared unfit for human habitation or which is otherwise vacant for a period of sixty (60) days or more shall make the same safe and secure so that it is not hazardous to the health, safety and welfare of the public and does not constitute a public nuisance. Any vacant dwelling open at doors, windows, or wall opening, if unguarded, shall be deemed to be a hazard to the health, safety and welfare of the public and is a public nuisance within the meaning of this chapter.

C. Hazardous Building Declaration: In the event that a dwelling has been declared unfit for human habitation and the owner has not remedied the defects within a prescribed reasonable time, the dwelling may be declared a hazardous building and may be removed, razed or corrected pursuant to the provisions of Minnesota Statutes Sections 463.15 to 463.261. (Ord. 267, 7-20-1999)

9-9-16: **COMPLIANCE ORDER; APPEALS; PENALTY:**

A. Issuance; Contents: Whenever the Building Official determines that any dwelling, dwelling unit or rooming unit or portion thereof is in violation of this chapter or any other ordinance, he/she may issue a compliance order setting forth violations of this chapter or any other ordinance and ordering the owner, occupant, operator or agent to correct such violations. This compliance order shall:

1. Be in writing.

2. Describe the location and nature of the violations of this chapter.
3. Establish a reasonable timeframe, not to exceed sixty (60) days, to correct such violation and notify the owner of his appeal recourse.
4. Be served upon the owner, operator and occupant, or any of them; provided, that such notice shall be deemed to be properly served upon such owner, operator, or occupant if a copy thereof is:

- a. Served to him/her personally; or
- b. Sent by registered mail to his/her last known address;
- c. Upon failure to effect notice through Subsection A4a or A4b of this section, service may be made pursuant to Minnesota Statutes Section 463.17, Subdivision 2, which reads as follows:

This order shall be served upon the owner of record, or his agent if in charge of the building, and upon the occupying tenant, if there is one, and upon all lien holders of record, in the manner provided for service of a summons in a civil action. If the owner cannot be found, the order shall be served upon him by posting it at the main entrance to the building and by four weeks' publication in the official newspaper of the municipality if it has one, otherwise in a legal newspaper in the county.

(Ord. 267, 7-20-1999; amd. 2003 Code) B. Appeals:

1. When it is alleged by any person to whom a compliance order is directed that such compliance order is based upon erroneous interpretation of this chapter, or upon a misstatement or mistake of fact, such person may appeal the compliance order to the City Council. Such appeal must be accompanied by a filing fee as designated by the City Council in cash or cashier's check and must be filed with the Building Official within five (5) business days after service of the compliance order. The filing of an appeal shall stay all proceedings in furtherance of the action appealed from unless such stay would cause imminent peril to life, health or property.
2. Upon at least five (5) business days' notice to the appellant of the time and place for hearing the appeal and within thirty (30) days after said appeal is filed, the City Council shall hold a hearing thereon. The City Council shall find that the order be reversed, modified or affirmed in whole or in part.

- C. **Restrictions On Transfer Of Ownership During Pending Compliance Order:** It shall be unlawful for the owner of any dwelling, dwelling unit or rooming unit upon whom a pending compliance order has been served to sell, transfer, mortgage or lease or otherwise dispose thereof to another person until the provisions of the compliance order have been complied with, unless such owner shall furnish to grantee, lessee or mortgagee a true copy of any notice of violation or compliance order and shall obtain and possess a receipt of acknowledgment. Anyone securing an interest in the dwelling, dwelling unit or rooming unit who has received notice of the existence of a compliance order shall be bound by same without further service of notice upon him/her and shall be liable to all penalties and procedures provided by this chapter.
- D. **Execution Of Compliance Orders By Public Authority:** Upon failure to comply with a compliance order within the time set therein, and no appeal having been taken, or upon failure to comply with a modified compliance order within the time set therein, the criminal penalty established hereunder notwithstanding, the City Council, after due notice to the owner, may by resolution cause the cited deficiency to be remedied as set forth in the compliance order. The cost of such remedy shall be a lien against the subject real estate and may be levied and collected as a special assessment in the manner provided by Minnesota Statutes Chapter 429 for any reasons set forth in Section 429.101, Subdivision 1, and specifically for the removal and elimination of public health or safety hazards from private property, but the assessment shall be payable in a single installment. It is the intent of this section to authorize the city to utilize Minnesota Statutes Section 429.101 to promote the public health, safety and general welfare.
- E. **Violation A Misdemeanor:** Any person who fails to comply with a compliance order after a right of appeal has expired and any person who fails to comply with a modified compliance order within the time set therein, upon conviction thereof, shall be guilty of a misdemeanor. (Ord. 267, 7-20-1999)

CHAPTER 10
RESIDENTIAL LANDSCAPING REQUIREMENTS

SECTION:

- 9-10-1: Purpose
- 9-10-2: Definition
- 9-10-3: Trees, Topsoil And Seeding Or Sod Requirements
- 9-10-4: Retroactive Clause
- 9-10-5: Enforcement Official
- 9-10-6: Penalty

9-10-1: **PURPOSE:** The purpose of this chapter is to provide protection to all natural terrain features of a residential site which, if preserved as required herein, will add to the attractiveness and stability of the site. Standards set forth in this chapter will increase the desirability of residences, encourage investment or occupation in the city, optimize use and value of land and improvements, increase the stability and value of the property, and add to the conditions affecting the health and welfare of the city. (Amended Ord. 111A, 8-5-2002)

