

**ORDINANCE NO. 2023-6**

**AN ORDINANCE AMENDING CHAPTER 1 OF THE CITY CODE RELATED TO ENFORCEMENT OF ORDINANCES AND LAWS, CHAPTER 6 OF THE CITY CODE RELATED TO PUBLIC SAFETY, CHAPTER 7 OF THE CITY CODE RELATED TO EMERGENCY PLANNING AND OPERATIONS, AND APPENDIX A OF THE CITY CODE RELATED TO ADMINISTRATIVE RELIEF AND FEE SCHEDULE**

The City Council for the City of Bloomington, Minnesota, ordains:

Section 1. That Chapter 1 of the Bloomington City Code is hereby amended by deleting those words within brackets and [~~stricken through~~] and adding those words that are underlined, to read as follows:

**CHAPTER 1: INTERPRETATION AND ENFORCEMENT OF THE CITY CODE**

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**Article II: CIVIL HEARING PROCESS**

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**§ 1.11 CITY CODE PROVISIONS THAT ARE ADMINISTRATIVE OFFENSES**

A violation of the following provisions of the city code shall be an administrative offense that may be subject to the administrative mediation and hearing process of this Article II.

- (1) Chapter 6, Article [~~H~~] I, Fire Prevention and Protection Code;
- [~~(2) Chapter 6, Article III, Fires and False Alarms;~~
- [~~(3) Chapter 6, Article IV, Open Burning Restrictions;~~]
- [~~(4)~~] (2) Chapter 8, Article III, Vehicle Regulations, Division A, Storage of Abandoned, Junk, and Inoperable Vehicles as Public Nuisances;
- [~~(5)~~] (3) Chapter 8, Article IV, Parking, Division A, Parking on Private Property;
- [~~(6)~~] (4) Chapter 9, Article XI, Affordable Housing Tenant Protection;
- [~~(7)~~] (5) Chapter 10, Article II, Refuse;
- [~~(8)~~] (6) Chapter 10, Article III, Odor;
- [~~(9)~~] (7) Chapter 10, Article IV, Noise Code;
- [~~(10)~~] (8) Chapter 10, Article VI, Weeds;
- [~~(11)~~] (9) Chapter 10, Article VII, Recycling;

~~(12)~~ (10) Chapter 10, Article VIII, Phosphorus Fertilizer; Chapter 10, Article X, Energy Benchmarking;

~~(13)~~ (11) Chapter 11, Article II, Wastewater;

~~(14)~~ (12) Chapter 12, Article II, Nuisance Conduct and Conditions, Division A, Public Nuisance Property Conditions;

~~(15)~~ (13) Chapter 12, Article II, Nuisance Conduct and Conditions, Division B, Prohibited Nuisance Conduct;

~~(16)~~ (14) Chapter 12, Article II, Nuisance Conduct and Conditions, Division C, Nuisance Service Call;

~~(17)~~ (15) Chapter 12, Article II, Nuisance Conduct and Conditions, Division E, Improper Display of Sexually-Oriented Materials;

~~(18)~~ (16) Chapter 12, Article II, Nuisance Conduct and Conditions, Division H, Firearms, Weapons, Concealed Weapons;

~~(19)~~ (17) Chapter 12, Article II, Nuisance Conduct and Conditions, Division N, Graffiti;

~~(20)~~ (18) Chapter 12, Article II, Nuisance Conduct and Conditions, Division O, Smoking Prohibited;

~~(21)~~ (19) Chapter 14, Article II, Public Entertainment Licenses and Regulations;

~~(22)~~ (20) Chapter 12, Article IV, Animal Code, Division A, General Provisions and Animal Welfare;

~~(23)~~ (21) Chapter 12, Article IV, Animal Code, Division B, Domestic Animals and Dangerous Animals;

~~(24)~~ (22) Chapter 12, Article IV, Animal Code, Division C, Rabies Control;

~~(25)~~ (23) Chapter 12, Article IV, Animal Code, Division D, Chickens, Farm Poultry, Farm Animals, and Bees;

~~(26)~~ (24) Chapter 12, Article IV, Animal Code, Division E, Wild Animals;

~~(27)~~ (25) Chapter 12, Article IV, Animal Code, Division F, Inspection and Enforcement of Animal Code;

~~(28)~~ (26) Chapter 12, Article VI, Harmful Practices and Conduct - Prohibition of Conversion Therapy;

~~(29)~~ (27) Chapter 14, Article III, Animal Licenses, Division A, Dogs, Cats and Ferrets and Division B, Commercial Animal Establishments;

~~(30)~~ (28) Chapter 14, Article IV, Business Licenses and Regulations;

~~(31)~~ (29) Chapter 14, Article V, Food Establishments, Lodging Establishment and Public Pool Regulations;

~~(32)~~ (30) Chapter 14, Article VIII, Rental Housing Code;

~~(33)~~ (31) Chapter 14, Article VII, Sign Permits and Licenses;

~~(34)~~ (32) Chapter 15, Article I, Building Code;

~~(35)~~ (33) Chapter 15, Article VI, Private Residential Swimming Pools;

~~(36)~~ (34) Chapter 15, Article VIII, Plumbing, Division D. Wells;

~~(37)~~ (35) Chapter 16, Article II, Stormwater Management, and Article III, Stormwater Pond Aeration Permit;

~~(38)~~ (36) Chapter 17, Article II, Street Use Restrictions;

~~(39)~~ (37) Chapter 18, Trees;

~~(40)~~ (38) Chapter 19, Article I, General Provisions;

~~(41)~~ (39) Chapter 19, Article II, Administration and Procedure;

~~(42)~~ (40) Chapter 19, Article III, Zoning District Map, Zoning Districts and District Uses;

~~(43)~~ (41) Chapter 19, Article IIIA, Additional Zoning Districts;

~~(44)~~ (42) Chapter 19, Article IV, District Regulations;

~~(45)~~ (43) Chapter 19, Article V, Performance Standards;

~~(46)~~ (44) Chapter 19, Article VI, Billboards;

~~(47)~~ (45) Chapter 19, Article VII;

~~(48)~~ (46) Chapter 19, Article VIII, Anti-Blight Regulations;

~~(49)~~ (47) Chapter 19, Article IX, Shore Area Regulations;

~~(50)~~ (48) Chapter 19, Article X, Sign Regulations;

~~(51)~~ (49) Chapter 21, Article I, Introduction and Establishment;

~~(52)~~ (50) Chapter 21, Article II, Districts and Uses;

~~(53)~~ (51) Chapter 21, Article III, Development Standards;

~~(54)~~ (52) Chapter 21, Article IV;

~~(55)~~ (53) Chapter 21, Article V, Administration and Nonconformity.; and

~~(56)~~ (54) Chapter 23, Article I, Earned Sick and Safe Leave.

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Section 2. That Chapter 6 of the Bloomington City Code is hereby amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:**CHAPTER 6: PUBLIC SAFETY FIRE PREVENTION AND PROTECTION**

***Article I: [Fire Department]***

- ~~[6.01—Established~~
- ~~—6.02—Equipment~~
- ~~—6.03—Fire stations~~
- ~~—6.04—Composition~~
- ~~—6.05—Executive committee~~
- ~~—6.06—Executive committee officers~~
- ~~—6.07—Operations officers~~
- ~~—6.08—Fire Chief~~
- ~~—6.09—Accountability~~
- ~~—6.10—Membership~~
- ~~—6.11—Discipline~~
- ~~—6.12—Rules and efficiency~~
- ~~—6.13—Training~~
- ~~—6.14—Reserved~~
- ~~—6.15—False alarms~~
- ~~—6.16—Private use of equipment]~~

**Article II: Fire Prevention Code**

- ~~—6.20—State Fire Code adopted~~
- ~~—6.21—Additional Fire Code provisions~~
- ~~—6.22—Definitions~~
- ~~—6.23—Life Safety system inspection report~~
- ~~—6.24—New materials~~
- ~~—6.25—Permits~~
  - ~~—6.25.01—Flammable and combustible liquids and gases plan review~~
  - ~~—6.25.02—Severability~~
  - ~~—6.25.03—Penalty~~

~~Article III: Fires and False Alarms~~

- ~~—6.26 Careless fires~~
- ~~—6.27 False alarm~~
- ~~—6.28 Notification of Fire Department~~
- ~~—6.29 Penalty~~

~~Article IV: Open Burning Restrictions~~

- ~~—6.30 Purpose~~
- ~~—6.31 Definitions~~
- ~~—6.32 Open burning prohibited except by permit~~
- ~~—6.33 Exceptions to open burning prohibition~~
- ~~—6.34 Minnesota Statutes adopted by reference~~
- ~~—6.35 Open burning permits~~
- ~~—6.36 Permit denial~~
- ~~—6.37 Permit revocation~~
- ~~—6.38 Severability~~
- ~~—6.39 Penalty~~

~~Article V: Fire Code Violations~~

- ~~—6.40 Definitions~~
- ~~—6.41 Order of Fire Marshal~~
- ~~—6.42 Appeal of order~~
- ~~—6.43 Hearing~~
- ~~—6.44 City Council action~~
- ~~—6.45 Application for a variance~~

**ARTICLE I: [FIRE DEPARTMENT]**

**[§ 6.01 ESTABLISHED.**

~~—In order to protect the lives and property of the citizens of the city, there is hereby established the Fire Department of the city. Its mission shall be fire prevention and education and the preservation and protection of life, property and the environment against injury and damage from fires, hazardous materials incidents, natural and human-made disasters and other incidents occurring within the city and as directed by the City Manager.~~

**§ 6.02 EQUIPMENT.**

~~—The Department shall be equipped with such apparatus and accessories as may be required from time to time to maintain its efficiency.~~

**§ 6.03 FIRE STATIONS.**

~~—All of the equipment of the Department shall be safely and conveniently housed in such station or stations as may be designated by the city.~~

**§ 6.04 COMPOSITION.**

~~—The Department shall be composed of as many members as designated and budgeted for by the city for the adequate protection of the community.~~

**§ 6.05 EXECUTIVE COMMITTEE.**

~~—There shall be an executive committee composed of the Chief, Assistant Chief, the President, Vice President, Secretary, Treasurer and six additional members elected annually by the Department. The committee's powers and duties shall be as provided in this Article I and which shall meet upon the call of either the Chief or the President.~~

