

CHAPTER VII

PUBLIC UTILITIES

Section 700 - Sewer and Water Connections

700.01. General provisions. Subdivision 1. Connections. Connections to the city water system must be made in conformity with this section and under the supervision of the director of public works/engineer (referred to in this chapter as "the director"). The resident or owner is responsible for the maintenance and repair of the water service from the water main to the meter, including the corporation stop connection at the main and the curb stop and curb box in the boulevard, and other valves and fixtures inside the building. If any portion of the water service defined as the owner's responsibility develops a leak or becomes defective, the city may repair the defect and assess the repair costs against the benefited property.

Subd. 2. Meters. Except for extinguishing fires, no person except authorized city employees may use water from the water system of the city or permit water to be drawn therefrom, unless the water is metered by passing through a meter supplied or approved by the city unless the water is paid for on a flat rate basis. No person may connect, disconnect, take apart, or in any manner change, or cause to be changed, or interfere with a meter or the action thereof unless authorized by the engineer. A charge will be made to customers for use of water meters and must be made in advance before delivery for installation. The charge is the actual cost to the city of supplying the meter. The city will maintain and repair or replace all meters under 5/8" when rendered unserviceable through ordinary wear and tear. When replacement, repair or adjustment of a meter is rendered necessary by the act, neglect or carelessness of the owner or occupant of a premises, the expense caused the city thereby will be charged against and collected from the owner or occupant of the premises by a statement of charges itemizing the repairs. Water service may be disconnected until the cause is corrected and the charge collected. Repair and maintenance of meters over 5/8" will be the responsibility of the property owner. All 5/8" water meters are the property of the city, and may be replaced or changed by the engineer when necessary.

700.03. Protecting trenches. Whenever from necessity a trench for pipe is left open during the night, the trench must be properly secured with barricades equipped with flashing lights in a manner approved by the city engineer.

700.05. Installation. The corporation stop inserted in the distributing pipe must be of the size specified in the permit order. Service pipes must be laid with sufficient waving to allow not less than one foot of extra length, and in such manner as to prevent rupture by settlement. The service pipe must be placed not less than seven feet below the surface, from the main to the building line and arranged to prevent rupture from freezing.

700.07. Stop boxes. A service pipe must extend from the main to the inside of the building; or, if not taken into a building, then to the hydrant or other fixtures which it is intended to supply. A stop-cock must be placed outside in a box, and a shut-off or other stop-cock with drain, of the size and strength required, must be placed close to the inside wall of the building, well protected from freezing. Stop boxes at the curb must be set between the curb and the building.

700.09. Materials and weights. Service pipes from the main to the meter must be of copper, type K. Copper pipe must conform in all respects to the standards published by the American Water Works Association, copies of which will be kept available in the office of the director. The service pipes must be a continuous piece from the main to the curbstop and from the curbstop to the structure if new construction. No compression fittings may be installed on services.

700.11. Size of pipe. A one-inch pipe must be attached to a 3/4 inch corporation stop and 3/4 inch curb stop. No deviation in size or weights or pipe is permitted unless a special written permit is obtained from the engineer.

700.13. Opening in streets. Streets must be opened and paving stones deposited in the manner causing the least inconvenience to the public. Provision must be made for the passage of water along the gutters. One-half of the street must be at all times in good and safe condition for the passage of vehicles. Excavation must be done only as provided by this code. An excavation in a street or public place may not be left open overnight without being thoroughly barricaded or railed off and so lighted as to secure public safety. If an opening is made whereby water mains or service pipes are exposed measures must be taken to protect the main or pipes from frost.

700.15. Inspectors to have access. The director may examine plumbing work, materials and fixtures at reasonable times. Every person owning improved real estate that discharges into the city's sanitary sewer system shall allow an employee of the city or their designated representative to inspect the buildings thereon to confirm that there is no sump pump or other prohibited discharge into the sanitary sewer system. In lieu of having the city inspect their property, any person may furnish a certificate from a licensed plumber certifying that their property is in compliance with this section.

Any person refusing to allow their property to be inspected or refusing to furnish a plumber's certificate within 14 days of the date a city employee or their designated representative are denied admittance to the property, shall immediately become subject to the surcharge hereinafter provided for. Any property found to violate this section shall make the necessary changes to comply with this section and furnish proof of the changes to the city. (Amended, Ord. No. 98-16, Sec. 1)

700.16. Future inspections. Any property may be inspected on a yearly basis to confirm that there are no prohibited discharges or connections to the sanitary sewer system. (Added, Ord. No. 98-16, Sec. 2; Amended, Ord. No. 05-01)

700.17. Refilling openings. In refilling openings the earth must be replaced in the trench, and thoroughly tamped as directed by the engineer. The engineer may require new trench material hauled in and existing material hauled away if existing material is unacceptable.

700.19. Flagging restored. If a flagging disturbed by a plumber is not restored to as good order as it was at the time the plumber commenced the work, and if the plumber neglects or refuses to do such work within 24 hours after notice thereof from the director, the proper repairs will be done by the city and the costs thereof charged to the plumber.

700.21. Supply from one corporation stop. No more than one house may be supplied from one corporation stop, which may not be larger than one inch, unless by special permit. No more than one building may be supplied from one pipe, connecting with the distribution main. Each building must have a separate stop box.

700.23. Interference with hydrants, gates. No person other than an authorized city employee may open or interfere with a city hydrant or valves unless authorized by the director.

700.25. Deficiency of water. The city is not liable for any deficiency or failure in the supply of water to customers, whether occasioned by shutting the water off for the purpose of making repairs or connections for any other reason.

700.27. Old stops plugged. When new buildings are erected on the sites of old ones, and it is desired to increase or change the old water service, no connections with the mains are permitted until the old corporation stops have been removed and the main plugged or the old corporation stops have been shut off if not leaking. When a building is demolished or being moved the existing water service must be shut off at the main and a section of the water line must be cut off so that a physical break exists.

700.29. Private water supplies. Water pipes of the city's public water system may not be connected to a pump, well or tank that is connected to a private waterworks system.

700.31. Size of hose. Hoses larger than one inch in diameter may not be used for service pipes without special permission from the director.

700.33. Permits required. No person may make a connection to a city water or sewer main without a permit from the clerk. The application for the permit must state the location of the proposed connection, the time when the connection is to be made, and by whom the work is to be done. The permit will not be issued until the application is approved by the director and until the applicant has complied with the provisions of this code and other applicable ordinances and laws.

700.35. Issuance of permits. The clerk may not grant a permit to tap or connect with a water main or sewer of the city unless at the time of the granting of the permit special assessments for the water main or sewer against the property which it is desired to connect with such water main or sewer have been paid in full, if the assessments have not been made payable in installments; if the assessments have been made payable in installments, no permit may be granted unless all installments due and payable have been paid. This subsection does not restrict the power of the city, pursuant to statute or ordinance, to levy assessments for any improvements not previously assessed against the property benefited.

700.37. Sewer supervision. The director supervises and controls public sewers, drains, and connections thereto. No connection may be made with the sewer system without a permit. The resident or owner is responsible for maintenance and repair of the sanitary sewer line from the main to the clean out in the building including the sewer wye and stack and all connections attached to the sewer main. The director is responsible for maintenance and repair of the sanitary sewer mains. If any portion of the sewer service which is the owner's responsibility develops a leak or becomes defective, the city may repair such defect and assess all repair costs against benefited property.