9-10-2: **DEFINITION:** For the purpose of this chapter, "organic/black topsoil" shall be defined as soil/dirt that has sufficient amounts of organic material to establish a suitable foundation for vegetative growth. The topsoil should contain no more than thirty five percent (35%) sand content. (Amended Ord. 111A, 8-5-2002)

9-10-3: **TREES, TOPSOIL AND SEEDING OR SOD REQUIRED¹:**

A. Trees:

1. Protection of Existing Trees: Under the city Tree Preservation Policy and throughout the city, where a tree protection plan has been established, general contractors, builders and owners must protect existing trees.
2. Tree Planting Required: On all lots of record, for new construction it shall be the responsibility of the general contractor, builder or owner to plant in the front yard a minimum of two (2) trees or one tree per fifty feet (50') of lot width as measured at the front property line, whichever is greater, up to a maximum of four (4) trees. Said trees shall be alive and

¹ See also section 9-1-5 of this title and subsections 11-3-3O and 11-4-8A3 and B3 of this code.

disease free, planted per city tree planting specifications, at least one and three-fourths inches (1 3/4") in diameter and six feet (6') in height as measured from ground level after the trees are planted. Said trees shall be properly planted between the months of April and October, and tree species and/or type shall be on the list determined by the city.

3. Tree Survival: The trees shall not be accepted as meeting the tree planting requirements of this section until verified by the city that the planted trees survive one full "winter season", which for the purpose of this chapter is the period October 31 through May 31.
4. Exemptions: The requirements in this subsection shall not apply if the minimum number of trees prescribed by this subsection are existing, healthy and preserved in the front yard of the property and the trees meet or exceed the requirements listed above.

B. Topsoil, Seed or Sod:

1. General Requirements: On all lots of record, for new construction all disturbed yard areas and boulevards must be restored with topsoil and either seeded or sodded:
 - a. R-4 and Urban Districts:
 - i. Topsoil: Topsoil shall be organic/black soil spread so as to provide at least four inches (4") over the entire yard area.
 - ii. Sod and Seed: Sod must be installed in the boulevard/s and extend to the rear wall of the principal residence on the lot. All other lot areas shall be sodded or sown with lawn grass seed at a rate of not less than four (4) pounds to each one thousand (1,000) square feet of land area. The seed shall consist of a maximum of ten percent (10%) rye grass by weight and a minimum of ninety percent (90%) of permanent bluegrass and/or fescue grass by weight.
 - b. R-1 and Rural Districts:
 - i. All disturbed lot areas shall be sodded or sown with lawn grass seed at a rate of not less than four (4) pounds to each one thousand (1,000) square feet of land area. The seed shall consist of a maximum of ten percent (10%) rye grass by weight and a minimum of ninety percent (90%) of permanent bluegrass and/or fescue grass by weight.

C. Wetlands: Wetlands shall be exempt from the sodding and seeding requirements as determined by the city, Department of Natural Resources, watersheds, or conservation district. The spreading of soil and seeding or sodding of the front and side yard lawn shall be completed within six (6) months after the issuance of the Certificate of Occupancy. (Amended Ord. 111A, 8-5-2002)

9-10-4: **RETROACTIVE CLAUSE:** The residential landscaping requirements of this Chapter may be subject to Section 9-1-5 surety requirements.

9-10-5: **ENFORCEMENT OFFICIAL:** The Code Enforcement Officer of the City of Andover shall enforce this chapter. (Amended Ord. 111A, 8-5-2002)

9-10-6: **PENALTY:** A violation of this chapter shall constitute a misdemeanor as defined by state law as amended. (Amended Ord. 111A, 8-5-2002; Amended Ord. 458, 4-5-16)

CHAPTER 11
MOVING BUILDINGS

SECTION:

- 9-11-1: Purpose And Objectives
- 9-11-2: Definitions
- 9-11-3: Required Licenses, Permits And Regulations
- 9-11-4: Violation; Penalties

9-11-1: **PURPOSE AND OBJECTIVES:** The purposes and objectives of this chapter are to provide for protection from damage that results from the moving of buildings over public road rights-of-way and to minimize the adverse impact on surrounding properties after a building has been moved to such property. (Ord. 200, 2-18-1997)

9-11-2: **DEFINITIONS:**

ACCESSORY

BUILDING: A structure or a portion of a structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

BUILDING: Any structure having a roof (roof area to exceed 120 square feet) that may provide shelter or enclosure of persons, animals or chattels.

BUILDING

MOVER: A person, corporation, or other entity who raises, supports off the foundation, and moves buildings on and over public streets and highways.

DWELLING UNIT: A residential building or portion thereof that is used exclusively for human habitation but not including hotels or motels.

ROAD

AUTHORITY: The Commissioner, as to trunk highways; the County Board, as to county state aid highways and county highways; the Town Board, as to town roads; and the Andover City Council when city streets are specifically mentioned. (Ord. 200, 2-18-1997; amd. 2003 Code)

9-11-3: **REQUIRED LICENSES, PERMITS AND REGULATIONS:**

A. Building Mover: The following pertain to information that is required by the city from the building mover:

1. State License Required: No person may operate as a building mover in the city unless licensed by the State as a building mover.