**§ 6.06 EXECUTIVE COMMITTEE OFFICERS.**

~~—The Department shall elect a President, Vice President, Secretary and Treasurer. Such officers may be elected in any manner and for any term the membership may decide upon, and their duties shall be to arrange for and manage any and all business and social affairs of the Department. The functions and duties of these officers shall in no way overlap or interfere with those of the operations officers who are charged with responsibility for all fire service and emergency response activities of the Department.~~

**§ 6.07 OPERATIONS OFFICERS.**

~~—The operations officers of the Department shall be those designated by the Chief or Acting Chief when the position of Chief is vacant, for the effective operation of the Department. All operational officers shall be appointed by the Chief and are subject to removal at the Chief's discretion.~~

**§ 6.08 FIRE CHIEF.**

~~—The Chief shall be selected by the City Manager in accordance with the City Charter and City Employment Rules.~~

**§ 6.09 ACCOUNTABILITY.**

~~—The Chief shall be accountable to the City Manager. All operational officers and firefighters shall be accountable to their superior officers in the Department.~~

**§ 6.10 MEMBERSHIP.**

~~—The active membership of the Department shall consist of such persons as may be appointed by the executive committee with the approval of the Chief. Qualified candidates must be able to meet reasonable and recognized standards that are established by the Chief.~~

**~~§ 6.11 DISCIPLINE.~~**

~~—Any member of the Department may be suspended, demoted or discharged from the Department by the Chief at any time deemed necessary for the good of the Department.~~

**~~§ 6.12 RULES AND EFFICIENCY.~~**

~~—The Chief with the advice and consent of the executive committee shall formulate and maintain a set of rules and procedures to govern the Department and shall be responsible to the City Manager and the executive board for the personnel, morale and efficiency of the Department.~~

**~~§ 6.13 TRAINING.~~**

~~—The Chief or the operations officers at his or her request shall conduct suitable drills in the operation and handling of the equipment, emergency medical service, rescue work, fire suppression, a study of the risks and hazards in the city and all other matters generally accepted as having a bearing upon emergency response.~~

**~~§ 6.14 RESERVED.~~**

**~~§ 6.15 FALSE ALARMS.~~**

~~—No person shall maliciously sound a false fire alarm or report a nonexistent fire.~~

**~~§ 6.16 PRIVATE USE OF EQUIPMENT.~~**

~~—No person shall willfully use any fire apparatus or equipment for any private purpose or without proper authority remove, take away, keep or conceal any tool, appliance or other articles used in any way by the Department.]~~

**~~ARTICLE II: FIRE PREVENTION CODE~~**

**~~§ 6.20 STATE FIRE CODE ADOPTED.~~**

~~—For the purpose of prescribing regulations governing conditions hazardous to life and property from fire, unauthorized release of hazardous material or explosion, the city hereby adopts the Minnesota State Fire Code (MSFC), established pursuant to M.S. § 299F.011, including Appendix I: Fire Protection Systems—Noncompliant Conditions and Appendix [L] P: Emergency Responder Radio Coverage. The MSFC Appendix I, and Appendix [L] P will be administered and enforced as the Fire Code of the city.~~

**~~§ 6.21 ADDITIONAL FIRE CODE PROVISIONS.~~**

~~—(a) Fires or barbecues on balconies or patios—open flame and fuel storage prohibited. This provision is adopted pursuant to the authority of M.S. § 299F.011, subd. 4, as it may be amended from time to time, and shall supersede less restrictive provisions of state law to the contrary.~~

~~—(1) Open flame prohibited. In any multiple family residence that includes three or more dwelling units where dwelling units are configured vertically above and below other dwelling units as defined in § 19.03 of this city code, no person shall kindle, maintain or cause any fire or open flame on any balcony above ground level, or on any ground floor patio within 15 feet of the structure.~~

~~—Exception— Propane grills are allowed on balconies and ground floor patios of townhouses constructed of two or more attached units in which each unit extends from the foundation to the roof and having open space on at least two sides of each unit as defined in the Minnesota State Residential Code.~~

~~—(2) Fuel storage prohibited. In any two-family dwelling, townhouse or multiple-family dwelling as defined in § 19.03 of this city code, no person shall store or use any fuel, barbecue, torch or other similar heating or lighting chemical or device.~~

~~—Note: NFPA 58 § 8.3.5 as referenced by the Minnesota Fire Code restricts the storage of LP gas cylinders within a residential building, including the basement or any storage area in a common basement of a multiple-family building and attached or detached garages, shall be limited to cylinders each with a maximum water capacity of 2.7 lb and shall not exceed 5.4 lb aggregate water capacity per each living space unit.~~

~~—(b) Approved grills. Listed electric grills plugged directly into an electrical outlet or listed natural gas fired barbecue grills, including converted grills, that are permanently mounted, and plumbed to the building's gas supply and that maintain a minimum clearance of 18 inches on all sides, or manufacturers required clearance whichever is greater may be installed on balconies and patios.~~

~~—(1) Installation of grills. Natural gas grills can be installed as noted above. These grills shall be installed permanently by being fastened in place and meet the clearance requirements of the owner's manual. A permit shall be obtained from the Building and Inspection Division before installation. The connections shall be done by a licensed gas fitter.~~

~~—(c) Smoke detectors. When the valuation of the cost of electrical work in a single-family dwelling exceeds \$1,000 and an electrical permit is required from the city for such work, or, when a bedroom is added to or created within a single-family dwelling, smoke detectors which must be installed pursuant to state law shall receive their primary power from the building wiring, and with battery backup, when such wiring is served from a commercial source. Such wiring shall be permanent and without a disconnecting switch other than those required for over current protection. This provision is adopted pursuant to the authority of M.S. § 299F.362, subd. 9, as it may be amended from time to time, and shall supersede less restrictive provisions of state law to the contrary. It is in addition to provisions of state law requiring smoke detectors in new dwellings to be connected to the building wiring.~~

## **§ 6.22 DEFINITIONS.**

~~—The following words and terms when used in the above-noted International Fire Code shall have the following meanings unless the context clearly indicates otherwise.~~

~~—ADMINISTRATION. When pertaining to the enforcement of the above-noted Codes in § 6.20, the City Manager [; and when pertaining to fire control and suppression, the City Council.] or designee.~~

~~—CONSTRUCTION PERMIT. A permit allowing the applicant to install or modify systems and equipment for which a permit is required pursuant to § 105.7 of the State Fire Code.~~



~~—**FIRE CHIEF.** When pertaining to fire control and suppression, the Chief of the Bloomington Fire Department; when pertaining to inspection and enforcement of the Fire Prevention and Investigation Regulations of the above noted Codes in § 6.20, the Assistant Fire Chief/Fire Marshal.~~

~~—**FIRE MARSHAL PERMIT.** Includes all the following permits identified in State Fire Code and this chapter as a construction permit, day care permit, hazardous material inventory statement and operational permit.~~

~~—**JURISDICTION.** The City of Bloomington.~~

~~—**OPERATIONAL PERMIT.** A permit allowing the applicant to conduct an operation or a business for which a permit is required pursuant to § 105.6 of the State Fire Code for either a prescribed period or until renewed or revoked.~~

### ~~§ 6.23 LIFE SAFETY SYSTEM INSPECTION REPORT.~~

~~—(a) For the purposes of this section, the term LIFE SAFETY SYSTEM means a fire [sprinkler] suppression system or a fire alarm system. For purposes of the permits required in this section, standpipe systems are considered to be part of a fire sprinkler system, and smoke and heat removal systems are considered to be part of a fire alarm system.~~

~~—(b) The owner of a building within the city containing a life safety system shall:~~

~~—(1) Maintain the system in an operative condition at all times and shall ensure that all necessary repairs are made to the system; and~~

~~—(2) Hire a person licensed by the state to inspect the life safety system and file a life safety system inspection report with the city once a year.~~

~~—(c) Any person or company hired by the owner of a building containing a life safety system to inspect the system shall file with the city a life safety system inspection report within 30 days after the inspection of the building. The life safety report shall include:~~

~~—(1) Written documentation that the person who inspected the life safety system is licensed by the state to install or repair life safety systems;~~

~~—(2) Written certification that the system has been inspected and tested within the last 30 days; and~~

~~—(3) Written certification that the system meets the operational requirements of the National Fire Code or written documentation that the system does not meet the operational requirements of the National Fire Code and specifies the corrections that need to be made to the system.~~

~~— If the life safety system inspection report states the system does not meet the requirements of the National Fire Code, the city shall issue orders to the owner of the building requiring the owner to make the necessary corrections. If the owner fails to make the necessary corrections, the owner is in violation of subsection (b)(1) above.~~

~~—(d) The annual life safety system inspection report requirement shall not apply to residential life safety systems servicing only single family dwellings where no portion of the dwelling is rented out.~~

~~—(e) The filing fee for the life safety system inspection report shall be as set forth in City Code Appendix A.~~

#### **§ 6.24 NEW MATERIALS.**

~~—The City Manager, the Fire Marshal and the Chief of the Fire Department shall act as a committee to determine and specify, after giving persons affected an opportunity to be heard, any new materials, processes or occupancies, which shall require permits, in addition to those now enumerated in said code. The Fire Marshal shall post such list in a conspicuous place in his or her office, and distribute copies thereof to interested parties.~~

#### **§ 6.25 PERMITS.**

~~—The fees for any permit required under the provisions of this Article II shall be as set forth in City Code Appendix A; however, on new installations where a building permit is secured from the Building and Inspection Division of the city, no fee shall be required in addition to said building permit fee for a permit required under the terms of this Article II.~~

~~—(a) Life safety system inspection report permit. All life safety system inspection report permits granted under the terms of § 6.23 of this city code shall expire on December 31 of the year for which issued. Permit fees shall [not] be pro-rated.~~

~~—(b) Hazardous material inventory statement (“HMIS”) permit. All permits granted for the storage and use of hazardous material above the quantities in §§ 105.6 and 105.7 of the State Fire Code must be renewed annually on or before January 30 of the year for which issued for as long as there is ongoing storage or use of hazardous materials requiring a HMIS on the property.~~

~~—(c) Operational permit. All operational permits, as defined in this section, must be obtained from the city prior to the commencement of any operation for which a permit is required under § 105.6 of the State Fire Code.~~

~~—(d) Construction permit. All construction permits, as defined in this section, that are not included as part of a city building code construction permit, must be obtained from the city prior to the commencement of construction.~~

~~—(e) Licensed day care, licensed home care, licensed foster care permit. No licensed day care, home care or foster care facility shall be operated within the city without first obtaining a fire prevention inspection conducted by the City Fire Marshal and a permit. The permit application under this subsection (e) shall include the initial fire inspection, one follow up inspection as required and fee per Chapter 14. Inspections will be conducted in conformity with state law, including but not limited to M.S. §§ 299F.011 and 245A.151, as they may be amended from time to time.~~

~~—(f) Pyrotechnics permit. No indoor or outdoor pyrotechnic display may be conducted without first obtaining from the city, at least [15] 30 days in advance of the date of the display, a special Fire Marshal pyrotechnics permit. The permit process under this subsection (f) shall include: the~~

completion of a permit application containing a site plan that identifies all requirements set forth in the State Fire Code and the National Fire Protection Association standards; a fire inspection report by the City Fire Prevention Division; a list of all pyrotechnic products and pyrotechnics count to be used; a copy of the Minnesota State Fire Marshal certification. Inspections will be conducted in conformity with state law, including, but not limited to, M.S. § 624.20–624.25, as it may be amended from time to time.