700.39. Sewer connections. Connection with a public sewer or drain may be made only by licensed plumbers or authorized city employees.

700.41. Connections. Subdivision 1. How made. The provisions of this subsection must be observed in work relating to sewer connections.

Subd. 2. Permits. Permits must be procured before breaking ground in a street or alley.

Subd. 3. Laying. A sewer connection may not be laid in the same trench with water, gas or other pipe unless installed in accordance with the state planning code. Sewer connections must be laid far enough from others to admit of the repair or removal or relaying of any one without disturbing the others.

Subd. 4. Connection to main. New connections made must be made within the middle third of the interior height of the sewer to which connection is made. Only wye's or properly secured saddles with machine cut holes may be used for sewer connections.

Subd. 5. Grading. Connection pipes must be laid in a true line and grade from the sewer to the building line in an open trench and before any refilling is done and may be not less than six inches in diameter and made of best quality vitrified clay pipe or standard cast iron soil pipe (bell and spigot pattern). The sewer connection must extend from the city sewer up to and within two feet of the building line, except where property owners have existing cesspools or tanks in which case the sewer connection must extend from the sewer to the house side of the cesspool or tank.

Subd. 6. Materials. The only materials allowed for sewer service connections from the main to the property line shall be PVC Schedule 40 pipe, or ductile iron pipe (bell and spigot pattern), which shall not be less than 4" in diameter. Vitrified clay pipe may only be used for repair purposes in this area. Materials used for sewer connections from the property line to the structure must be in conformance with the State Plumbing Code. (Amended, Ord. No. 98-16, Sec. 3)

In addition, any structure which requires, because of infiltration of clear water into basements, crawl spaces, and the like, a sump pump discharge system shall have a permanently installed discharge line which shall not at any time discharge clear water into the sanitary sewer system. A permanent installation shall be one which provides for year-round discharge capability to either the outside of the dwelling, building, or structure, or is connected to the city storm sewer or discharges through the curb and gutter to the street. It shall consist of a rigid pipe discharge line, without valving or quick connections for altering the path of discharge, and if connected to the city storm sewer line, the discharge shall include a check valve and an air gap located in a small diameter structure as shown in the city's standards. A flexible section, less than two feet in length, is acceptable within three feet of the sump pump to reduce noise from vibrations. Flexible hose is prohibited in any other location on the permanent discharge line. (Added, Ord. No. 98-16, Sec. 3)

Subd. 7. Packing. Connection pipe must be enveloped in clean sand or approved material to a thickness of not less than six inches.

Subd. 8. Pipe bedding. Connection pipe must be enveloped in clean sand or approved material to a thickness of not less than one foot on all sides of the pipe. If service pipe is placed on soil not suitable for supporting pipe and maintaining grade, other support methods, approved by the engineer, must be used to insure pipe grade does not change.

Subd. 9. Drains. Drains from public garages, public or private greasing and automobile washing stations, kitchen sinks of hotels and restaurants and from laundries, and other places where deemed necessary by the engineer, must be provided with grease traps, or catch basins or both, of a type easily cleanable and approved by the city. The outlet for such catch basins must be properly trapped to prevent air from the sewer entering the building and provided with a back water trap to prevent water from the sewer backing up into the catch basin.

Subd. 10. Trench backfilling. After the pipe is laid the refilling must proceed at once and it must be thoroughly tamped or puddled, or both, and so done that there is no surplus earth remaining. If there is a deficiency of earth to fill the excavation, the plumber doing the work must supply the deficiency with clean sand or approved material. No rock larger than four inches across or thick may be placed within two feet of the pipe. A sidewalk, street, alley or driveway removed in order to make such connection must be repaved subject to the approval of the engineer.

Subd. 11. Supervision. Work must be done under the supervision of the director. Drain pipes for public sewers or private drains must be inspected before being covered.

Subd. 12. Fires. No person may build a fire upon any pavement or within any sewer or drain.

Subd. 13. Connections. Connections at chimney stacks must be made with two one-eighth bends of the required diameter, separated by one length of straight pipe.

Subd. 14. Filling. When a connection is made to the sanitary sewer system, cesspools, septic tanks, or other sewage disposal facilities existing on the property that is connected must be filled to earth level with suitable material.

Subd. 15. Check systems. Check systems must be installed on services connected to any main directly servicing or connected to a sanitary sewer lift station force main, or otherwise connected to sanitary sewer mains that have a history of backup problems. Check systems must also be installed on all sump pump discharge lines. (Amended, Ord. No. 98-16, Sec. 3).

Subd. 16. Sewer depth. Sewers must be placed not less than seven feet below the surface. Sewers placed less than seven feet from the surface must be protected from freezing in a manner approved by the director.

700.43 - 700.49. (Repealed, Ord. No. 97-11)

700.43. Sanitary sewer connections prohibited. Subdivision 1. No person shall make connection of roof downspouts, foundation drains, sump pumps, or cause to be discharged any storm water, ground water, cooling water, roof runoff, yard drainage, yard fountain, swimming pool, or pond overflow to a building sewer, drain, or sanitary sewer service, which, in turn, is connected, directly or indirectly, to a public sanitary sewer unless such connection is approved by the city engineer and the Minnesota Pollution Control Agency. All such water and unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the city engineer and in accordance with the 1997 storm water management plan or subsequent amendments thereto.

Subd. 2. Right of entrance. Every person owning improved real estate that discharges into the sanitary sewer system shall allow duly authorized employees of the city or a designated representative of the city, bearing proper credentials and identification, to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing to confirm that there are no prohibited discharges or connections to the sanitary sewer system.

Subd. 3. Refusal of entry. Any person refusing to allow their property to be inspected shall immediately become subject to the following described surcharge of \$50.00 per month which shall be added to every utility bill mailed to the property owner or tenant who is not in compliance with this chapter. The surcharge shall be added every month until the property is in compliance with this section. All properties found during reinspection to have violated this section shall be subject to a \$50.00 per month penalty for all months between the two most recent inspections up to a maximum of \$500.00. The imposition of such surcharge shall in no way limit the right of the city to seek an injunction in district court ordering the property owner to disconnect the non-conforming connection to the sanitary sewer system or from pursuing any other legal remedies available. (Amended, Ord. No. 98-16, Sec. 4)

Subd. 4. Notice of violation. Any person found to be violating any provision of this section shall be served by the city with a written notice stating the nature of the violation and providing a reasonable time for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently correct all violations so that they are in compliance with this chapter. Such corrections shall be verified by a city employee or a designated representative of the city. (Amended, Ord. No. 98-16, Sec. 4)

Any person having a roof, surface, or ground water sump pump, footing tile, or swimming pool now connected and/or discharging into the sanitary sewer system shall disconnect and/or remove same. Any disconnects or openings in the sanitary sewer shall be closed or repaired in an effective, workmanlike manner, as approved by the city or their designated agent. Any property owner refusing to disconnect at these sources of inflow/infiltration of clear water within the deadlines established by the city shall immediately become subject to the surcharge provided for above. (Added, Ord. No. 98-16, Sec. 4)

Subd. 5. Incurred costs. Any person violating any of the provisions of this section shall be liable to the city for any expense, loss, or damage occasioned the city. (Added, Ord. No. 97-11)

700.45. Correct sump pump installations. All sump pumps shall have a discharge pipe installed to the outside wall of the building with a one inch inside minimum diameter. The pipe attachment must be a permanent fitting such as PVC pipe with glued fittings. The discharge shall extend at least three feet outside of the foundation wall and must be directed toward the front yard or rear yard area of the property. (Added, Ord. No. 97-11)

700.47. New residential construction installations. All new residential construction, having a sump basket, shall have the sump pump installed in the sump basket with permanent fittings and discharged to the outside of the foundation wall as described in the preceding paragraph. Such work shall be completed prior to the final building inspection and issuance of a certificate of occupancy. (Added, Ord. No. 97-11)

700.49. Prohibited discharges. Subdivision 1. No person shall discharge or cause to be discharged any of the following described water or waste to any public sanitary or storm sewer:

- (a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- (b) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either single or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of a wastewater treatment plant.
- (c) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel entering the sanitary sewer system.
- (d) Solid or fiscous substances in such quantities or of such size capable of causing obstruction to the flow in sewers such as, but not limited to, ashes, cinders, sand, mud, metal, glass, tar, plastic, wood, grease, rags, disposable diapers, feminine hygiene products, etc.