2. Building Permit Required: If a building or dwelling unit is to be placed on a parcel of land in the city, the building mover will be required to obtain a building permit before the building or dwelling unit is moved across any public street and/or highway. The Building Official may refuse to issue a permit if:

a. The building is too large to move and may endanger property or persons in the city.

b. The building is in such a state of deterioration or disrepair or is otherwise structurally unsafe that it could not be moved without endangering property or persons in the city.

c. The building mover's equipment is unsafe.

d. Any other life/safety reasons as determined by the Building Official.

3. Required Information: The building mover shall provide the city the following:

a. Information in regard to the date and time the building will be moved over public streets and/or highways.

b. A map showing a list of designated streets over which the building shall be moved to assure safety to persons and property in the city and to minimize congestion and hazards on public streets.

4. Removal To Another Parcel Of Land: The dwelling unit along with all other accessory buildings (attached or detached) which shall be removed from the residential parcel of land in the city if the dwelling unit is moved to another parcel of land, unless the city receives in writing from the property owner that a dwelling unit will be constructed or placed on that parcel within one year from the date the building permit was issued to move the dwelling unit from that parcel.

5. Restoration Of Removal Site: All rubbish and materials shall be removed from the building or dwelling unit removal site, and all excavations to existing grade shall be completed. The premises shall be

left in a safe and sanitary condition.

6. Damages Reported: The building mover shall notify the Building Official of any and all damages done to property that resulted from the moving of a building within twenty-four (24) hours after such damage occurred. The building mover shall be liable for any damages and expenses incurred.

B. Building Owner: The following pertain to information that is required by the city from the owners of the building or dwelling unit to be moved:

1. Conditional Use Permit Required: A Conditional Use Permit is required prior to the moving of any dwelling unit onto a residentially zoned lot in the city. The dwelling unit shall meet the minimum requirements for floor area per dwelling unit as stated in the zoning ordinance. The Conditional Use Permit will be reviewed by the City Council to determine if the building is compatible with other development in the area and will not depreciate surrounding property values.

2. Photographs Of Building: The owner of the moved dwelling unit shall submit along with the conditional use permit photographs taken from two (2) or more angles of the dwelling unit to be moved and photographs of the lot on which the dwelling unit is to be located. Photographs of all dwelling units and lots abutting the lot where the dwelling unit is to be located shall also be submitted. (Ord. 200, 2-18-1997)

3. Time Limit To Move And Comply: The owner of the moved building or dwelling unit will have one hundred eighty (180) days from the date the permit was issued to move the building or dwelling unit to the desired location and comply with all applicable city ordinances, the State Building Code and state laws that involve the moving of buildings or dwelling units over public rights-of-way and the placement of such buildings or dwelling units on parcels of land in the city. (Ord. 200, 2-18-1997; amd. 2003 Code)

9-11-4: **VIOLATION; PENALTIES:** Any person who violates any provision of this chapter shall be guilty of a misdemeanor and shall be subject to applicable fines and imprisonment defined by state law. In addition to the penalties imposed by this chapter, the city may exercise, with or separately from such penalties, all and any other legal and equitable remedies then available to the city by this chapter, or by statute, or by other ordinances of the city, or by applicable rules or regulations, to enforce this chapter, including, without limitation, injunction. (Ord. 200, 2-18-1997)

CHAPTER 12
ANTENNAS AND TOWERS

SECTION:

- 9-12- 1: Purpose
- 9-12- 2: Definitions
- 9-12- 3: Permit And Lease Agreement Required
- 9-12- 4: Height Requirements
- 9-12- 5: Zoning District Regulations
- 9-12- 6: Co-location Requirements
- 9-12- 7: Design Requirements
- 9-12- 8: Setbacks
- 9-12- 9: General Requirements
- 9-12-10: Ground Mounted Equipment
- 9-12-11: Nonconforming Antennas And Towers
- 9-12-12: Interference With Public Safety Telecommunications Prohibited
- 9-12-13: Damaged Or Destroyed Antennas And Towers
- 9-12-14: Abandoned Antennas And Towers
- 9-12-15: Variances
- 9-12-16: Violation; Penalties

9-12-1: **PURPOSE:** In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the City Council finds that these regulations are necessary in order to:

- A. Facilitate the provision of commercial wireless telecommunication services to the residents and businesses of the city;
- B. Minimize adverse effects of towers through careful design and siting standards in order to lessen the aesthetic impact on surrounding properties;
- C. Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and
- D. Maximize the use of existing and approved towers and buildings to accommodate new commercial wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.
(Ord. 270, 12-5-2000)

9-12-2: **DEFINITIONS:** The following words and terms shall have the following meanings when used in this chapter:

- ANTENNA:** That portion of any equipment located on the exterior or outside of any structure and used for transmitting or receiving radio, telephone and television signals. "Antenna", as defined in this chapter (unless otherwise noted), pertains to all of the following antennas:
- Antenna, Public Utility Microwave:** A parabolic dish or cornucopia shaped electromagnetically reflective or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless telephone communications, and including the supporting structure thereof.
- Antenna, Radio And Television, Broadcasting Transmitting:** A wire, set of wires, metal or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio or television programming, and including the support structure thereof.
- Antenna, Radio And Television Receiving:** A wire, set of wires, metal or carbon fiber elements, other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the supporting structure thereof.
- Antenna, Satellite Dish:** A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to, commercial satellite earth stations, TVROs (television, receive only), and satellite microwave antennas, but does not include personal TVRO satellite reception receivers.
- Antenna, Short Wave Radio Transmitting And Receiving:** A wire, set of wires or a device, consisting of a metal, carbon fiber, or other electromagnetically conductive element, used for the transmission and reception of radio waves used for short wave radio communications, and including the

supporting structure thereof.