#### **~~§ 6.25.01 FLAMMABLE AND COMBUSTIBLE LIQUIDS AND GASES PLAN REVIEW.~~**

~~—Before construction at any location or commencement of any operation that includes the installation of any tank or container, as outlined in this section, a plan review application must be submitted, along with the plan review fee as set forth in City Code Appendix A. Plans submitted for review must include all associated dispensers and piping. The application must include [two] a complete set[s] of plans and all supporting documentation required pursuant to the State Fire Code submitted through the City Portal. Plan review by the City Fire Prevention Division shall be required for the following installations:~~

~~—(a) Permanent installation of any above-ground or underground tank containing flammable or combustible liquids;~~

~~—(b) Temporary installation of any above-ground tank containing 60 gallons or more of flammable or combustible liquids;~~

~~—(c) Permanent installation of any underground container of liquefied petroleum (LP) gas;~~

~~—(d) Permanent installation of any above-ground container of liquefied petroleum (LP) gas with a liquid capacity of over [2,000] 499 gallons or where the aggregate liquid capacity of all above-ground containers for the site exceeds 4,000 gallons; and~~

~~—(e) Temporary installation of any above-ground container of liquefied petroleum (LP) gas with a liquid capacity exceeding 60 gallons.~~

#### **~~§ 6.25.02 SEVERABILITY.~~**

~~—If any section, subsection, sentence, clause or phrase of this Article II is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Article II. The City Council hereby declares that it would have adopted the Article II in each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.~~

#### **~~§ 6.25.03 PENALTY.~~**

~~—A violation of any provision in this Article II shall be a misdemeanor.~~

### **~~ARTICLE III: FIRES AND FALSE ALARMS~~**

#### **~~§ 6.26 CARELESS FIRES.~~**

~~—Every person who shall negligently or carelessly set on fire, or cause to be set on fire, any combustible material, whether on his or her own land or not, by means whereof the property of~~

another shall be endangered, or who shall negligently suffer any fire upon his or her own lands to extend beyond the limits thereof, shall be guilty of a misdemeanor.

**§ 6.27 FALSE ALARM.**

~~—No person shall intentionally make, turn in or give a false alarm of fire, or of need for police or ambulance assistance or aid or abet in the commission of such act.~~

**§ 6.28 NOTIFICATION OF FIRE DEPARTMENT.**

~~—(a) The manager or person in control of any place of assembly for worship, school, theater, institutional building, hotel, public assembly unit, café, restaurant, factory, warehouse, mercantile building or any multiple dwelling capable of housing eight or more families or having 24 or more sleeping rooms above the first floor, or any other person who discovers a fire, smoke, heat or gases indicating that there is a fire in such building or upon the activation of [a water flow] fire alarm signal, shall immediately call the Fire Department upon the discovery of such fire, [water flow alarm,] smoke, heat or gases [in any such building].~~

~~—(b) No manager or person in control of any of the structures mentioned in this section shall issue any instructions directing employees not to notify the Fire Department, or instructing them to delay in calling the Fire Department immediately upon the discovery of a fire, smoke, heat or gases indicating that there is or may be a fire or upon the activation of a [water flow] fire alarm signal.~~

~~—(c) Each owner, manager or person in control of any of the structures mentioned in this section shall post, and keep posted, in conspicuous places in the building, a notice in a form approved by the City Fire Marshal directing employees and others to call the Fire Department immediately upon the discovery of a fire, smoke, heat or gases indicating that there is or may be a fire or upon the activation of a [water flow] fire alarm signal.~~

**§ 6.29 PENALTY.**

~~—Violation of any provision of this Article III shall be a misdemeanor. Conviction shall also be cause for revocation of any licenses held by such person and issued by the city.~~

**ARTICLE IV: OPEN BURNING RESTRICTIONS**

**§ 6.30 PURPOSE.**

~~—The purpose of this Article IV is to promote the general health, welfare and safety by regulating open burning within the city.~~

**§ 6.31 DEFINITIONS.**

~~—The following words and terms, when used in this Article IV, shall have the following meanings unless the context clearly indicates otherwise.~~

~~—**FIRE MARSHAL.** The City of Bloomington employee appointed by the City Manager as Fire Marshal.~~

~~—**FIREWOOD.** Dry, clean wood such as “Presto Logs,” charcoal or cordwood used or intended for use as heating fuel inside a residence or for an outdoor recreational fire . FIREWOOD does~~

not include wood that is green, with leaves or needles, rotten, wet, oil soaked or treated with paint, glue or other preservatives; construction debris; or refuse. FIREWOOD must be stored in accordance with § 10.51.

—**OPEN FIRE/OPEN BURNING.** A fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed fire box, structure or vehicle, and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct or chimney.

—**RECREATIONAL FIRE.** A fire set for cooking, warming or ceremonial purposes, which is not more than three feet in diameter by two feet high.

—**STARTER FUELS.** Dry, untreated, firewood or charcoal fire starter.

### **§ 6.32 OPEN BURNING PROHIBITED EXCEPT BY PERMIT.**

—(a) No person shall cause, allow or permit open burning within the city without first having obtained a permit therefor from the Fire Marshal.

—(b) No person shall willfully burn or set fire to any grain, grass, growing crop, standing timber or any building, fixture or appurtenance of real property within the city unless a permit therefor has been secured from the Fire Marshal.

—(c) No person shall negligently or carelessly set on fire or cause to be set on fire within the city any woods, prairie, grass or other combustible material, whether on his or her own land or not, by means whereof the property of another shall be endangered; and no person shall willfully allow any fire upon his or her own land to extend beyond the limits thereof.

—(d) If a permit is required by the terms of this Article IV for any burning, the Fire Marshal may condition the granting of such permit upon the agreement of the applicant to employ the City Fire Department to stand by and guard such fire with the fee therefor to be determined by the Fire Chief based upon the quantity and type of required standby equipment and firefighters on any hourly basis, but in no event shall fewer than three firefighters be in attendance.

—(e) Any permit granted by the Fire Marshal for burning may be limited as to location and time and in such other manner as the Fire Marshal may prescribe and shall be issued only under such circumstances as may be allowed in the air pollution regulations described in § 10.02(a) of this city code.

### **§ 6.33 EXCEPTIONS TO OPEN BURNING PROHIBITION.**

—Open burning of the types, and subject to the conditions, as hereinafter stated, shall be exempt from the prohibition in § 6.32 of this code.

—(a) Recreational fires are permitted, in accordance with all of the following conditions:

—(1) Stacked size of firewood shall not exceed three feet in diameter by two feet in height;

—(2) Fires shall be located at least 25 feet from any structures or combustible materials;

—(3) Only firewood shall be used;

- ~~— (4) Fire extinguishing equipment such as buckets, shovels, garden hoses or a fire extinguisher with a minimum 4 A rating shall be readily available;~~
- ~~— (5) Fires shall be constantly attended by a person within sight of the flames until the fire burns out completely or is extinguished;~~
- ~~— (6) Fires may only be conducted between the hours of 7:00 a.m. and 12:00 a.m. (midnight);~~
- ~~— (7) Sustained winds must be less than ten mph as measured by Police Dispatch; and~~
- ~~— (8) A recreational fire will be immediately discontinued if the Fire Marshal, Fire Chief, responding police officer or designee determines the fire is creating a fire safety hazard.~~
- ~~— (b) Fires under managed supervision for which a burning permit has been obtained from the Fire Marshal and, where required by state law, from the Department of Natural Resources, but limited to the following:~~
  - ~~— (1) Fires purposely set for the instruction and training of public and industrial firefighting personnel;~~
  - ~~— (2) Fires set for the elimination of a fire hazard which cannot be abated by any other practicable means;~~
  - ~~— (3) Fires purposely set for forest, prairie and game management purposes; and~~
  - ~~— (4) The burning of trees, brush, grass and other vegetative material in the clearing of land, the maintenance of a street, road or highway right of way, and in accepted agricultural land management practices, provided that all conditions placed on the permit by the Fire Marshal are met.~~
- ~~— (c) Exceptions to conduct fires under this section does not excuse a person from the consequences, damages or injuries which may result therefrom nor does it exempt any person from regulations promulgated by the Minnesota Pollution Control Agency or any other governmental unit exercising jurisdiction in matters of pollution or fire hazard regulation.~~

#### ~~§ 6.34 MINNESOTA STATUTES ADOPTED BY REFERENCE.~~

~~— M.S. §§ 88.02 through 88.22, 88.75 and 88.76, as they may be amended from time to time, are hereby adopted by reference and made a part of this Article IV as is set forth fully herein.~~