Subd. 2. Information requests. The city engineer or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public, of the information in question, might result in an advantage to competitors. (Added, Ord. No. 97-11)

700.51. Frozen services. It is unlawful to connect electric welders to any portion of the water system or water service for the purpose of thawing out a service. Any other method used for this purpose must be approved by the director.

700.53. Air conditioning systems regulated. Subdivision 1. General rule. Air conditioning units of a capacity larger than two tons that use water as a coolant must be connected to the storm sewer system of the city for the purpose of discharging the waste water from the air conditioning units.

Subd. 2. Permits required. No person may install or allow the installation of any air conditioning unit without first obtaining a permit from the city clerk. The application for the permit must include the location of and plans for the proposed installation, and by whom the work is to be done. The permit may not be issued until the application is approved by the director and until the applicant has complied with the provisions of this code and the law.

Subd. 3. Access to premises. The director may, at reasonable times, enter premises equipped with air conditioning units of a capacity larger than two tons to determine compliance with this code.

700.55. New home inspections. All new homes shall be required to have their sump pump system inspected at or prior to the issuance of the certificate of occupancy and a certificate of compliance completed. (Added, Ord. No. 98-16, Sec. 5)

Section 703 – Illicit Discharge and Connection

703.01. Purpose and intent. The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Robbinsdale through the regulation of non-Storm Water discharges to the Storm Drainage System to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of Pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of Pollutants to the MS4 by Storm Water discharges by any user;
- (2) To prohibit Illicit Connections and discharges to the MS4; and
- (3) To establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this ordinance.

703.03. Definitions. Subdivision 1. The terms defined in this section have the meanings given them.

Subd. 2. Authorized Enforcement Agency. Employees or designees of the City Manager of the City of Robbinsdale designated to enforce this ordinance.

Subd. 3. Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of Pollutants directly or indirectly to Storm Water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Subd. 4. City. The City of Robbinsdale.

Subd. 5. Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Subd. 6. Construction Activity. Activities subject to NPDES Construction Permits pursuant to 40 CFR Section 122.26 including construction projects resulting in extraction of more than 25 cubic yards of material or land disturbance of 100 square feet or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Subd. 7. Hazardous Material. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Subd. 8. Illicit Connection. An Illicit Connection is defined as either of the following:

- (a) Any drain or conveyance, whether on the surface or subsurface that allows an Illicit Discharge to enter the Storm Drainage System including but not limited to any conveyances that allow any non-Storm Water discharge including Sewage, process wastewater, and wash water to enter the Storm Drainage System and any connections to the Storm Drainage System from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or,
- (b) Any drain or conveyance connected from a commercial or industrial land use to the Storm Drainage System that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Subd. 9. Illicit Discharge. Any direct or indirect non-Storm Water discharge to the Storm Drainage System, except as exempted in 703.15 of this ordinance.

Subd. 10. Industrial Activity. Activities subject to NPDES Industrial Storm Water Permits as defined in 40 CFR, Section 122.26 (b)(14).

Subd. 11. Maximum Extent Practicable (MEP). The practical and technical limits of resources required and capable of being implemented after taking into consideration cost, existing technology and logistics in light of the overall desired outcome.

Subd. 12. Municipal Separate Storm Sewer System (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying Storm Water, and that is not used for collecting or conveying Sewage.

Subd. 13. National Pollutant Discharge Elimination System (NPDES) - Storm Water Discharge Permit. This is a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of Pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis. This permit is also referred to in this ordinance as an NPDES Permit.

Subd. 14. Non-Storm Water Discharge. Any discharge to the Storm Drainage System that is not composed entirely of Storm Water.

Subd. 15. Person. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Subd. 16. Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; Hazardous Materials and wastes; Sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing and/or maintaining a building or structure; and noxious or offensive matter of any kind.

Subd. 17. Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and boulevards.

Subd. 18. Receiving Water. Body of water that receives runoff or discharges.

Subd. 19. Sewage. The organic waste and wastewater created at businesses and residences.

Subd. 20. Storm Drainage System. Publicly-owned facilities within the City by which Storm Water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and man-made or altered drainage channels, reservoirs, and other drainage structures.

Subd. 21. Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Subd. 22. Storm Water Conveyance System. Curb lines, catch basins, Storm Water sewer lines, in addition to in-line systems for catching debris.

Subd. 23. Storm Water Management Plan. A document which describes the Best Management Practices and activities to be implemented by a Person to identify sources of pollution or contamination at a site and the actions to eliminate or reduce Pollutant discharges to Storm Water, Storm Water Conveyance System, and/or Receiving Water to the Maximum Extent Practicable.

Subd. 24. Wastewater. Any water or other liquid, other than uncontaminated Storm Water.

Subd. 25. Watercourse. Any natural or artificial channel through which water flows.

703.05. Applicability. This ordinance shall apply to all water entering the Storm Drainage System generated on any developed and undeveloped lands unless explicitly exempted by the City.

703.07. Responsibility for administration. The City Manager shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the City Manager may be delegated to Persons or entities acting in the beneficial interest of or in the employ of the City.

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

703.11. Severability. The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any Person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

703.13. Ultimate responsibility. The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend or imply that compliance by any Person will ensure that there will be no contamination, pollution, or unauthorized discharge of Pollutants.

703.15. Discharge prohibitions. Subdivision 1. Prohibition of Illicit Discharges. No Person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any Pollutants or waters containing any Pollutants, other than Storm Water. The commencement, conduct or continuance of any Illicit Discharge to the Storm Drainage System is prohibited except as described as follows:

- (a) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing; landscape irrigation; diverted stream flows; rising ground waters; uncontaminated ground water infiltration; uncontaminated pumped ground water; discharges from potable water sources; foundation drains; air conditioning condensation; irrigation water; springs; water from crawl space pumps; footing drains; lawn watering; individual residential car washing; flows from riparian habitats and wetlands; de-chlorinated swimming pool discharges; street wash waters; and flows from fire fighting.
- (b) Other discharges specified in writing by the City as being necessary to protect public health and safety.
- (c) Discharges associated with dye testing; however, dye testing requires a verbal notification to the City prior to the test.
- (d) The discharge prohibition shall not apply to any Non-Storm Water Discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the Storm Drainage System.

Subd. 2. Prohibition of Illicit Connections.