Antenna,

Telecommunications: A device consisting of a metal, carbon fiber, or other electromagnetically conductive rod or element, usually arranged in a circular array on a single supporting pole or other structure, and is used for the transmission and reception of radio waves in digital, analog or other wireless or personal communication services (i.e., cellular, paging, internet, etc.).

CO-LOCATION: The placement of wireless telecommunication antennas by two (2) or more service providers on a tower, building or structure.

COMMERCIAL
WIRELESS
TELECOMMUNICATION

SERVICES: Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

FEDERAL
COMMUNICATIONS

COMMISSION: The federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

GUYED TOWER: A tower that is supported, in whole or in part, by wires and ground anchors.

LATTICE OR
SELF-SUPPORTED

TOWER: A tower erected on the ground that consists of metal crossed strips or bars to support antennas and related equipment.

MAST: That portion of the outside antenna system to which the antenna is attached, and the support of extension is required to elevate the antenna to a height deemed necessary for adequate operation.

PRIVATE

PROPERTY: Land that is not "public property" as defined in this section.

PUBLIC
PROPERTY: Land owned or operated by a government entity.

PUBLIC UTILITY: Persons, corporations, or governments supplying gas, electric, transportation, water, or landline telephone services to the general public. For the purposes of this chapter, wireless telecommunication service facilities shall not be considered public utility uses and are defined separately.

SERVICE
PROVIDER: Any individual or entity that provides wireless telecommunication services.

SMALL
WIRELESS
FACILITY: A wireless facility that meets both of the following qualifications:

- (i) each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and
- (ii) all other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment. (Ordinance 478, 2-5-18)

TOWER: Any pole, monopole, spire, or structure (excluding structures required for the transmission of electric energy), or any combination, to which any antenna could be attached, or which is designed for any antenna to be attached, and all supporting lines, cables, wires and braces. (Amd. Ord. 364, 2-19-08)

TOWER,
MULTI-USER: A tower to which is attached the antennas of more than one commercial wireless telecommunication

service provider or governmental entity.

TOWER,

SINGLE USER: A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this chapter. (Ord. 270, 12-5-2000)

9-12-3: **PERMIT AND LEASE AGREEMENT REQUIRED:** All towers and antennas over thirty five feet (35') from ground level shall require a conditional use permit and building permit approvals from the City. All towers and antennas on City-owned public property shall require a lease agreement with the City. Any changes to a tower or antenna shall require an amended conditional use permit. (Ord. 364, 2-19-2008)

9-12-4: **HEIGHT REQUIREMENTS:**

- A. In Commercial and Industrial zoning districts, towers and antennas may not exceed 150 feet in height.
- B. In residentially zoned districts, towers and antennas may not exceed 120 feet in height.
- C. Antennas (including the mast) may be mounted on a building or structure provided that the antennas do not extend over fifteen feet (15') above the highest portion of the roof of the building or structure. (Ord. 364, 2-19-2008)

9-12-5: **ZONING DISTRICT REGULATIONS:**

- A. Residential Zoning Districts:
 - 1. Towers supporting antennas and conforming to all applicable provisions of this chapter may be allowed only in the following residentially zoned locations: (Ord. 270, 12-5-2000; amd. 2003 Code)
 - a. Church sites, when camouflaged;
 - b. Public land, including City water towers, schools, and publicly-purchased parks when the City Council determines that the tower will not adversely affect the use of the park or neighboring properties; (Ord. 364, 2-19-2008)
 - c. Utility and transmission structures located in public rights-of-way; when attached thereto; and

d. Utility and transmission structures located outside of public rights-of-way, exclusively to serve the structures. (Ord. 364, 2-19-2008)

2. Only one tower or monopole shall exist on any one residentially zoned parcel of land.

3. Small Wireless Facilities require a Conditional Use Permit and shall conform to all applicable provisions of City Code pertaining to Public Right-of-way Management (Ordinance 478, 2-5-18).

B. Commercial And Industrial Districts:

1. Towers supporting antennas and conforming to all applicable provisions of this chapter may be allowed only in the following commercially and industrially zoned locations:

a. Industrial (I) zoned parcels of land when the appearance is consistent with the surrounding area and is compatible with the use;

b. Commercially zoned parcels (Shopping Center SC and General Business GB) parcels of land when the appearance is consistent with the surrounding area and is compatible with the use; and

c. Utility and transmission structures located in public rights-of-way when attached thereto.

d. Utility and transmission structures located outside of public rights-of-way exclusively to serve these structures. (Ord. 364, 2-19-2008)

2. Only one tower shall exist on any one industrially or commercially zoned parcel of land. (Ord. 270, 12-5-2000)

3. Small Wireless Facilities shall conform to all applicable provisions of City Code pertaining to Public Right-of-Way Management (Ordinance 478, 2-5-18).

9-12-6: **COLOCATION REQUIREMENTS:** All telecommunication towers erected, constructed, or located within the city shall comply with the following requirements:

A. A proposal for a new telecommunication service tower shall not be

approved unless the City Council finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing approved tower or building due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed structural engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer, and the interference cannot be prevented at a reasonable cost.

3. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.

4. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

- B. Towers must be designed to allow for future arrangement of antennas upon the tower and to accept antennas mounted at varying heights. A tower one hundred feet (100') or more in height shall accommodate at least three (3) additional users. (Ord. 270, 12-5-2000) (Ord. 364, 2-19-2008)

9-12-7: **DESIGN REQUIREMENTS:** Telecommunication service towers shall be of a monopole design unless the City Council determines an alternative design would better blend into the surrounding environment. Lattice towers are prohibited. (Ord. 270, 12-5-2000)

9-12-8: **SETBACKS:** Towers shall conform with each of the following minimum setback requirements:

A. Towers and ground mounted equipment shall meet the building setbacks of the underlying zoning district as stated in the zoning ordinance.

B. Towers shall be set back from all structures and all property lines at a distance equal to the height of the tower (plus an additional 10 feet),

unless a qualified professional structural engineer certifies in writing that the collapse of the tower will occur within a lesser distance under all foreseeable circumstances.

- C. A tower's setback may be reduced or its location in relation to a public street or neighboring property varied, at the sole discretion of the City Council. The Council's decision must be based on legitimate findings such as, but not limited to:
 - a. Aesthetic concerns
 - b. Safety concerns
 - c. City staff review (Ord. 364, 2-19-2008)

9-12-9: **GENERAL REQUIREMENTS:** All towers and antennas for which a permit is required shall comply with the following requirements:

- A. **Lighting:** Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.
- B. **Signs And Advertising:** The use of any portion of a tower for signs is prohibited. Warning or equipment signs are exempt from this provision.
- C. **Supplemental Information:** Applications for towers shall include the following supplemental information:
 - 1. A report from a qualified and licensed professional engineer that:
 - a. Describes the tower height and design including a cross section and elevation;
 - b. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
 - c. Describes the tower's capacity, including the number and type of antennas that it can accommodate;
 - d. Documents what steps the applicant will take to avoid interference with established public safety telecommunications;
 - e. Includes an engineer's stamp and registration number;
 - f. A coverage map showing what portions of the city will be served

by the user, along with future coverage plans and potential construction sites to provide similar service elsewhere in the city;

g. A report indicating that the request meets technical emission standards set by the FCC; and

h. Includes other information necessary to evaluate the request.

2. For all telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

3. Before the issuance of a building permit, the following information shall be submitted to the city:

a. Proof that the proposed tower complies with regulations administered by the Federal Aviation Administration; and

b. A report from a qualified and licensed professional engineer that demonstrates the tower's compliance with the aforementioned structural and electrical standards. (Ord. 270, 12-5-2000)

9-12-10: **GROUND MOUNTED EQUIPMENT:**

A. Ground mounted equipment shall be stored within a closed, secure building. All buildings accessory to a tower or antenna shall be architecturally designed to blend in with the surrounding environment. (Ord. 364, 2-19-2008)

B. Screening shall be provided in compliance with Chapter 12-13-5. (Ord. 364, 2-19-2008)

9-12-11: **NONCONFORMING ANTENNAS AND TOWERS:** Antennas and towers in existence prior to the adoption of this chapter that do not conform to or comply with the provisions of this chapter may continue in use for the purpose now used and as now existing but may not be structurally altered without complying with this chapter. (Ord. 270, 12-5-2000; amd. 2003 Code)

9-12-12: **INTERFERENCE WITH PUBLIC SAFETY TELECOMMUNICATIONS PROHIBITED:** No new or existing telecommunications services shall interfere with public safety telecommunications. (Ord. 270, 12-5-2000)

9-12-13: **DAMAGED OR DESTROYED ANTENNAS AND TOWERS:** If an antenna or tower is damaged or destroyed due to any reason or cause

whatsoever, the same may be repaired or restored to its former use, location and physical dimensions upon obtaining a building permit. The repair or restoration must comply with this chapter. Provided, however, that if the cost of repairing such damaged or destroyed antenna or tower would be fifty percent (50%) or more of the cost of purchasing and erecting a new antenna or tower of like kind and quality, as estimated by the Building Official, and to the former use, physical dimensions and location, then the antenna or tower may not be repaired or restored except in full compliance with the requirements of this chapter. (Ord. 270, 12-5-2000; amd. 2003 Code)

9-12-14: **ABANDONED ANTENNAS AND TOWERS:** Any antenna or tower that is not used for one year shall be deemed abandoned. Within ninety- (90) days of notice by the city, the antenna or tower and all other associated equipment must be removed from the property. If the antenna or tower and equipment are not removed from the property within the time period as stated herein, a public nuisance may be declared, and the city may order that the public nuisance be abated in a manner consistent with ordinances and policies of the city. (Ord. 270, 12-5-2000; amd. 2003 Code)

9-12-15: **VARIANCES:** Variances from the provisions of this chapter shall be processed and granted or denied in the same manner and based on the same criteria as stated in the city zoning ordinance¹. (Ord. 270, 12-5-2000)

9-12-16: **VIOLATION; PENALTIES:** Any person who shall violate any provision of this chapter shall be charged with a misdemeanor and upon conviction thereof, shall be subject to applicable fines and imprisonment as defined by state law. In addition to the penalties imposed by this chapter, the city may exercise, with or separately from such penalties, all and any other legal and equitable remedies then available to the city by this chapter, or by statute, or by other ordinances of the city, or by applicable rules or regulations, to enforce this chapter, including, without limitation, injunction. (Ord. 270, 12-5-2000)

¹ See section 12-15-7 of this code.