#### ~~§ 6.35 OPEN BURNING PERMITS.~~

~~— An open burning permit may be issued on a prescribed form to the applicant if the burning is for one of the purposes set forth in § 6.33(b) and if the open burning is conducted under the following circumstances.~~

- ~~— (a) Prevailing winds. The prevailing wind at the time of the burning is away from nearby residences.~~
- ~~— (b) Traffic hazards. The burning is conducted as far away as practical from any highway or public road and controlled so that a traffic hazard is not created.~~

- ~~—(c) Pollution alerts. The burning is not conducted during the duration of an air pollution alert, warning or emergency.~~
- ~~—(d) Presence during fire. The recipient of the permit or his or her authorized representative is present for the duration of any fire authorized by the permit. A copy of the permit shall be on-site at all times.~~
- ~~—(e) Prior notices. The recipient of the permit gives prior notice to the local Fire Chief of the time and location of any fire authorized by the permit.~~
- ~~—(f) Additional restrictions for vegetation fires. Open burning of materials pursuant to § 6.33(b)(4) shall be conducted in accordance with the following additional restrictions:
  - ~~—(1) The location of the burning shall not be within 200 feet of an occupied residence other than those located on the property on which the burning is conducted.~~
  - ~~—(2) Oils, rubber and other similar smoke producing materials shall not be burned or used as starting materials.~~
  - ~~—(3) The burning shall not be conducted within one mile of any airport or landing strip, unless approved by the Fire Marshal.~~~~
- ~~—(g) Starter fuels . Propane gas torches or other clean gas burning devices causing minimal pollution shall be used to start an open fire.~~
- ~~—(h) Fire Marshal conditions. The open burning is conducted under such other reasonable conditions as the Fire Marshal may impose.~~

#### **§ 6.36 PERMIT DENIAL.**

~~—Any permit application submitted pursuant to this Article IV shall be denied if a reasonable, practical alternative method of the disposal of the material is available; or a nuisance condition would result from the burning.~~

#### **§ 6.37 PERMIT REVOCATION.**

- ~~—Any permit is subject to revocation at the discretion of the Fire Marshal if:
  - ~~—(a) A reasonable, practical method of disposal of the material is found;~~
  - ~~—(b) A fire hazard exists or develops during the course of the burning; or~~
  - ~~—(c) Any of the conditions of the permit are violated.~~~~

#### **§ 6.38 SEVERABILITY.**

~~—If any section, subsection, sentence, clause or phrase of this Article IV is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the Article IV.~~

#### **§ 6.39 PENALTY.**

~~—Violation of this Article IV shall be a misdemeanor under state law.~~

## **ARTICLE V: FIRE CODE VIOLATIONS**

### **§ 6.40 DEFINITIONS.**

~~—The following words and terms when used in this Article V shall have the following meanings, unless the context clearly indicates otherwise.~~

~~—**FIRE MARSHAL.** The Fire Marshal for the City of Bloomington or a designated representative.~~

~~—**PERSON.** Any person, firm, partnership, association, corporation, company or organization of any kind.~~

### **§ 6.41 ORDER OF FIRE MARSHAL.**

~~—The Fire Marshal shall issue an order to any person who violates the State Fire Code or any of the city's fire regulations set forth in the city code. An order must be complied with no later than the deadline for compliance specified in the order unless an appeal is filed in accordance with § 6.42 of this code.~~

### **§ 6.42 APPEAL OF ORDER.**

~~—A person may appeal an order of the Fire Marshal by filing a written notice of appeal with the office of the Fire Marshal within 30 days of the date of the issuance of the order.~~

### **§ 6.43 HEARING.**

~~—A hearing shall be held within 30 days after receipt by the city of a timely appeal. The hearing shall be held before a city appointed hearing examiner who shall not be a member of the city staff. The Minnesota Rules of Evidence need not be strictly followed and the records of the Fire Marshal shall be considered without further foundation. The hearing examiner shall prepare a report containing written findings of fact, conclusions of law, a memorandum of law and a recommendation to the City Council on the appropriate disposition of the appeal. The hearing examiner's report shall be made within 15 days after the hearing and shall be served upon the person filing the appeal, the Fire Marshal, and the members of the City Council.~~

### **§ 6.44 CITY COUNCIL ACTION.**

~~—The report of the hearing examiner shall be referred to the City Council within 30 days after issuance of the report. The person filing the appeal shall be notified of the date when the City Council will consider the hearing examiner's report. The person filing the appeal and the Fire Marshal shall be given the opportunity to summarize their positions before the City Council. The City Council may either affirm, modify or overturn the hearing examiner's recommendation.~~

### **§ 6.45 APPLICATION FOR A VARIANCE.**

~~—A person issued an order by the Fire Marshal may apply to the city for a variance in accordance with M.S. § 299F.011, subd. 5, as it may be amended from time to time. An application for a variance must be filed with the city within 30 days of the date of the order. The provisions of §§ 6.43 and 6.44 of this Article V shall govern applications for variances.~~



## **ARTICLE I: FIRE CODE**

**§ 6.01 Purpose**

**§ 6.02 Minnesota State Fire Code Adopted**

**§ 6.03 Definitions**

**§ 6.04 Dwellings Open Flame and Fuel Storage. Smoke Detectors**

**§ 6.05 Life Safety System Inspection Report**

**§ 6.06 Inspection and Permits**

**§ 6.07 Flammable and Combustible Liquids and Gases Plan Review**

**§ 6.08 Careless Fires**

**§ 6.09 False Alarm**

**§ 6.10 Notification of Fire Department**

**§ 6.11 Open Burning Prohibited Except by Permit**

**§ 6.12 Exceptions to Open Burning Prohibition**

**§ 6.13 Open Burning Permits**

**§ 6.14 Open Burning Permit Denial**

**§ 6.15 Open Burning Permit Revocations**

**§ 6.16 Order of the Fire Marshal**

**§ 6.17 Appeal of Order**

**§ 6.18 Application for a Variance**

**§ 6.19 Penalty**

**§ 6.20 Severability**

## **ARTICLE I: FIRE CODE**

### **§ 6.01 PURPOSE.**

(a) To provide for the reasonable protection of life and property from the hazards of fire and explosive materials. To reduce and manage amounts of flammable, combustible, and hazardous materials, reduce ignition hazards, ensure safe emergency evacuation of occupants, and allow for quick emergency response.

(b) The Fire Chief shall administer and enforce this chapter as the Fire Code of the city.

## **§ 6.02 MINNESOTA STATE FIRE CODE ADOPTED.**

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire, unauthorized release of hazardous material or explosion, the city adopts and incorporates by reference, the following:

(a) Minnesota State Fire Code (“MSFC”), established pursuant to Minnesota Statutes Chapter. § 299F *et. seq.*, rules promulgated by the Minnesota Department of Public Safety, and the following appendices:

(1) Appendix I: Fire Protection Systems-Noncompliant Conditions

(2) Appendix P: Emergency Responder Radio Coverage.

(b) 2018 International Fire Code (“IFC”) sections 105.6 and 105.7 and

(c) Minnesota Statutes sections 88.02 through 88.22, 88.75, and 88.76.

## **§ 6.03 DEFINITIONS.**

The following words and terms shall have the following meanings unless the context clearly indicates otherwise.

**CONSTRUCTION PERMIT.** A permit allowing the applicant to install or modify systems and equipment for which a permit is required pursuant to IFC § 105.7.

**FIRE ALARM SYSTEM.** A system or portion of a combination system that consists of components and circuits arranged to monitor and annunciate the status of fire alarm or supervisory signal-initiating devices and to initiate the appropriate response to those signals. For purposes of this chapter, **FIRE ALARM SYSTEM** includes smoke and heat removal systems.

**FIRE CHIEF.** The Chief of the Bloomington Fire Department.

**FIRE MARSHAL.** The Fire Marshal for the City of Bloomington or a designated representative.

**FIRE MARSHAL PERMIT.** Includes all the following permits identified in MSFC and this chapter as a construction permit, day care permit, hazardous material inventory statement, and operational permit.

**FIRE PROTECTION SYSTEM.** Approved devices, equipment and systems or combination of systems used to detect a fire, activate an alarm, extinguish, or control a fire, control or manage smoke and products of a fire, or any combination thereof. For purpose of this chapter, **FIRE PROTECTION SYSTEM** includes fire sprinkler system, standpipe system, wet, dry, fire pump, kitchen hood suppression system, chemical and clean agent systems.

**FIREWOOD.** Dry, clean wood such as “Presto Logs,” charcoal, or cordwood used or intended for use as heating fuel inside a residence or for an outdoor recreational fire. **FIREWOOD** does not include wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue, or other preservatives; construction debris; or refuse. **FIREWOOD** must be stored in accordance with § 10.57 of this city code.

**LIFE SAFETY SYSTEM.** Components or combinations of equipment of a **FIRE ALARM SYSTEM, FIRE PROTECTION SYSTEM,** and the requirements of an **OPERATIONAL PERMIT.**

**OPERATIONAL PERMIT.** A permit allowing the applicant to conduct an operation or a business for which a permit is required pursuant to IFC § 105.6 for either a prescribed period or until renewed or revoked.

**OPEN BURNING.** The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. **OPEN BURNING** does not include road flares, smudge-pots and similar devices associated with safety or occupational uses typically considered open flames, recreational fires or use of a portable outdoor fireplaces. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues, or chimneys necessary to provide combustion air and permit the escape of exhaust gas are open.

**PERSON.** Any person, firm, partnership, association, corporation, company, or organization of any kind.

**RECREATIONAL FIRE.** A fire set for cooking, warming, or ceremonial purposes, which is not more than three feet in diameter by two feet high.

**STARTER FUELS.** Dry, untreated, firewood, or charcoal fire starter.

#### **§ 6.04 DWELLINGS OPEN FLAME AND FUEL STORAGE. SMOKE DETECTORS.**

(a) Open flame prohibited. In any multiple-family residence that includes three or more dwelling units where dwelling units are configured vertically above and below other dwelling units as defined in § 19.03 of this city code, no person shall kindle, maintain, or cause any fire or open flame on any balcony above ground level, or on any ground floor patio within 15 feet of the structure.