- (a) The construction, use, maintenance or continued existence of Illicit Connections to the Storm Drainage System is prohibited.
- (b) This prohibition expressly includes, without limitation, Illicit Connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

- (c) A Person is considered to be in violation of this ordinance if the Person connects a line conveying Sewage to the MS4, or allows such a connection to continue.
- (d) Improper connections in violation of this ordinance must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the City.
- (e) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the Storm Drainage System, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the City requiring that such locating be completed. Such notice will specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the Storm Drainage System, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the City.

703.17. Watercourse and Receiving water protection. Every Person owning property through which a Watercourse passes, or abuts a Receiving Water, or such Person's lessee, shall keep and maintain that part of the Watercourse and/or Receiving Water within or adjacent to the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the Watercourse and/or Receiving Water. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a Watercourse and/or Receiving Water, so that such structures will not become a hazard to the use, function, or physical integrity of the Watercourse and/or Receiving Water.

703.19. Industrial or construction activity discharges. Subdivision 1. Submission of Notice Of Intent (NOI) to the City.

- (a) Any Person subject to an industrial or construction activity NPDES Permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City prior to the allowing of discharges to the MS4.
- (b) The operator of a Premises, including construction sites, required to have an NPDES Permit to discharge Storm Water associated with Industrial Activity shall submit a copy of the NOI to the City at the same time the operator submits the original NOI to the EPA as applicable.
- (c) The copy of the NOI may be delivered to the City either in Person or by mailing it to: Notice of Intent to Discharge Storm Water, c/o City Engineer, City of Robbinsdale, 4100 Lakeview Avenue, Robbinsdale, MN 55422.
- (d) A Person commits an offense if the Person operates a Premises that is discharging Storm Water associated with Industrial Activity without having submitted a copy of the NOI to do so to the City.

703.21. Compliance monitoring. Subdivision 1. Right of Entry: Inspection and Sampling. The City is permitted to enter and inspect the premises subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance.

Subd 2. Authority to inspect. Whenever necessary to make an inspection to enforce any provision of this ordinance, or whenever the City Manager has cause to believe that there exists, or potentially exists, in or upon any Premises any condition which constitutes a violation of this ordinance, the City Manager may enter such Premises at all reasonable times to inspect the same and to inspect and copy records related to Storm Water compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the City Manager is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

- (a) If a Premises operator has security measures in force which require proper identification and clearance before entry into its Premises, then the Premises operator shall make the necessary arrangements to allow access to representatives of the City.
- (b) Premises operators shall allow the City ready access to all parts of the Premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES Permit to Discharge Storm Water, and the performance of any additional duties as defined by state and federal law.
- (c) The City shall have the right to set up on any permitted Premises such devices as are necessary in the opinion of the City to conduct monitoring and/or sampling of the Premises' Storm Water Discharge.
- (d) The City has the right to require the discharger to install monitoring equipment. The Premises' sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure Storm Water flow and quality shall be calibrated to ensure accuracy.
- (e) Any temporary or permanent obstruction to safe and easy access to the Premises to be inspected and/or sampled shall be promptly removed by the Premises operator at the written or oral request of the City and shall not be replaced. The costs of clearing such access shall be borne by the Premises operator.
- (f) Unreasonable delays in allowing the City access to a permitted Premises is a violation of a NPDES Permit and of this ordinance. A Person who is the operator of a Premises with an NPDES Permit to Discharge Storm Water associated with Industrial Activity commits an offense if the Person denies the City reasonable access to the permitted Premises for the purpose of conducting any activity authorized or required by this ordinance.

Subd. 3. Search warrants. If the City Manager has been refused access to any part of the Premises or Premises from which Storm Water is discharged, and the City is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the City may seek issuance of a search warrant from any court of competent jurisdiction.

703.23. Regulations and requirements to prevent, control, and reduce Storm Water Pollutants by the use of Best Management Practices. Subdivision 1. Best Management Practices (BMPs). The City may adopt requirements identifying BMPs for any activity, operation, or Premises which may cause or contribute to pollution or contamination of Storm Water, the Storm Drainage System, or waters of the United States. The owner or operator of such activity, operation, or Premises shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the Storm Drainage System or Watercourses through the use of these structural and non-structural BMPs. Further, any Person responsible for a property or premise that is, or may be, the source of an Illicit Discharge, may be required to implement, at said Person's expense, additional structural and non-structural BMPs to prevent the further discharge of Pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES Permit authorizing the discharge of Storm Water associated with Industrial Activity, to the maximum extent practicable, shall be deemed compliance with the provisions of 703.23. These BMPs shall be part of a Storm Water Management Plan (SWMP) as necessary for compliance with requirements of a NPDES Permit.

Subd. 2. New development and redevelopment. The City may adopt requirements identifying appropriate BMPs to control the volume, rate, and potential Pollutant load of Storm Water runoff from new development and redevelopment projects as may be appropriate to minimize the generation, transport and discharge of Pollutants. The City shall incorporate such requirements in any planning or building-related permit to be issued relative to such development or redevelopment. The owner and developer shall comply with the terms, provisions, and conditions of such permits.

Subd. 3. Responsibility to implement BMPs. Notwithstanding the presence or absence of requirements promulgated pursuant to subdivisions 1 and 2 of 703.23, any Person engaged in activities or operations, or owning a Premises or property which will or may result in Pollutants entering Storm Water, the Storm Drainage System, or waters of the U.S. shall implement BMPs to the extent they are technologically achievable to prevent and reduce such Pollutants. The owner or operator of a commercial or industrial establishment shall provide reasonable protection from accidental discharge of prohibited materials or other wastes into the Storm Drainage System or Watercourses. Facilities to prevent accidental discharge of prohibited materials or other wastes shall be provided and maintained at the owner or operator's expense.

Subd. 4. Requirement to eliminate Illicit Discharges. Notwithstanding the requirements of 703.21, subdivision 2, the City Manager may require by written notice that a Person responsible for an Illicit Discharge immediately, or by a specified date, discontinue the discharge and, if necessary, take measures to eliminate the source of the discharge to prevent the occurrence of future Illicit Discharges.

Subd. 5. Requirement to eliminate or secure approval for Illicit Connections.

- (a) The City Manager may require by written notice that a Person responsible for an Illicit Connection to the Storm Drainage System comply with the requirements of this ordinance to eliminate or secure approval for the connection by a specified date, regardless of whether or not the connection or discharges to it had been established or approved prior to the effective date of this ordinance.

- (b) If, subsequent to eliminating a connection found to be in violation of this ordinance, the responsible Person can demonstrate that an Illicit Discharge will no longer occur, said Person may request City approval to reconnect. The reconnection or reinstallation of the connection shall be at the responsible Person's expense.

Subd. 6. Requirement to remediate. Whenever the City Manager finds that a discharge of Pollutants is taking place or has occurred that will result in or has resulted in pollution of Storm Water, the Storm Drainage System, or water of the U.S., the City Manager may require by written notice to the owner of the property or the responsible Person that the pollution be remediated and the affected property restored within a specified time pursuant to the provisions of 703.29 through 703.33.

Subd. 7. Requirement to monitor and analyze. The City Manager may require by written notice of requirement that any Person engaged in any activity or owning or operating any Premises which may cause or contribute to Storm Water pollution, Illicit Discharges, or Non-Storm Water Discharges to the Storm Drainage System or waters of the U.S., to undertake at said Person's expense such monitoring and analyses and furnish such reports to the City as deemed necessary to determine compliance with this ordinance.