Chapter 13

Wind Energy Conversion Systems

SECTION

- 9-13-1: Purpose and Intent
- 9-13-2: Definitions
- 9-13-3: General Standards
- 9-13-4: Residential WECS
- 9-13-5: Commercial WECS
- 9-13-6: Roof Mounted Residential WECS
- 9-13-7: Exceptions to the Requirements of this Chapter

9-13-1: **PURPOSE AND INTENT:** The purpose of this chapter is to promote the safe, effective and efficient use of alternative energy sources and systems as the technology becomes available. The purpose of this chapter is also to establish predictable and balanced regulations for the establishment of commercial, residential, and roof mounted WECS. (Amended Ord. 397, 8/17/10)

9-13-2: **DEFINITIONS:** The following words and terms shall have following meanings when used in this chapter:

WIND ENERGY

CONVERSION SYSTEM (WECS): Any device which converts wind energy to a form of usable electrical energy. Windmills used for agricultural pumping water and decorative windmills less than thirty five (35) feet in height shall be excluded from this definition. (Amended Ord. 397, 08/17/10)

COMMERCIAL WECS: Means a WECS of forty (40) kilowatts or more in total name plate generating capacity.

RESIDENTIAL WECS: Means a WECS of less than forty (40) kilowatts in total name plate generating capacity.

ROOF MOUNTED WECS: Means a WECS mounted on top of a building, as set forth in Section 9-9-3.

WECS HEIGHT: The height of the tower/pole plus the rotor radius.

9-13-3: **GENERAL STANDARDS:** The following general standards are requirements of the three types of Wind Energy Conversion Systems (WECS): (Amended Ord. 397, 08/17/10)

- 1) No more than one Wind Energy Conversion System (WECS) shall be permitted per lot.
- 2) Conditional use and building permits are required for all WECS. (Amended Ord. 397, 08/17/10)
- 3) SETBACKS: WECS shall be set back a minimum of 1.5 times the height of the WECS from:
 - a) the nearest habitable structure;
 - b) the nearest public right-of-way;
 - c) the nearest property line;
 - d) recreational fields.

In addition no portion of the WECS, including the full arc area created by any blades, shall extend over any aboveground power line or drainage and utility easement. (Amended Ord. 397, 08/17/10)

- 4) The WECS shall be equipped with both a manual and an automatic braking device capable of stopping operation in high winds. (Amended Ord. 397, 08/17/10)
- 5) No WECS shall have affixed or attached lights, reflectors, flashers or other illumination, except as may be required by the Federal Aviation Administration. (Amended Ord. 397, 08/17/10)
- 6) The WECS shall not cause electrical, radio frequency, television, or other communication signal interference.
- 7) All obsolete and unused towers and equipment shall be removed within twelve (12) months of cessation of operation, unless the City Council grants an exemption or an extension. (Amended Ord. 397, 08/17/10)
- 8) No "wind farms" are allowed. (Amended Ord. 397, 08/17/10)
- 9) Noise. All WECS shall comply with all local, state and federal standards for noise. (Amended Ord. 397, 08/17/10)
- 10) All WECS shall comply with all applicable local, state and federal regulations and standards. (Amended Ord. 397, 08/17/10)
- 11) No WECS shall be located in front yards of lots consisting of 2.5 acres or less. (Amended Ord. 397, 08/17/10)

12) No existing WECS shall be physically altered unless it is being removed from the property or through standard maintenance that does not expand the arc area or the height of the structure. (Amended Ord. 397, 08/17/10)

13) Violation; Revocation of Permit: Violation of any provision of this chapter is grounds for revocation of a conditional use permit for a WECS and/or removal of a WECS.

9-13-4: **RESIDENTIAL WECS:**

A. **LOCATION:** Residential WECS shall be allowed as a conditional use on parcels of land meeting the setback requirements listed in Section 9-13-3 and in accordance with the permit and regulations established in this chapter.

B. **DESIGN REQUIREMENTS:**

Blade arcs shall have a minimum of thirty (30) feet of clearance over any accessory structure or tree within the full arc area. (Amended Ord. 397, 08/17/10)

1) The WECS, including the blades, shall be grounded and shielded. (Amended Ord. 397, 08/17/10)

2) The WECS shall not include a tower-climbing apparatus within twelve (12) feet of the ground.

3) The WECS shall display a sign at the base of the tower, containing the following information:

- a) A warning of high voltage,
- b) An emergency telephone number,
- c) The emergency shutdown procedures,
- d) Additional information which may be required on the basis of individual applications as safety needs dictate or as identified in the conditional use permit. (Amended Ord. 397, 08/17/10)

C. **INSURANCE REQUIREMENTS:** The applicant for the conditional use permit shall deposit with the City Clerk a policy of liability insurance for personal injury or property damage in the sum of at least \$300,000. The policy shall contain a clause obligating the company issuing to give at least thirty (30) days written notice to the City before cancellation thereof. The conditional use and building permits are automatically revoked upon the lapse or termination of said policy. (Amended Ord. 397, 08/17/10)

9-13-5: **COMMERCIAL WECS:**

A. *LOCATION:* Commercial WECS shall be allowed as a conditional use on parcels of land with a minimum of at least five (5) acres in size and in accordance with the permit and regulations established in this chapter.