(1) Exception – Propane grills are allowed on balconies and ground floor patios of townhouses constructed of two or more attached units in which each unit extends from the foundation to the roof and having open space on at least two sides of each unit as defined in the Minnesota State Residential Code.

(b) Fuel storage prohibited. In any two-family dwelling, townhouse or multiple-family dwelling as defined in § 19.03 of this city code, no person shall store or use any fuel, barbecue, torch or other similar heating or lighting chemical or device.

(1) National Fire Protection Association 58 § 8.3.5 as referenced and adopted by the MSFC restricts the storage of LP gas cylinders within a residential building, including the basement or any storage area in a common basement of a multiple-family building and attached or detached garages, shall be limited to cylinders each with a maximum water capacity of 2.7 lb and shall not exceed 5.4 lb aggregate water capacity per each living space unit.

(c) Approved grills. Listed electric grills plugged directly into an electrical outlet or listed natural gas-fired barbecue grills that are permanently mounted and plumbed to the building's gas

supply and that maintain a minimum clearance of 18 inches on all sides, or manufacturers required clearance whichever is greater may be installed on balconies and patios.

(1) Installation of grills. Natural gas grills can be installed as noted above. These grills shall be installed permanently by being fastened in place and meet the clearance requirements of the owner's manual. A permit shall be obtained from the Building and Inspection Division before installation. The connections shall be done by a licensed gas fitter.

(c) Smoke detectors. The installation and placement of smoke detectors in dwellings, apartment houses, hotels, and lodging houses shall be governed by Minnesota Statutes § 299F.362, subd. 9 and the Minnesota State Building Code, Minnesota Statutes Chapter 326B.

### **§ 6.05 LIFE SAFETY SYSTEM INSPECTION REPORT.**

(a) The owner of a building within the city containing a life safety system shall:

(1) Maintain the life safety system in an operative condition at all times and shall ensure that all necessary repairs are made; and

(2) Hire a person licensed by the state to inspect the life safety system and file a life safety system inspection report with the city once a year.

(b) Any owner of a building that is required to file a life safety system inspection report shall file the inspection report within 30 days after the inspection of the building. The life safety system inspection report shall include:

(1) Written documentation that the person who inspected the life safety system is licensed by the state to install or repair life safety systems; and

(2) Written certification provided within 30 days of the life system inspection that the life safety system has been inspected and tested and either meets or does not meet the MSFC or its adopted standards, including but not limited to the National Fire Code or National Fire Protection Association standards; and

(3) If the life safety system does not meet the operational requirements identified above, a written certification the owner has made all specified corrections to the life safety system.

(c) The Fire Marshal shall issue orders to the owner of the building requiring the owner to make any necessary corrections identified in the life safety system inspection report. If the owner fails to make the necessary corrections, the owner is in violation of subsection (a)(1) above.

(d) Exception. The annual life safety system inspection report requirement shall not apply to residential life safety systems servicing only single-family dwellings where no portion of the dwelling is rented out.

### **§ 6.06 INSPECTION AND PERMITS.**

The fees for any inspection report or permit required under the provisions of this chapter shall be as set forth in City Code Appendix A.

(a) Life safety system inspection report permit. All life safety system inspection report permits granted under the terms of § 6.05 of this city code shall expire on December 31 of the year for which issued.

(b) Hazardous material inventory statement (“HMIS”) permit. All permits granted for the storage and use of hazardous material above the quantities in IFC §§ 105.6 and 105.7 shall expire on December 31 of the year it was issued and must be renewed as long as there is ongoing storage or use of hazardous materials requiring a HMIS on the property.

(c) Operational permit. All operational permits must be obtained from the city prior to the commencement of any operation for which a permit is required under IFC § 105.6.

(d) Construction permit. All construction permits, as defined in this chapter, that are not included as part of a city building code construction permit, must be obtained from the city prior to the commencement of construction.

(e) Licensed day care, licensed home care, licensed foster care permit. No licensed day care, home care, or foster care facility shall be operated within the city without first obtaining a fire prevention inspection conducted by the Fire Marshal and a permit. The permit application under this subsection (e) shall include the initial fire inspection and one follow-up inspection as required. Inspections will be conducted in conformity with state law, including but not limited to Minnesota Statutes §§ 299F.011 and 245A.151.

(f) Pyrotechnics permit. No indoor or outdoor pyrotechnic display may be conducted without first obtaining from the city, at least 30 days in advance of the date of the display, a Fire Marshal pyrotechnics permit. The permit process under this subsection (f) shall include: the completion of a permit application containing a site plan that identifies all requirements set forth in the State Fire Code and the National Fire Protection Association standards; a fire inspection report by the City Fire Prevention Division; a list of all pyrotechnic products and pyrotechnics count to be used; a copy of the Minnesota State Fire Marshal certification. Inspections will be conducted in conformity with state law, including, but not limited to, Minnesota Statutes §§ 624.20 - 624.25.

#### **§ 6.07 FLAMMABLE AND COMBUSTIBLE LIQUIDS AND GASES PLAN REVIEW.**

Before construction at any location or commencement of any operation that includes the installation of any tank or container, as outlined in this section, a plan review application must be submitted, along with the plan review fee as set forth in City Code Appendix A. Plans submitted for review must include all associated dispensers and piping. The application must include a complete set of plans and all supporting documentation required pursuant to the MSFC. Plan review by the City Fire Prevention Division shall be required for the following installations:

(a) Permanent installation of any above-ground or underground tank containing flammable or combustible liquids;

(b) Temporary installation of any above-ground tank containing 60 gallons or more of flammable or combustible liquids;

(c) Permanent installation of any underground container of liquefied petroleum (LP) gas;

(d) Permanent installation of any above-ground container of liquefied petroleum (LP) gas with a liquid capacity of over 499 gallons or where the aggregate liquid capacity of all above-ground containers for the site exceeds 2,000 gallons; and

(e) Temporary installation of any above-ground container of liquefied petroleum (LP) gas with a liquid capacity exceeding 60 gallons.

#### **§ 6.08 CARELESS FIRES.**

No person shall negligently or carelessly set on fire, or cause to be set on fire, any combustible material, whether on their own land or not, by means whereof the property of another shall be endangered, or negligently cause any fire upon their own lands to extend beyond the limits thereof.

#### **§ 6.09 FALSE ALARM.**

No person shall intentionally make, turn in or give a false alarm of fire, or of need for police or ambulance assistance or aid or abet in the commission of such act.

#### **§ 6.10 NOTIFICATION OF FIRE DEPARTMENT.**

(a) The owner, manager or person in control of any place of occupancy that includes but not limited to: place of assembly, business, educational institution, factory, industrial, high hazard building, institutional building, mercantile building, and residential multi-family dwelling capable of housing eight or more families or having 16 or more sleeping rooms, as defined in chapter 2 of the MSFC and who discovers a fire, smoke, heat, or gases indicating that there is a fire in such building or upon the activation of a life safety system shall immediately notify the Fire Department.

(b) No manager or person in control of any of the structures mentioned in this section shall issue any instructions directing employees not to notify the Fire Department or instructing them to delay in calling the Fire Department immediately upon the discovery of a fire, smoke, heat, or gases indicating that there is or may be a fire or upon the activation of a fire alarm signal including the activation of a fire suppression system.

(c) Each owner, manager or person in control of any of the structures mentioned in this section shall post, and keep posted, in conspicuous places in the building, a notice in a form approved by the Fire Marshal directing employees and others to call the Fire Department immediately upon the discovery of a fire, smoke, heat, or gases indicating that there is or may be a fire or upon the activation of a fire alarm signal including the activation of a fire suppression system.

#### **§ 6.11 OPEN BURNING PROHIBITED EXCEPT BY PERMIT.**

(a) No person shall cause, allow, or permit open burning within the city without first having obtained a permit therefor from the Fire Marshal.

(b) No person shall willfully burn or set fire to any grain, grass, growing crop, standing timber or any building, fixture, or appurtenance of real property within the city unless the Fire Marshal has issued an open burning permit.

(c) No person shall negligently or carelessly set on fire or cause to be set on fire within the city any woods, prairie, grass, or other combustible material, whether on their own land or not, by means whereof the property of another shall be endangered; and no person shall willfully allow any fire upon their own land to extend beyond the limits thereof.

(d) If an open burning permit is required, the Fire Marshal may condition the approval of the open burning permit upon the applicant agreeing to employ the city Fire Department to stand by and guard such fire and to pay the fee determined by the Fire Chief based upon the quantity and type of required standby equipment and firefighters on any hourly basis, but in no event shall fewer than three firefighters be in attendance.

(e) The Fire Marshal may limit an open burning permit by location, time, and in such other manner as the Fire Marshal may prescribe and shall be issued only under such circumstances as may be allowed by the air pollution regulations described in § 10.02(a) of this city code.

### **§ 6.12 EXCEPTIONS TO OPEN BURNING PROHIBITION.**

The following types of open burning are exempt from the prohibition in § 6.11:

(a) Recreational fires with all the following conditions:

(1) Stacked size of firewood shall not exceed three feet in diameter by two feet in height;

(2) Fires shall be located at least 25 feet from any structures or combustible materials;

(3) Only firewood shall be used;

(4) Fire extinguishing equipment such as buckets, shovels, garden hoses, or a fire extinguisher with a minimum 4-A rating shall be readily available;

(5) Fires shall be constantly attended by a person within sight of the flames until the fire burns out completely or is extinguished;

(6) Fires may only be conducted between the hours of 7:00 a.m. and 12:00 a.m. (midnight);

(7) Sustained winds must be less than ten mph as measured by Police Dispatch; and

(8) A recreational fire will be immediately discontinued if the Fire Chief, Fire Marshal, responding police officer, or designee determines the fire is creating a fire safety hazard.

(b) Fires under managed supervision for which a burning permit has been obtained from the Fire Marshal and, where required by state law from the Department of Natural Resources, but limited to the following:

(1) Fires purposely set for the instruction and training of public and industrial firefighting personnel;

(2) Fires set for the elimination of a fire hazard which cannot be abated by any other practicable means;

(3) Fires purposely set for forest, prairie, and game management purposes; and

(4) The burning of trees, brush, grass, and other vegetative material in the clearing of land, the maintenance of a street, road, or highway right-of-way, and in accepted agricultural land

management practices, provided that all conditions placed on the permit by the Fire Marshal are met.