703.25. Notification of spills. Notwithstanding other requirements of law, as soon as any Person responsible for a Premises or operation, or responsible for emergency response for a Premises or operation has information of any known or suspected release of materials that are resulting or may result in Illicit Discharges or Pollutants discharging into Storm Water, the Storm Drainage System, or waters of the United States, said Person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of Hazardous Materials said Person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services (911). In the event of a release of non-Hazardous Materials, said Person shall notify the City's Public Works Department in Person or by phone, facsimile or email no later than 3:00 p.m. the next business day. Notifications in Person or by phone shall be confirmed by written notice addressed and mailed to the City within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years. Failure to provide the notifications of a release as required by 703.25 is a violation of this ordinance.

703.27. Violations, enforcement, and penalties. Subdivision 1. Violations. It shall be unlawful for any Person to violate any provision or fail to comply with any requirement of this ordinance. If a Person has violated or continues to violate a provision of this ordinance, the City may petition for a preliminary or permanent injunction restraining the Person from any activity that would create a further violation or compel the Person to perform abatement or remediation of the violation. In the event the violation constitutes an immediate danger to public health or public safety, the City is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and restore the property. The City is authorized to seek its costs as set forth in 703.33.

Subd. 2. Warning notice. When the City finds that any Person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, the City may serve upon that Person a written warning notice, specifying the particular violation believed to have occurred and requesting the violator to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and resolution of the matter in response to a warning notice in no way relieves the alleged violator of liability for any violation occurring before or after receipt of a warning notice. Nothing in this subdivision shall limit the authority of the City to take any action, including emergency action or any other enforcement action, without first issuing a warning notice.

Subd. 3. Notice of violation. Whenever the City finds that a Person has violated a prohibition or failed to meet a requirement of this ordinance, the City may order compliance by written notice of violation to the responsible Person. The notice of violation shall contain:

- (a) The name and address of the alleged violator;
- (b) The address when available or a description of the building, structure or land upon which the violation is occurring, or has occurred;
- (c) A statement specifying the nature of the violation;
- (d) A description of the remedial measures necessary to restore compliance with this ordinance and a time schedule for the completion of such remedial action;
- (e) A statement of the penalty or penalties that shall or may be assessed against the Person to whom the notice of violation is directed;
- (f) A statement that the determination of violation may be appealed to the City by filing a written notice of appeal within five (5) days of service of notice of violation; and
- (g) A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Such notice of violation may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of an Illicit Connections or Illicit Discharge;
- (c) That a violating discharge, practice, or operation shall cease and desist;
- (d) The abatement or remediation of Storm Water pollution or contamination hazards and the restoration of any affected property;
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

Subd. 4. Compensatory action. In lieu of enforcement proceedings, penalties, and remedies authorized by this ordinance, the City may impose upon a violator, alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, lake / pond / creek cleanup, or any similar activity.

Subd. 5. Suspension of MS4 access.

- (a) Emergency cease and desist order. When the City finds that any Person has violated, or continues to violate, any provision of this ordinance, or any order issued hereunder, or that the Person's past violations are likely to recur, and that the Person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of Persons or to the environment, the City may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:
- (1) Immediately comply with all ordinance requirements; and
 - (2) Take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and terminating the discharge.

Any Person notified of an emergency order directed to it under pursuant to this subdivision shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with an emergency order, the City may take such steps as it deems necessary to prevent or minimize harm to the MS4 or waters of the United States, and the endangerment to Persons or to the environment, including immediate termination of a Premises' water supply, sewer connection, or other municipal utility services. The City may allow the Person to recommence its discharge when the Person has demonstrated to the sole satisfaction of the City that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this ordinance. A Person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the City within five (5) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

- (b) Suspension due to Illicit Discharges in emergency situations. The City may, without prior notice, suspend MS4 discharge access to a Person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of Persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the City may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States, or to minimize danger to Persons.

- (c) Suspension due to the Detection of Illicit Discharge. Any Person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an Illicit Discharge. The City will notify a violator of the proposed termination of its MS4 access. The violator may petition the City for a reconsideration and hearing.
- (d) A Person commits an offense if the Person reinstates MS4 access to Premises terminated pursuant to this Section, without the prior approval of the City.

Subd. 6. Administrative penalties. In the event the alleged violator fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) working days, or such greater period as the City shall deem appropriate, after the City has taken one or more of the actions described above, the City may impose a penalty as outlined in Appendix B (depending on the severity of the violation) for each day the violation remains after receipt of the notice of violation.

Subd. 7. Criminal prosecution. Any Person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

703.29. Appeal of notice of violation. Any Person receiving a notice of violation may appeal the determination of the City. The notice of appeal must be received within five (5) days from the date of the notice of violation. Hearing on the appeal before the City Manager shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the City Manager shall be final.

703.31. Abatement by the City. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within ten (10) days of the decision of the City Manager upholding the decision, then representatives of the City may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and restore the property. It shall be unlawful for any Person, owner, agent or Person in possession of any Premises to refuse to allow the government agency or designated contractor to enter upon the Premises for the purposes set forth herein.

703.33. Cost of abatement of the violation. Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment with the city clerk within fifteen (15) days of date the notice was sent to the property owner. The city clerk shall set the matter for a public hearing before the city council. The decision of the city council shall be set forth by resolution and shall be final. If the amount due is not paid within the time as determined by the decision of the city council or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. A copy of the resolution shall be remitted to the county so that the assessment may be added to taxes levied against the parcel of land.

703.35. Violations deemed a public nuisance. In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and an administrative or civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the City.

703.37. Remedies not exclusive. The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City to seek cumulative remedies. The City may recover its attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

Section 705 - Sewer, Water and Other Service Charges

705.01. Service charges. The council by resolution establishes the service charge to be collected for water supply, Sewage disposal, and any other special utility services rendered by the city. Unless otherwise authorized in writing by the city, each dwelling unit in a residential dwelling unit will be charged a service charge for water, sanitary sewer, and any other special utility services rendered by the city, regardless of whether the services are utilized and the unit's occupancy status. (Amended, Ord. No. 17-04)

705.03. Water. Subdivision 1. Metered. Premises to which water is supplied must be equipped with a water meter. Charges are based on the quantity of water used.

Subd. 2. Fire water charge. Premises to which water is supplied for fire protection purposes that do not use city water for consumption will be charged a quarterly fee as established by Appendix B.

705.05. Sewer. A uniform fee is charged for city sewer facilities for single-family dwellings. The sewer charge for two-family and multiple dwellings may be based upon the number of units occupied. A sewer charge for schools, churches, commercial and industrial establishments may be based upon the metered water supply or on a formula the council determines fair and equitable.

705.06. Special utility services. A uniform fee is charged for city recycling and garbage facilities for single-family dwellings. The recycling and garbage charge for two-family and multiple dwellings may be based upon the number of units occupied. A recycling and garbage charge for schools, churches, commercial and industrial establishments may be based upon a formula or other method the council determines fair and equitable. (Added, Ord. No. 14-10)

705.07. Separate fund. Separate funds are kept for each utility service. Moneys collected for the services are deposited in the fund established for the respective utility service and costs of rendering that service are charged against that fund.