B. *DESIGN REQUIREMENTS:*

- 1) Blade arcs created by the WECS shall have a minimum of thirty (30) feet of clearance over any accessory structure or tree within the full arc area created by blades used in the system.
- 2) The WECS, including the blades, shall be grounded and shielded in conformance with the National Electrical Code. (Amended Ord. 397, 08/17/10)
- 3) The WECS shall not include a tower-climbing apparatus within twelve (12) feet of the ground.
- 4) The WECS shall display a sign posted at the base of the tower containing the following information:
 - a) A warning of high voltage,
 - b) An emergency telephone number,
 - c) The emergency shutdown procedures,
 - d) Additional signs may be required as safety needs dictate or as identified in the conditional use permit. (Amended Ord. 397, 08/17/10)

C. *INSURANCE REQUIREMENTS:* The applicant for the conditional use permit shall deposit with the City Clerk a policy of liability insurance indemnifying the applicant from liability for personal injury or property damage in the sum of at least \$500,000. The policy shall contain a clause obligating the company issuing the same to give at least thirty (30) days written notice to the City before cancellation thereof. The conditional use and building permits are automatically revoked upon the lapse or termination of said policy. (Amended Ord. 397, 08/17/10)

9-13-6: **ROOF MOUNTED RESIDENTIAL WECS:**

A. *LOCATION:* A WECS sited on top of a building shall be allowed as a conditional use in accordance with the permit and regulations established in this chapter. (Amended Ord. 397, 08/17/10)

B. *DESIGN REQUIREMENTS:*

- 1) The WECS must be less than ten (10) kilowatts generating capacity. The WECS shall not extend higher than fifteen feet (15') above the maximum height allowed for the structure. (Amended Ord. 397, 08/17/10)

- 2) Certification of compliance by a state professional engineer is required.

C. **INSURANCE REQUIREMENTS:** The applicant shall deposit with the City Clerk a policy of liability insurance indemnifying the applicant from liability for personal injury or property damage in the sum of at least \$300,000. The policy shall contain a clause obligating the company issuing the same to give at least thirty (30) days written notice to the City before cancellation thereof. The conditional use and building permits are automatically revoked upon the lapse or termination of said policy. (Amended Ord. 397, 08/17/10)

9-13-7: **EXCEPTIONS:** Exceptions to the requirements of this chapter shall include windmills used for agricultural purposes Said such exceptions shall be allowed provided that they meet the following: (Amended Ord. 397, 08/17/10)

- 1) Windmill is not detrimental to the public health, safety and welfare of the neighboring property owners and occupants.

- 2) Windmill does not constitute a Public Nuisance as outlined in Title 4: Public Health and Safety, of the City Code. (Ord. 390 3-16-10)

Chapter 14

Electrical Code

SECTION

- 9-14-1: Minnesota State Electrical Act Adopted
- 9-14-2: Application, Administration and Enforcement
- 9-14-3: Permits, Inspections and Fees
- 9-14-4: Violations and Penalties

9-14-1: **MINNESOTA STATE ELECTRICAL ACT ADOPTED:** The Minnesota Electrical Act, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes Chapter 326B, Sections 326B.31 to 326B.399, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Department of Labor and Industry is hereby adopted by reference with the exception of Minnesota Statute, Section 326B.37, Inspection Fee Schedule. The Minnesota Electrical Act is hereby incorporated into this ordinance as if fully set out herein, with the exception of Minnesota Statute, Section 326B.37, Inspection Fee Schedule. (Ord. 411, 7-6-11)

9-14-2: **APPLICATION, ADMINISTRATION AND ENFORCEMENT:** The application, administration, and enforcement of the code shall be in accordance with the Minnesota Electrical Act. The code shall be enforced in accordance with Minnesota Statutes, Sections 326B.081 through 326B.085, within incorporated limits of the city and the extraterritorial limits permitted by law. The building inspections division of the City of Andover shall administer the Minnesota Electrical Act and shall be the enforcing agency. The code shall be enforced by the City of Andover's certified building official, designated by the city to administer the code. (Ord. 411, 7-6-11)

9-14-3 **PERMITS, INSPECTIONS AND FEES:** The issuance of permits and the collection of fees shall be authorized in Minnesota Statutes, 326B.36, except that the application shall be submitted directly to the City of Andover. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by city ordinance annually, or as the city council may deem necessary. In addition, a surcharge fee shall be collected on all permits for work governed by this code in accordance with Minnesota Statute 16B.70. Any handling or inspection fees will be payable to the City of Andover. (Ord. 411, 7-6-11)

9-14-4 **VIOLATIONS AND PENALTIES:** A violation of this chapter, including provisions of the Minnesota Electrical Act adopted herein, will constitute a misdemeanor. (Ord. 411, 7-6-11)

CHAPTER 15:

SOLAR ENERGY SYSTEMS

SECTION

9-15-1	Purpose and Intent
9-15-2	Definitions
9-15-3	Accessory Use
9-15-4	Exemptions
9-15-5	System Standards

9-15-1: **PURPOSE AND INTENT:** It is the goal of the city council for Andover to become a more sustainable community by encouraging activities that conserve energy and result in less/no pollution output such as alternative energy sources. In accordance with that goal, the city finds that it is in the public interest to encourage alternative energy systems that have a positive impact on energy production and conservation while not having an adverse impact on the community. Therefore, the purposes of this section include:

1. To promote rather than restrict development of alternative energy sources by removing regulatory barriers and creating a clear regulatory path for approving alternative energy systems.
2. To create a livable community where development incorporates sustainable design elements such as resource and energy conservation and use of renewable energy.
3. To protect and enhance air quality, limit the effects of climate change and decrease use of fossil fuels.
4. To encourage alternative energy development in locations where the technology is viable and environmental, economic and social impacts can be mitigated.