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

### **§ 6.13 OPEN BURNING PERMITS.**

An open burning permit may be issued on a prescribed form to the applicant if the burning is for one of the purposes set forth in § 6.11 and if the open burning is conducted under the following circumstances.

(a) Prevailing winds. The prevailing wind at the time of the burning is away from nearby residences.

(b) Traffic hazards. The burning is conducted as far away as practical from any highway or public road and controlled so that a traffic hazard is not created.

(c) Pollution alerts. The burning is not conducted during the duration of an air pollution alert, warning, or emergency.

(d) Presence during fire. The recipient of the permit or their authorized representative is present for the duration of any fire authorized by the permit. A copy of the permit shall be on-site at all times.

(e) Prior notices. The recipient of the permit gives prior notice to the Fire Chief of the time and location of any fire authorized by the permit.

(f) Additional restrictions for vegetation fires. Open burning of materials pursuant to § 6.12(b)(4) shall be conducted in accordance with the following additional restrictions.

(1) The location of the burning shall not be within 200 feet of an occupied residence other than those located on the property on which the burning is conducted.

(2) Oils, rubber, and other similar smoke producing materials shall not be burned or used as starting materials.

(3) Open burning shall not be conducted within one mile of any airport or landing strip, unless approved by the Fire Marshal.

(g) Starter fuels. Propane gas torches or other clean gas burning devices causing minimal pollution shall be used to start an open fire.

(h) Fire Marshal conditions. The open burning is conducted under such other reasonable conditions as the Fire Marshal may impose.

### **§ 6.14 OPEN BURNING PERMIT DENIAL.**

The Fire Marshall may deny an open burning permit application submitted pursuant to § 6.13 if a reasonable, practical alternative method of the disposal of the material is available, or a nuisance condition would result from the open burning.



**§ 6.15 OPEN BURNING PERMIT REVOCATION.**

The Fire Marshal may revoke an open burning permit if:

- (a) A reasonable, practical method of disposal of the material is found;
- (b) A fire hazard exists or develops during the course of the burning; or
- (c) Any of the conditions of the open burning permit are violated.

**§ 6.16 ORDER OF FIRE MARSHAL.**

The Fire Marshal shall issue an order to any person who violates the MSFC or any provisions of this chapter. An order must be complied with no later than the deadline for compliance specified in the order unless an appeal is filed in accordance with § 6.17 of this code.

**§ 6.17 APPEAL OF ORDER.**

A person may appeal an order of the Fire Marshal by following the administrative enforcement and hearing process contained in Chapter 1 of this code.

**§ 6.18 APPLICATION FOR A VARIANCE.**

A person issued an order by the Fire Marshal may apply to the city for a variance in accordance with M.S. § 299F.011, subd. 5. An application for a variance must be filed with the city within 30 days of the date of the order.

**§ 6.19 PENALTY.**

A violation of this chapter is subject to a civil fine adopted according to § 1.14 of this code. A violation of this chapter may also be subject to criminal penalties under Minnesota Statutes Chapter 609.

**§ 6.20 SEVERABILITY.**

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have adopted this chapter in each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 3. That Appendix A of the City Code is amended by adding those words that are underlined, to read as follows:

**APPENDIX A: FEE SCHEDULE**

This appendix contains the various fees adopted by ordinance in the listed sections of the City Code.

\* \* \*

| <b><i>Chapter 6: Fire Prevention and Protection</i></b> |                         |   |   |
|---|-------------------------|---|---|
| <b><i>CODE SECTION</i></b>                              | <b><i>CROSS-REF</i></b> | <b><i>DESCRIPTION</i></b>   | <b><i>FEE</i></b>                                   |
| § <del>[6.23]</del> <u>6.06</u>                         | § 14.03                 | Life safety system inspection permit  | <del>[\$55.00]</del><br><u>60.00</u>                |
| § <del>[6.25]</del> <u>6.06</u>                         | § 14.03                 | Fire marshal, per permit ( <u>includes day care permit, hazardous material inventory statement, and operational permit.</u> ) | <del>[\$55.00]</del><br><u>60.00</u>                |
| § <del>[6.25]</del> <u>6.06</u>                         | § 14.03                 | Pyrotechnics permit   | <del>[\$115]</del> <u>120.00</u><br>per plan review |
| § <del>[6.25.01]</del> <u>6.06</u>                      | § 14.03                 | Flammable/combustible tank plan review  | <del>[\$115]</del> <u>125.00</u><br>per plan review |

Section 4. That Chapter 7 of the Bloomington City Code is hereby amended by deleting those words within brackets and [~~stricken through~~] and adding those words that are underlined, to read as follows:

## **CHAPTER 7: EMERGENCY PLANNING AND OPERATIONS**

### ***Article I: Emergency Management***

- 7.01 Policy and purpose
- 7.02 Definitions
- 7.03 Agency established
- 7.04 Department organization
- 7.05 Powers and duties of the coordinator
- 7.06 Studies and surveys
- 7.07 General plan
- 7.08 Training and information
- 7.09 Cooperation
- 7.10 Emergency personnel
- 7.11 Emergency facilities
- 7.12 Directions of Governor

- 7.13 General operations
- 7.14 Control Center
- 7.15 Powers of City Manager
- 7.16 Qualification of workers
- 7.17 Volunteers
- 7.18 Identification
- 7.19 Firearms
- 7.20 [~~Personnel procedures~~] **RESERVED**
- 7.21 Emergency regulations
- 7.22 Proclamation of regulations
- 7.23 Expiration of regulations and declaration
- 7.24 [~~Civil Defense Fund~~] **RESERVED**
- 7.25 [~~Report of activities~~] **RESERVED**
- 7.26 Conformity and cooperation with federal and state authority
- 7.27 [~~Prohibited illumination as nuisance~~] **RESERVED**
- 7.28 Participation in labor dispute or politics

***Article II: [~~Fallout Shelters~~] RESERVED***

- 7.29 [~~Adoption of standards for fallout shelters~~] **RESERVED**
- 7.30 [~~Definitions~~] **RESERVED**
- 7.31 [~~Radiation shielding~~] **RESERVED**
- 7.32 [~~Space and ventilation requirements~~] **RESERVED**
- 7.33 [~~Construction requirements~~] **RESERVED**
- 7.34 [~~Services~~] **RESERVED**

**ARTICLE I: EMERGENCY MANAGEMENT**

**§ 7.01 POLICY AND PURPOSE.**

(a) Because of the existing and increasing possibility of [~~the occurrence of~~] emergencies and disasters of unprecedented size and destructiveness [~~resulting from enemy attack, sabotage or other hostile action or from disaster~~]; [~~in order~~] the city finds it is necessary to ensure that preparations of [~~this~~] the city will be adequate to deal with such disasters; [~~and, generally,~~] to

provide for the common defense, and to protect the public peace, health, and safety and preserve the lives and property of the people of this city, it is ~~[hereby found and]~~ declared to be necessary:

(1) To establish a local ~~[civil defense agency]~~ function known as Emergency Management.

(2) To provide for the exercise of necessary powers during ~~[civil defense]~~ emergencies and in time of disaster; and

(3) To provide for the rendering of mutual aid between ~~[this]~~ the city and other political subdivisions of this state and of other states with respect to the carrying out of ~~[civil defense]~~ emergency management functions.

(b) It is further declared to be the purpose of this Article I and the policy of the city that all ~~[civil defense]~~ emergency management functions of this city be coordinated to the maximum extent practicable with ~~[the comparable functions of]~~ the federal government, this state, this county, other states and localities, and private agencies of every type, to the end that the most effective preparations and use may be made of the nation's ~~[manpower]~~ labor supply, resources, and facilities for dealing with any emergency or disaster that may occur.

(c) All functions hereunder and all other activities relating to ~~[civil defense]~~ emergency management are hereby declared to be governmental functions. The city and, except in case of willful misconduct, its officers, agents, employees, volunteers, or representatives engaged in any ~~[civil defense]~~ emergency management activities, while complying with or attempting to comply with ~~[the Minnesota Civil Defense Act of 1951]~~ Minnesota Statutes Chapter 12 or with this Article I or any rule, regulation, or order made thereunder, shall not be liable for the death of or any injury to persons or damage to property as a result of such activity. The provisions of this section shall not affect the right of any person to receive benefits to which ~~[he or she]~~ they will otherwise be entitled under this Article I, or under the worker's compensation law, or under any pension law nor the right of any such person to receive any benefits or compensation under any act of Congress.

## **§ 7.02 DEFINITIONS.**

The following words and terms, when used in this Article I, shall have the following meanings, unless the context clearly indicates otherwise.

~~[**CIVIL DEFENSE.** See **EMERGENCY MANAGEMENT.**]~~

~~—**CIVIL DEFENSE EMERGENCY.** An emergency declared by the governor under [the Minnesota Civil Defense Act of 1951, Laws 1951, Ch. 694, § 301, as amended].~~

~~[**CIVIL DEFENSE FORCES** Any personnel employed by the city and any other volunteer or paid member of the local civil defense agency engaged in carrying on civil defense functions in accordance with the provisions of this Article I or any rule or order thereunder.]~~

**DISASTER.** A situation which creates an immediate and serious impairment to the health and safety of any person or a situation which has resulted, or is likely to result, in catastrophic loss to

property and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

***EMERGENCY.*** An emergency declared by the governor under Minnesota Statutes Chapter 12 or [A]an unforeseen combination of circumstances which calls for immediate action to prevent a disaster from developing or occurring.

***EMERGENCY MANAGEMENT.*** The preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to provide a comprehensive effort for disaster mitigation, preparedness, response and recovery, to prevent, minimize and repair injury and damage resulting from destruction caused by [~~enemy attack, sabotage or other hostile actions or from~~] disaster. These functions include, without limitation, firefighting services; police services; medical and health services; rescue; public works; [~~air warning~~] public alert and warning services; communications; radiological, chemical and other [~~special weapons defense~~] hazardous materials response; evacuation of persons from stricken areas; emergency transportation; existing or properly assigned functions of plant protection; temporary restoration of public utility services; and other functions related to civilian protection, together with all other activities necessary or incidental to preparation for and carrying out of the foregoing functions.