705.09. Collection of fees. The city bills the owners of premises receiving water, sanitary sewer, storm sewer, recycling or garbage service at least twice each year. Services may be discontinued to any customer upon five days notice to the last known address of the customer for non-payment of a bill. Wherever service is discontinued, it shall not be resumed until the customer has paid outstanding bills in full together with the interest thereon at the rate of 10% per annum from the date due and the fee set by Appendix B for restoring the service. The clerk is authorized and directed to assess any accounts delinquent for 30 days or more against the property to which such service was rendered by certifying the accounts to the county auditor each year for collection in accordance with law. (Amended, Ord No. 14-10)

705.11. Permission to enter premises. The director may enter the premises served for the purpose of reading meters, inspecting facilities or other purposes reasonably necessary for the proper supplying of the utility service.

705.13. Water meter readings. The city may provide a system of water meter reading by postcard, meter reader, or other method deemed suitable by the council. In the case of a postcard meter reading, the consumer must mail or return the meter card on or before the 15th of the month prior to the next billing. A consumer will be assessed a \$1 penalty for any card not returned on or before the due date. The penalty may be included on the next and subsequent billings until paid.

705.15. Estimated bills. If the water meter or any other device used in determining the charge to be made for utility services is not accessible at the time that the city attempts to read it, the owner or occupant will be given an estimated bill, so marked. Credits or debits resulting from the use of such estimate will be adjusted at the next meter reading.

705.17. City equipment. No person may alter, damage, destroy, deface or tamper with a meter or other property or device installed for the purpose of supplying a utility service.

705.19. MWCC strength charges. Subdivision 1. Recitals. The Metropolitan Waste Control Commission, a metropolitan commission organized and existing under the laws of the state of Minnesota (the "Commission"), in order to receive and retain grants in compliance with the Federal Water Pollution Control Act Amendments of 1972 and regulations thereunder (the "Act"), has determined to impose an industrial user sewer strength charge upon users of the Metropolitan Disposal System (as defined in Minnesota Statutes, section 473.121, subdivision 24) to recover operation and maintenance costs of treatment works attributable to the strength of the discharge of industrial waste, such sewer strength charge being in addition to the charge based upon the volume of discharge. In order for the city to pay such costs based upon strength of industrial discharge and allocated to it each year by the commission, it is hereby found, determined and declared to be necessary to establish sewer strength charges and a formula for the computation thereof for all industrial users receiving waste treatment services within or served by the city. Furthermore, Minnesota Statutes, section 444.075, subdivision 3, empowers the city to make such sewer charge a charge against the owner, lessee, occupant or all of them and certify unpaid charges to the county auditor as a tax lien against the property served.

Subd. 2. Establishment of strength charges. For the purpose of paying the costs allocated to the city each year by the commission that are based upon the strength of discharge of all industrial users receiving waste treatment services within or served by the city, there is hereby approved, adopted and established, in addition to the sewer charge based upon the volume of discharge, a sewer charge upon each person, company or corporation receiving waste treatment services within or served by the city, based upon strength of industrial waste discharge into the sewer system of the city (the "Strength Charge").

Subd. 3. Establishment of strength charge formula. For the purpose of computation of the strength charge established in subdivision 2 hereof, there is hereby established, approved and adopted in compliance with the act the same strength charge formula designated in Resolution No. 76-172 adopted by the governing body of the commission on June 15, 1976, such formula being based upon pollution qualities and difficulty of disposal of the sewage produced through an evaluation of pollution qualities and quantities in excess of an annual average base and the proportionate costs of operation and maintenance of waste treatment services provided by the commission.

Subd. 4. Strength charge payment. It is hereby approved, adopted and established that the strength charge established by subdivision 2 hereof shall be paid by each industrial user receiving waste treatment services and subject thereto before the 20th day next succeeding the date of billing thereof to such user by or on behalf of the city, and such payment thereof shall be deemed to be delinquent if not so paid to the billing entity before such date. Furthermore, it is hereby established, approved and adopted that if such payment is not paid before such date an industrial user shall pay interest compounded monthly at the rate of two-thirds of one percent (2/3%) per month on the unpaid balance due.

Subd. 5. Establishment of tax lien. As provided by Minnesota Statutes, section 444.075, subdivision 3, it is hereby approved, adopted and established that if payment of the strength charge established by subdivision 2 hereof is not paid before that 60th day next succeeding the date of billing thereof to the industrial use by or on behalf of the city, said delinquent sewer strength charge, plus accrued interest established pursuant to subdivision 4 hereof, shall be deemed to be a charge against the owner, lessee and occupant of the property served, and the city or its agent shall certify such unpaid delinquent balance to the county auditor with taxes against the property served for collection as other taxes are collected; provided, however, that such certification shall not preclude the city or its agent from recovery of such delinquent sewer strength charge and interest thereon under any other available remedy.

705.21. (Added, Ord. No. 92-5) Installation of mid-block street lights. Subdivision 1. General rule. Any property owners wishing to have a street light installed mid block may request installation via petition to the city in accordance with the enforcement policy (the "policy") which shall be set and amended from time to time by resolution of the city council.

Subd. 2. Installation of mid-block street lights. The city shall order installation of street lights mid-block upon receipt of a petition by the affected property owners as specified in the policy. The cost for operation and maintenance thereof will be charged to property owners in the affected block via the city utility bill.

Subd. 3. Assessment. On or before September 1 of each year, the city clerk shall list the total unpaid charges for operation and maintenance of street lighting against each separate lot or parcel to which they are attributable under this subsection. After notice and hearing as required by law, the council may then assess the charges against the properties benefited as a special assessment under Minnesota Statutes, section 492.101, for certification to the county auditor and collection along with current taxes. The certification shall provide for the payment of the special assessments the following year.

Section 710 - Storm Sewer Utility

710.01. Statutory authority. Minnesota Statutes, section 444.075, authorizes the city to impose just and reasonable charges for the use and availability of storm sewer facilities ("charges"). The city elects to exercise that authority. (Amended, Ord. No. 12-10)

710.03. Findings and determinations. In providing for the charges, the following findings and determinations are made.

- (1) In the exercise of its governmental authority and in order to promote the public health, safety, convenience and general welfare, the city has constructed, operated and maintained a storm sewer system ("the system"). This section is adopted in the further exercise of such authority and for the same purposes.
- (2) The system, as constructed, heretofore has been financed and paid for through the imposition of special assessments and ad valorem taxes. Such financing methods were appropriate to the circumstances at the time they were used. It is necessary and desirable to provide an alternative method of recovering some or all of the future costs of improving, maintaining and operating the system through the imposition of charges as provided in this section.
- (3) In imposing charges, it is necessary to establish a methodology that undertakes to make them just and equitable. Taking into account the status of completion of the system, past methods of recovering system costs, the topography of the city and other relevant factors, it is determined that it would be just and equitable to assign responsibility for some or all of the future costs of operating, maintaining and improving the system on the basis of the expected storm water runoff from the various parcels of land within the city. (Amended, Ord. No. 12-10)
- (4) Assigning costs and making charges based upon expected typical storm water runoff cannot be done with mathematical precision but can only be accomplished within reasonable and practical limits. (Amended, Ord. No. 12-10)

710.05. Rates and Charges (Amended, Ord. No. 12-10)

(a) Storm water utility rate calculation. Rates and charges for the use and availability of the system are determined through the use of a "Residential Equivalent Factor" ("REF"). For the purpose of this section, one REF is defined as the average volume of runoff coming from one acre of land subjected to typical single-family residential use within the city during a standard rainfall event.