9-15-2: **DEFINITIONS:** The following words, terms and phrases shall have the following meanings when used in this chapter:

ALTERNATIVE ENERGY SYSTEM: An energy transfer or generating system such as ground source heat pump, wind or solar energy system.

SOLAR COLLECTOR: A device, structure or a part of a device or structure for which the primary purpose is to capture sunlight and transform it into thermal, mechanical, chemical, or electrical energy.

SOLAR ENERGY: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

SOLAR ENERGY SYSTEM: A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating.

SOLAR ENERGY SYSTEM, ACTIVE: A solar energy system whose primary purpose is to harvest energy by transferring solar energy into another form of energy or transferring heat from a solar collector to another medium using mechanical, electrical, or chemical means.

SOLAR ENERGY SYSTEM, BUILDING INTEGRATED: A solar energy system that is an integral part of a principal or accessory building, replacing or substituting for an architectural or structural component of the building. Building integrated systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within or substitute for roofing materials, windows, skylights, awnings and shade devices.

SOLAR ENERGY SYSTEM, GROUND MOUNTED: A freestanding solar system mounted directly to the ground using a rack or pole rather than being mounted on a building.

SOLAR ENERGY SYSTEM, PASSIVE: A system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

SOLAR ENERGY SYSTEM, ROOF MOUNTED: A solar energy system mounted directly or abutting the roof of a principal or accessory building.

SOLAR HOT WATER SYSTEM (Also THERMAL SYSTEM): A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

9-15-3: **ACCESSORY USE:**

- 1) Ground mounted solar energy systems shall be allowed in the R-1, Single Family Rural District as a permitted accessory use in accordance with the standards in this section.
- 2) Roof mounted solar energy systems shall be allowed as a permitted accessory use in all zoning districts in accordance with the standards in this section.

9-15-4: **EXEMPTIONS:** Passive or building integrated solar energy systems are exempt from the requirements of this section and shall be regulated as any other building element.

9-15-5: **SYSTEM STANDARDS:**

- 1) Electrical:
 - a) All utilities shall be installed underground except the electrical lines for roof mounted units.
 - b) An exterior utility disconnect switch shall be installed at the electric meter serving the property.
 - c) Solar energy systems shall be grounded to protect against natural lightning strikes in conformance with the national electrical code as adopted by the city.
 - d) No solar energy system shall be interconnected with a local electrical utility until the utility has reviewed and provided written approval for the interconnection. The interconnection of the solar energy system with the utility shall comply with the City Code and Minnesota State Building Code.
 - e) All solar energy systems shall meet the standards of the Minnesota State Building Code.
- 2) Aesthetics: All solar energy systems shall be designed to blend into the architecture of the building to the extent possible without negatively impacting the performance of the system and to minimize glare towards vehicular traffic and adjacent properties.
- 3) Glare: The panels of ground mounted solar energy systems shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent buildings, properties or roadways. Prior to the issuance of a permit for a ground mounted solar energy system, the permit applicant must provide an analysis demonstrating that the ground mounted system will not impact aesthetics of adjacent properties.
- 4) Location:
 - a) Roof mounting:
 - 1) The solar energy system shall comply with the maximum height requirements of the applicable zoning district. Roof mounted solar collectors shall be flush mounted on pitched roofs unless the roof pitch is determined to be inadequate for optimum performance of the

solar energy system in which case the pitch of the solar collector may exceed the pitch of the roof up to 5% but in no case shall be higher than ten inches above the roof. Solar collectors on flat roofs may be bracket mounted. Commercial/Industrial collectors located on flat roofs shall be placed on the roof to limit the visibility from public right-of-ways and residential properties and meet the screening requirements of the City Code.

2) The solar energy system shall not extend beyond the perimeter of the exterior walls of the building on which it is mounted.

b) Ground mounting:

1) The solar energy system shall only be located in the rear yard as defined by this title.

2) The solar energy system shall be limited to a maximum area of four hundred (400) square feet.

3) The solar energy system shall not exceed fifteen feet (15') in height.

4) All components of the solar energy system shall be set back a minimum of ten feet (10') from interior side lot lines and rear lot lines.

5) Solar energy systems shall not encroach upon drainage and utility easements.

- 5) Screening: Solar energy systems shall be screened in accordance with the requirements of Section 12-13-5 of the City Code to the extent possible without affecting their function.
- 6) Certification: The solar energy system shall be listed and labeled by an approved third party testing agency such as Underwriters Laboratories, Inc., and comply with the requirements of the Minnesota State Building Code.
- 7) Abandonment: If the solar energy system remains damaged, nonfunctional or inoperative for a continuous period of one year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The owner shall remove the abandoned system at their expense after a demolition permit has been obtained. Removal includes the entire structure including transmission equipment.
- 8) Building Permit: Permits as required by the Minnesota State Building Code shall be obtained for any solar energy system prior to installation.