***EMERGENCY MANAGEMENT STAFFING.*** Any personnel employed by the city and any other volunteer or paid member of the local emergency management agency engaged in carrying on emergency management functions in accordance with the provisions of this Article I or any rule or order thereunder.

### **§ 7.03 [~~AGENCY~~] EMERGENCY MANAGEMENT FUNCTION ESTABLISHED.**

There is hereby created within the city government, a [~~civil defense agency~~] function known as emergency management, which shall be under the supervision and control of the Emergency Management [~~Coordinator~~] Director.

### **§ 7.04 [~~DEPARTMENT~~] EMERGENCY MANAGEMENT ORGANIZATION.**

The [~~civil defense agency~~] emergency management function shall be organized and staffed in accordance with the Charter of the city and all personnel shall be appointed by the City Manager in accordance with the Merit Rules of the city. In a time of [~~civil defense emergency~~] emergency, the [~~Mayor~~] Emergency Management Director, in accordance with the provisions of [~~Minnesota Civil Defense Act of 1954~~] Minnesota Statutes Chapter 12, [~~as amended, may assume supervision of the city's civil defense forces through the City Manager and the Coordinator~~] is responsible for the organization, administration, and operation of the city's emergency response, subject to the direction and control of the City Council.

### **§ 7.05 POWERS AND DUTIES OF THE [~~COORDINATOR~~] EMERGENCY MANAGEMENT DIRECTOR.**

The [~~Coordinator~~] Director shall represent the city on any regional or state organization for [~~civil defense~~] emergency management. [~~He or she~~] The Director shall develop proposed

mutual aid agreements with other political subdivisions within or outside the state for reciprocal ~~[civil defense]~~ emergency ~~[aid]~~management aid and assistance in an ~~[civil defense]~~ emergency or disaster that is too great to be dealt with by this city unassisted, and he or she shall present such agreements to the Council for its action. Such arrangements shall be consistent with the state ~~[civil defense]~~ emergency management plan; and during an ~~[civil defense]~~ emergency or disaster, it shall be the duty of ~~[the civil defense agency]~~ emergency management and ~~[civil forces]~~ city resources to render assistance in accordance with the provisions of such mutual aid arrangements. Any mutual aid arrangement with a political subdivision of another state shall be subject to the approval of the Governor.

#### **§ 7.06 STUDIES AND SURVEYS.**

The ~~[Coordinator]~~ Director shall make such studies and surveys of the ~~[manpower]~~ staffing, industries, resources, and facilities of the city ~~[as he or she]~~ they deem[s] necessary to determine their adequacy for ~~[civil defense]~~ emergency management and to plan for their most efficient use in time of an ~~[civil defense]~~ emergency or disaster.

#### **§ 7.07 GENERAL PLAN.**

The ~~[Coordinator]~~ Director shall prepare a comprehensive general plan for the city ~~[civil defense]~~ emergency operations and shall present such plan to the Council for its approval. When the Council has approved the plan by resolution, it shall be the duty of all municipal agencies and all ~~[civil defense forces]~~ resources of the city to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The ~~[Coordinator]~~ Director shall coordinate the ~~[civil defense]~~ emergency management activities of the city to the end that they shall be consistent and fully integrated with the ~~[civil defense]~~ emergency management plan of the federal government and the state and correlated with the ~~[civil defense]~~ emergency management plans of other political subdivisions within the state.

#### **§ 7.08 TRAINING AND INFORMATION.**

In accordance with the state and city ~~[civil defense]~~ emergency management plan, the ~~[Coordinator]~~ Director shall institute such training programs and public information programs and shall take all other preparatory steps, including the partial or full mobilization of ~~[civil defense forces]~~ emergency management resources in advance of actual disaster, as may be necessary to the prompt and effective operation of the city ~~[civil defense]~~ emergency management plan in time of an ~~[civil defense]~~ emergency or disaster. ~~[He or she may]~~ The Director, from time to time, may conduct such practice ~~[air raid]~~ emergency alerts or other ~~[civil defense]~~ emergency management exercises as ~~[he or she]~~ they may deem necessary.

#### **§ 7.09 COOPERATION.**

The ~~[Coordinator]~~ Director shall utilize the personnel, services, equipment, supplies, and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all such departments and agencies shall, to the maximum extent practicable, cooperate with and extend such services and facilities to ~~the local~~ ~~[civil defense agency]~~ emergency management and to the Governor upon request. The head of each department

and agency, in cooperation with and under the direction of the [~~Coordinator~~] Director, shall be responsible for the planning and programming of such [~~civil defense~~] emergency management activities [as will] that involves the utilization of the facilities of [~~his or her~~] their department or agency.

#### **§ 7.10 EMERGENCY PERSONNEL.**

The [~~Coordinator~~] Director shall, in cooperation with existing city departments and agencies affected, organize, recruit and train [~~air-raid wardens, auxiliary police, auxiliary firefighters, emergency medical personnel and any other~~] personnel that may be required on a volunteer basis to carry out the [~~civil defense~~] emergency management plans of the city and the state. To the extent that such emergency personnel are recruited to augment a regular city department or agency for [~~civil defense~~] emergencies or disasters, they shall be assigned to such department or agency for the purposes of administration and command. The [~~Coordinator~~] Director may dismiss any [~~civil defense~~] emergency management volunteer at any time and require [~~him or her~~] them to surrender any equipment and identification furnished by the city.

#### **§ 7.11 EMERGENCY FACILITIES.**

Consistent with the [~~civil defense~~] emergency management plan, the [~~Coordinator~~] Director provide for and equip as required, emergency hospitals, casualty [~~stations~~] collection points, ambulances, canteens, evacuation centers and other facilities, or conveyances for the care of the injured or homeless persons.

#### **§ 7.12 DIRECTIONS OF GOVERNOR.**

The [~~Coordinator~~] Director shall carry out all orders, rules, and regulations issued by the Governor with reference to [~~civil defense~~] emergency management.

#### **§ 7.13 GENERAL OPERATIONS.**

The [~~Coordinator~~] Director shall, under direction of the City Manager, coordinate the general operations of all local [~~civil defense forces~~] emergency management resources during an [~~civil defense~~] emergency or periods of disaster in conformity with controlling regulations and instructions of state [~~civil defense~~] emergency management authorities. The heads of departments and agencies shall be governed by [~~his or her~~] such orders [~~in respect thereto~~].

#### **§ 7.14 CONTROL CENTER.**

Consistent with the [~~civil defense~~] emergency management plan, the [~~Coordinator~~] Director shall provide and equip at some suitable place in the city a [~~control~~] emergency operations center and, if required by the state's [~~civil defense~~] emergency management plan, an [~~auxiliary control~~] alternate emergency operations center, to be used during an [~~civil defense~~] emergency or disaster as a headquarters to direct and coordinate [~~civil defense forces~~] response resources. [~~He or she~~] They shall arrange for representation at the [~~control~~] emergency operations center by [~~municipal~~] departments and agencies, public utilities and other agencies authorized by federal or state authority to carry on [~~civil defense~~] emergency management activities during an [~~civil defense~~] emergency or a disaster. [~~He or she~~] They shall arrange for the installation at the [~~control~~]

emergency operations center of necessary facilities for communications with and between heads of ~~[civil defense]~~ emergency response divisions, the stations and operating units of municipal services and other agencies concerned with ~~[civil defense]~~ emergency management and for communications with other communities and ~~[control]~~ emergency operations centers within the surrounding area and with the federal and state agencies concerned.

#### **§ 7.15 POWERS OF CITY MANAGER.**

During the first 30 days of an ~~[civil defense]~~ emergency, if the legislature is in session or the Governor has coupled ~~[his or her]~~ their declaration of the emergency with a call for a special session of the legislature, the City Manager may, when necessary to save life or property, require any person, except members of the federal or state military forces and officers of the state, or any other political subdivision, to perform services for ~~[civil defense]~~ emergency management purposes as ~~[he or she]~~ they direct[s], and ~~[he or she]~~ they may commandeer, for the time being, any motor vehicle, tools, appliances or any other property, subject to the owner's right to just compensation as provided by law.

#### **§ 7.16 QUALIFICATION OF WORKERS.**

No person shall be employed or associated in any capacity in ~~[the civil defense agency]~~ emergency management who advocates or has advocated a change by force or violence in the constitutional form of government of the United States, or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of, or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in ~~[the civil defense]~~ emergency management ~~[department]~~ shall before entering ~~[his or her]~~ their duties, take an oath in writing as prescribed by ~~[the Minnesota Civil Defense Act of 1951, § 403]~~ Minnesota Statutes Chapter 12.

#### **§ 7.17 VOLUNTEERS.**

~~[Civil Defense]~~ Emergency Management volunteers shall be called into service only in cases of a ~~[civil defense]~~ emergency or disaster, for which the regular municipal forces are inadequate or for necessary training and preparation for such emergencies. All volunteers shall serve without compensation.

#### **§ 7.18 IDENTIFICATION.**

Each ~~[civil defense]~~ emergency management volunteer shall be provided with such suitable insignia or other identification as may be required by the ~~[Coordinator]~~ Director. Such identification shall be in a form and style approved by the federal government. No volunteer shall exercise any authority over the person or property of others without ~~[his or her]~~ their identification. No person except an authorized volunteer shall use the identification of a volunteer or otherwise represent himself or herself to be an authorized volunteer.

#### **§ 7.19 FIREARMS.**

No ~~[civil defense]~~ emergency management volunteer shall carry any firearm while on duty except upon written order of the Chief of the Police Department.