For the purpose of simplifying and equalizing charges, property used for single-family purposes will be considered to have an acreage of 0.18 acres and two-family residential purposes will be considered to have an acreage of 0.18 acres per residential unit. Properties other than those occupied by residential use shall be assigned an REF value based on the estimated percent of the acreage of the site that is covered with a building or structure or paved area (i.e. impervious.)

Calculation for storm water utility rates for various site coverages are based upon their residential equivalent factor (REF). The REF values for various site coverages are as follows:

REF	% IMPERVIOUS/OTHER
0.25	<20%
1	20 to 40% plus single family and two family
2	41 to 60%
3	61 to 80% plus all townhomes, and multi-family (3 units plus)
5	>81%

(b) Calculation of Fees. The Service charge to be billed each billing period shall be a fair and equitable share of the total costs of the system. In determining charges the council will, from time to time, by resolution establish a basic system rate to be charged against one acre of land having a REF of one. The charge to be made against each parcel of land shall then be determined by multiplying (i) the REF for the parcel based on the relative percentage of impervious surface or residential land use classification times (ii) the parcel's acreage times the basic system rate.

(c) Appeals. Appeals from the City Manager's determination of the proper classifications may be made to the City Council in the same manner as other appeals from administrative determinations under this code.

710.13. Adjustments of charges. The City Council may by resolution, from time to time, adopt policies providing for the adjustment of charges for parcels or groups of parcels, based upon data supplied by affected property owners, demonstrating an actual coverage substantially different from the calculation being used for the parcel or parcels. The adjustment may be made only after receiving the recommendation of the City Manager and will not be made effective retroactively. If the adjustment would have the effect of changing the calculation for all or substantially all of the land in a particular classification, however, such adjustment must be accomplished by an ordinance amending the class charge rate calculation table in subsection 710.05. (Amended, Ord. No. 12-10)

710.15. Excluded lands. A charge for system availability or service will not be made against land that is either (a) public street right-of-way or railroad right-of-way or (b) vacant and unimproved with substantially all of its surface having vegetation as ground cover, (c) city owned land and (d) parks. (Amended, Ord. No. 12-10)

710.17. Supplying information. The owner, occupant or person in charge of any premises will supply the city with such information as the city reasonably requests related to the use, development and area of the premises. Willful failure to provide such information or to falsify it is a violation of this section.

710.19. Estimated charges. If the owner, occupant or person in charge of a premises fails or refuses to provide the information requested pursuant to subsection 710.17, the charge for such premises will be estimated and billed in accordance with the estimate, based upon information then available to the city.

710.21. Billings and collections. Storm sewer service charges shall be placed on the utility accounts of property for the use and availability of the system and are payable periodically in accordance with usual and customary practices in rendering of water and sanitary sewer bills. (Amended, Ord. No. 12-10)

710.23. Penalties and remedies. Penalties and remedies for late payments or non-payment of billings shall be the same as those applicable to billings rendered for water and sanitary sewer service. In the event a bill becomes delinquent, the City Council may cause the delinquent charges to become a lien against the property served by certifying to Hennepin County the amount of such delinquent bill in accordance with the Act. (Amended, Ord. No. 12-10)

710.25. Use of revenues. Revenues received from charges will be placed in a separate storm sewer system account and used first to pay the normal, reasonable and current costs of operating and maintaining the system and next to other purposes permitted or required by law. Revenues from time to time received in excess of such costs may be used to finance improvements to and betterments of the storm sewer utility and other utility enterprise funds. (Amended, Ord. No. 12-10)

Section 715 - Telecommunications Facilities and Equipment
(Added, Ord. No. 95-10)

715.01. Definitions. Subdivision 1. The terms defined in this section have the meanings given them.

Subd. 2. Company. A natural or corporate person, business association, political subdivision, public or private agency of any kind, its successors and assigns, who or which seeks or is required to construct, install, operate, repair, maintain, remove or relocate facilities in the city.

Subd. 3. Director. The city engineer or designated representative.

Subd. 4. Facilities. Telecommunications equipment of any kind, including but not limited to audio, video, paging, facsimile or similar service, not governed by Minnesota Statutes, chapter 238, including all trunks, lines, circuits, physical connections, switching equipment, wireless communication equipment of all kinds, and any necessary appurtenances owned, leased or operated by a company on, over, in, under, across or along public ground.

Subd. 5. Public ground. Highways, roads, streets, alleys, public ways, utility easements and public grounds in the city.

715.03. Permit procedure. Subdivision 1. Permit required. A company may not construct, install, repair, remove or relocate facilities, or any part thereof, in, on, over, under or along public ground without first obtaining a permit from the city.

Subd. 2. Application. Application for a permit is made to the director.

Subd. 3. Issuance of permit. If the director determines that the applicant has satisfied the requirements of this section the director may issue a permit to the company. An applicant may contest a permit denial or the conditions of approval by written notice to the clerk requesting a city council review within 14 days of the director's action. The council shall hear any contest of the director's actions under this section within 45 days of the city clerk's receipt of the contest notice. Nothing in this section precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to the issuance of a permit set forth herein.

Subd. 4. Permit fee. The permit fee shall be in the amount shown in Appendix B. The application must be accompanied by the permit fee.

Subd. 5. Security for completion of work. Prior to commencement of work, the company must deposit with the city security in the form of certified check, letter of credit or construction bond, in a sufficient amount as determined by the director for the completion of the work. The securities will be held until the work is completed plus a period of three months thereafter to guarantee that restoration work has been satisfactorily completed. Upon application of the company, providing such information as the director may require, if two or more work projects are to be constructed during a calendar year, the director may accept, in lieu of separate security for each project, a single security for multiple projects in such form and amount as determined, in the discretion of the director, to be sufficient to assure completion of all projects which may be in progress at any one time during that calendar year and to guarantee that restoration work will be satisfactorily completed. The security will then be returned to the company with interest if required by law and then interest at 8.00% per annum.

Subd. 6. Inspection of work. When the work is completed the company must request an inspection by the director. The director will determine if the work has been satisfactorily completed and provide the company with a written report of the inspection and approval.

715.05. Restoration and relocation. Subdivision 1. Restoration. Upon completion of the work, the company must restore the general area of the work, including paving and its foundations, to the same condition that existed prior to commencement of the work and must exercise reasonable care to maintain the same condition for two years thereafter. The work must be completed as promptly as weather permits. If the company does not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and restore the public ground to the same condition, the city may put it in the same condition at the expense of the company. The company must, upon demand, pay to the city the direct and indirect cost of the work done for or performed by the city, including but not limited to the city's administrative costs. To recover its costs, the city will first draw on the security posted by the company and then recover the balance of the costs incurred from the company directly by written demand. This remedy is in addition to any other remedies available to the city.

Subd. 2. Company initiated relocation. The company must give the city written notice prior to a company initiated relocation of facilities. A company initiated relocation must be at the company's expense and must be approved by the city, such approval not to be unreasonably withheld.

Subd. 3. City required relocation. The company must promptly and at its own expense, with due regard for seasonal working conditions, permanently relocate its facilities whenever the city requires such relocation.

Subd. 4. Relocation where public ground vacated. The vacation of public ground does not deprive the company of the right to operate and maintain its facilities in the city. If the vacation proceedings are initiated by the company, the company must pay the relocation costs. If the vacation proceedings are initiated by the city or other persons, the company must pay the relocation costs unless otherwise agreed to by the city, company, and other persons.