**§ 7.20 ~~[PERSONNEL PROCEDURES]~~ RESERVED.**

~~[Personnel procedures of the city applicable to regular employees shall not apply to volunteer civil defense workers but shall apply to paid employees of Emergency Management.]~~

**§ 7.21 EMERGENCY REGULATIONS.**

(a) Whenever necessary to meet a ~~[civil defense]~~ emergency or natural disaster or to prepare for such an emergency for which adequate regulations have not been adopted by the Governor or the City Council, the Mayor may by proclamation promulgate regulations, consistent with applicable federal or state law or regulation, respecting: ~~[protection against air raids]~~; the sounding of ~~[air raid alarms]~~ public alert and warning systems; the conduct of persons and use of property during ~~[alarms]~~ emergencies; the repair, maintenance and safeguarding of essential public services; emergency health, fire and safety regulations; trial drills or practice periods required for preliminary training; and all other matters which are required to protect public safety, health and welfare in ~~[civil defense]~~ emergencies. ~~[No regulation governing observation of enemy aircraft, air attack, alarms or illumination during air attacks shall be adopted or take effect unless approved by the State Director of the Division of Emergency Services.]~~

(b) A local emergency may be declared only by the Mayor. It shall not be continued for a period in excess of three days except by or with consent of the City Council. Any order or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed promptly by the City Clerk. A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of the emergency plan and may authorize aid and assistance thereunder.

**§ 7.22 PROCLAMATION OF REGULATIONS.**

Every proclamation of emergency regulations shall be in writing and signed by the Mayor, shall be dated, shall refer to the particular ~~[civil defense]~~ emergency or disaster to which it pertains, if so limited, and shall be filed in the office of the City Clerk, where a copy shall be kept posted and available for public inspection during business hours. Notice of the existence of such regulation and its availability for inspection at the Clerk's office shall be conspicuously posted at the Municipal Building or other headquarters of the city and at such other places in the affected area as the Mayor shall designate in the proclamation. Thereupon the regulations shall take effect immediately or at such later time as may be specified in the proclamation. By like proclamation, the Mayor may modify or rescind any such regulations.

**§ 7.23 EXPIRATION OF REGULATIONS AND DECLARATION.**

The City Council may rescind any such regulation by resolution at any time. If not sooner rescinded, every such regulation shall expire at the end of 30 days after its effective date or at the end of ~~[civil defense]~~ emergency or disaster to which it relates, whichever occurs first. Any ordinance, rule, or regulation inconsistent with an emergency regulation promulgated by the Mayor shall be suspended during the period of time and to the extent that such conflict exists.

**§ 7.24 [~~CIVIL DEFENSE FUND~~] RESERVED.**

~~—There is hereby established in the city treasury a special fund to be known as the Civil Defense Fund. Into this Fund shall be placed the proceeds of taxes levied for civil defense, money transferred from other funds, and gifts and other revenues of the civil defense agency. From it shall be made expenditures for the operation and maintenance of the Civil Defense Agency and other expenditures for civil defense. Regular accounting, disbursement, purchasing, budgeting and other financial procedures shall not apply to the expenditures from the Fund in any case when their application will prevent compliance with terms and conditions of a federal or state grant of money or property for civil defense purposes.]~~

**§ 7.25 [~~REPORT OF ACTIVITIES~~] RESERVED.**

~~—The Coordinator shall, as soon as possible after the end of each fiscal year, prepare and present to the City Council for the information of the Council and the public, a comprehensive report of the activities of the Civil Defense Department during the year.]~~

**§ 7.26 CONFORMITY AND COOPERATION WITH FEDERAL AND STATE AUTHORITY.**

Every officer and agency of the city shall cooperate with federal and state authorities and with authorized agencies engaged in [~~civil defense and~~] emergency management measures to the fullest possible extent consistent with the performance of [~~his, her or its~~] their other duties. The provisions of this Article I and of all regulations made thereunder shall be subject to all applicable and controlling provisions of federal and state laws and of regulations and orders issued thereunder and shall be deemed to be suspended and inoperative insofar as there is any conflict therewith. The City Manager may appoint any qualified person holding a position in any agency under federal or state authority for [~~civil defense~~] emergency management purposes as a special police officer of the city with such policy powers and duties within the city incident to the functions of [~~his or her~~] their position, not exceeding those of a regular police officer of the city as may be prescribed in the appointment. Every such special police officer shall be subject to the supervision and control of the Chief of Police and such other police officers of the city as the Chief may designate.

**§ 7.27 [~~PROHIBITED ILLUMINATION AS NUISANCE~~] RESERVED.**

~~—Any illumination within the city contrary to the provisions of this Article I or any other ordinance pertaining to civil defense or of any regulation adopted thereunder or of any federal or state law, regulation or order shall be deemed a public nuisance. Any regular or auxiliary police officer or air raid warden, may abate such nuisance summarily or may take any other action necessary to enforce such provisions, including entry onto private property and the use of whatever reasonable force is necessary.]~~

**§ 7.28 PARTICIPATION IN LABOR DISPUTE OR POLITICS.**

[~~The civil defense agency~~] Emergency Management shall not participate in any form of political activity while conducting official duties or responsibilities during an emergency

response, nor shall it be employed directly or indirectly for political purposes, nor shall it be employed to interfere with or disrupt [in] a legitimate labor dispute.

[ARTICLE II: FALLOUT SHELTERS **RESERVED.**

~~§ 7.29 ADOPTION OF STANDARDS FOR FALLOUT SHELTERS.~~

~~—Those documents, three copies of which are on file in the office of the City Clerk, being marked *Shelter Design and Analysis*, Volumes I and II, together with appendices and related technical publications, are hereby adopted by reference as the requirements for fallout shelters for the city and all of the terms of said publications and the appendices thereto are made a part hereof as if fully set forth in this Article II, excepting for the amendments and additions referred to.~~

~~§ 7.30 DEFINITIONS.~~

~~—The following words and terms, when used in this Article II, shall have the following meanings, unless the context clearly indicates otherwise:~~

~~—**FALLOUT (GAMMA) RADIATION.** The process or phenomenon of the fallback to the earth's surface of particles contaminated with radioactive material from a radioactive cloud.~~

~~—**FALLOUT SHELTER.** A structure, room or space that protects its occupants from fallout gamma radiation, with a protection factor of at least 40.~~

~~—**PROTECTION FACTOR.** A factor used to express the relation between the amount of fallout gamma radiation that would be received by an unprotected person and the amount that would be received by one in a fallout shelter.~~

~~§ 7.31 RADIATION SHIELDING.~~

~~—(a) Computation of protection factors shall be made by the methods described in Department of Defense publication *Shelter Design and Analysis*, Volumes I and II.~~

~~—(b) Fallout shelters should be designed to provide a minimum protection factor of at least 100.~~

~~—(c) In the calculation of the protection factor, the radiation dose contribution to the shelter occupants coming from the entranceway, ventilation ducts or other openings in the shelter's barriers shall be considered.~~

~~§ 7.32 SPACE AND VENTILATION REQUIREMENTS.~~

~~—(a) Ten square feet of shelter floor area per person shall be provided.~~

~~—(b) At least 65 cubic feet of space per person shall be provided.~~

~~—(c) If the shelter capacity is based on minimum space requirements, then at least three cubic feet of fresh air per minute per person are required.~~

~~—(d) No filters are required on mechanical ventilation systems other than those necessary for the normal daily use of the space. Ventilation systems should be designed to prevent an effective~~

temperature exceeding 85°F. Wherever practical, owners should design for this condition by increasing the fresh air supply rather than through air cooling and humidity control equipment.

#### ~~§ 7.33 CONSTRUCTION REQUIREMENTS.~~

- ~~—(a) In general, conventional methods of design and construction for concrete, wood, steel, brick, structural tile and other products will be followed. Allowable stresses and/or load factors as defined in the applicable sections of this code shall be used.~~
- ~~—(b) The structure should be designed for a useful life of at least ten years.~~
- ~~—(c) At least one unit of access and egress width should be provided for every 200 shelter occupants (a unit width is 22 inches, the space required for free travel of one aisle of persons). In no case shall a single passage width be less than 24 inches; nor shall there be less than two widely separated means of egress from each building. Emergency type hatchways may be used as a means of egress. They shall be designed so that any normal size adult can readily enter or leave the main shelter chamber.~~
- ~~—(d) In areas subject to high ground water condition, provisions shall be made to prevent flotation of underground shelters.~~
- ~~—(e) Provisions shall be made to ensure the shelter interior will remain reasonably dry.~~
- ~~—(f) Hazardous utility lines such as steam, gas and the like should not be located in or near the shelter area, unless provisions are made to eliminate such hazards by valving and the like before the shelter is occupied.~~
- ~~—(g) All shelters shall be constructed to minimize the danger of fire from both external and internal sources.~~

#### ~~§ 7.34 SERVICES.~~

- ~~—(a) *Basic shelter supplies.* Provisions shall be made for the storage of basic shelter supplies by allotting one and one half cubic feet per person. The live load attributable to placing these supplies should be considered. Fallout shelters with a capacity of 50 or more persons, which have been made available to the public shall be stocked with federal supplies:
  - ~~—(1) Water to provide each person with three and one half gallons of water;~~
  - ~~—(2) Food (special biscuits or wafers and the like) to provide 10,000 calories per person deducting comparable food already available in the building;~~
  - ~~—(3) Medical care kits;~~
  - ~~—(4) Sanitation kits which include toilet tissue, sanitary napkins, waterless hand cleaner, toilet seat and commode chemicals. Empty water containers convert to commodes; and~~
  - ~~—(5) Radiation detection instruments.~~~~

~~—(b) *Water supply.* A suitable well, trapped water or water storage tank should be substituted for standard OCD 17.5 gallon water drums wherever feasible.~~

~~—(c) *Sanitation.* Toilets may be provided on the basis of one per 50 occupants, or other austere provisions may be made for the disposal of garbage, trash and human waste. Fifty percent of the toilets may be outside of the shelter area, in other parts of the building.~~

~~—(d) *Electrical.* Emergency generators are not required for public fallout shelters. No special lighting levels are required in fallout shelters. The following levels are deemed adequate for emergency occupancies:~~

~~—(1) *Sleeping area:* two foot candles;~~

~~—(2) *Activity areas:* five foot candles; and~~

~~—(3) *Administrative and medical areas:* 20 foot candles.~~

**§§ 7.29 – 7.34 RESERVED.**

Section 5. Effective Date. This Ordinance is effective after its passage and upon publication according to law.

Passed and adopted this 20<sup>th</sup> day of March, 2023.

/s/ Tim Busse  
Mayor

ATTEST:

/s/ Matt Brillhart  
Secretary to the Council

APPROVED:

/s/ Melissa J. Manderschied  
City Attorney