715.07. Company default. Subdivision 1. Notice. If the company is in default in the performance of the work authorized by the permit, including but not limited to restoration requirements, for more than 30 days after receiving written notice from the city of the default, the city may terminate the rights of the company under the permit. The notice of default must be in writing and specify the provisions of the permit under which the default is claimed and state the grounds of the claim. The notice must be served on the company by personally delivering it to an officer thereof at its principal place of business in Minnesota or by certified mail to that address.

Subd. 2. City action on default. If the company is in default in the performance of the work authorized by the permit, the city may, after the above notice to the company and failure of the company to cure the default, take such action as may be reasonably necessary to abate the condition caused by the default. The company must reimburse the city for the city's reasonable costs, including costs of collection and attorney fees incurred as a result of the company default. The security posted under section 2, subdivision 5 will be applied by the city first toward payment for such reimbursement.

715.09. Indemnification. Subdivision 1. Scope. The company will indemnify, keep and hold the city, its elected officials, officers, employees, and agents free and harmless from any and all claims and actions on account of injury or death of persons or damage to property occasioned by the construction, installation, maintenance, repair, removal, relocation or operation of the facilities affecting public ground, unless such injury or damage is the result of the negligence of the city, its elected officials, employees, officers, or agents. The city will notify the company of claims or actions and provide a reasonable opportunity for the company to accept and undertake the defense.

Subd. 2. Claim defense. If a claim or action is brought against the city under circumstances where indemnification applies, the company, at its sole expense, shall defend the city if written notice of the claim or action is given to the company within a period wherein the company is not prejudiced in the defense of such claim or action by lack of such notice. If the company undertakes the defense, the company shall have complete control of such claim or action, but it may not settle without the consent of the city, which shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the city. In defending any action on behalf of the city, the company is entitled to assert every defense or immunity that the city could assert in its own behalf.

715.11. Other conditions of use. Subdivision 1. Use of public ground. Facilities must be located, constructed, installed, maintained or relocated so as not to endanger or unnecessarily interfere with the usual and customary traffic, travel, and use of public ground. The facilities are subject to additional conditions of the permit as established by the director including but not limited to (i) the right of inspection by the city at reasonable times and places; (ii) the obligation to relocate the facilities pursuant to section 3, subdivisions 3 and 4; and (iii) compliance with all applicable regulations imposed by the Minnesota Public Utilities Commission and other state and federal law, including prompt compliance with the requirements of the Gopher State One Call program, Minnesota Statutes, chapter 216D.

Subd. 2. Location. The facilities must be placed in a location agreed to by the city. The company shall give the city 45 days advanced written notice of the company's proposed location of facilities within the public ground. No later than 45 days after the city's receipt of the company's written notice the city will notify the company in writing of the city's acceptance or rejection of the proposed location. If the city rejects the company's proposed location, the city shall propose alternative locations. The city does not waive or forfeit its right to reject the location of facilities by failure to respond within the 45 days.

Subd. 3. Emergency work. A company may open and disturb the surface of public ground without a permit where an emergency exists requiring the immediate repair of its facilities. In such event the company must request a permit not later than the second working day thereafter and comply with the applicable conditions of the permit. In no event, may the company undertake such an activity which will result in the closing of a street or alley without prior notification to the city.

Subd. 4. Street improvements, paving or resurfacing. The city will give the company written notice of plans for street improvements where permanent paving or resurfacing is involved. The notice must contain (i) the nature and character of the improvements; (ii) the streets upon which the improvements are to be made; (iii) the extent of the improvements, the time when the city will start the work; and (iv) if more than one street is involved, the sequence in which the work is to proceed.

Subd. 5. Company protection of facilities. The company must take reasonable measures to prevent the facilities from causing damage to persons or property. The company must take reasonable measures to protect its facilities from damage that could be inflicted on the facilities by persons, property, or the elements. The company must take specific protective measures when the city performs work near the facilities.

Subd. 6. Prior service connections. In cases where the city is undertaking the paving or resurfacing of streets and the facilities are located under such street, the company may be required to install service connections prior to the paving or resurfacing, if it is apparent that service will be required during the five year period following the paving or resurfacing.

715.13. Effective date and applicability to existing facilities. Companies with facilities in, on, over, under or along public ground on the effective date of this section must take prompt action to comply with this section and the permits authorized by this section. A company, however, is not required to reapply for a permit obtained from the city prior to the effective date of this section. A company is not required to pay the difference between the permit fee of a previously obtained permit and the equivalent newly obtained permit under this section. All other provisions of this section apply to existing facilities.

715.15. Acceptance of requirements. By receiving a permit pursuant to this section, the company accepts and agrees to comply with all of the requirements of this section.

715.17. Public ground other than right-of-way. Nothing in this section is intended to grant to the company authority beyond that given by Minnesota Statutes, section 222.37 for use of the public right-of-ways for construction and operation of facilities. If the city allows the company to use its non-right-of-way public ground, the terms of this section apply to the extent they are consistent with the contract, statutory and common law rights the city owns in such property.

715.19. Regulations and permit schedules. The director is authorized and directed to prepare suitable regulations and schedules for the administration of permits issued under this section.

715.21. Severability. If any provision of this section is contrary to law and therefore unenforceable, such provision will be severed and will not affect the other provisions of this section.

715.23. Construction with other sections. Unless otherwise expressly provided in the code, this section supersedes all other sections setting forth duplicative or conflicting provisions.

Section 720 - Telecommunications Towers and Facilities
(Added, Ord. No. 97-04, Sec. 1)

720.01. Findings. The federal communications act of 1934 as amended by the telecommunications act of 1996 (Act) grants the federal communications commission (FCC) exclusive jurisdiction over:

- (a) The regulation of the environmental effects of radio frequency emissions from telecommunications facilities.
- (b) The regulation of radio signal interference among users of the radio frequency spectrum.

The city's regulation of towers and telecommunications facilities do not have the effect of prohibiting any person from providing wireless telecommunications services in violation of the act. The regulations contained in this section are necessary to protect Robbinsdale's unique characteristics as listed below:

- (1) the "bedroom" nature of the community which historically has no industrially zoned land, and
- (2) the historical nature of its downtown having been a free standing growth center at the turn of the century.

720.03. Purposes. The general purpose of this section is to regulate the placement, construction and modification of towers and telecommunications facilities in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace.

Specifically, the purposes of this section are:

- (a) to regulate the location of towers and telecommunications facilities in the city;
- (b) to protect residential areas and land uses from the potential adverse impact of towers and telecommunications facilities;
- (c) to minimize adverse visual impact of towers and telecommunications facilities through careful design, siting, landscaping and innovative camouflaging techniques;
- (d) to promote and encourage shared use/collocation of towers and antenna support structures as a primary option;
- (e) to avoid potential damage to property caused by towers and telecommunications facilities by ensuring such structures are soundly and carefully designed, sited, constructed, modified, maintained and removed when no longer used or determined to be structurally unsound; and
- (f) to ensure that towers and telecommunications facilities are compatible with surrounding land uses.

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

Subd. 2. "Antenna support structure" means any building or other structure other than a tower which can be used for location of telecommunications facilities.

Subd. 3. "Applicant" means any person that applies for a tower development license.

Subd. 4. "Application" means the process by which an applicant submits a request to the city to develop, construct, build, modify or erect a tower upon such land.

Subd. 5. "City" means the city of Robbinsdale, Minnesota.

Subd. 6. "Engineer" means any structural engineer licensed by the state of Minnesota.

Subd. 7. "Owner" means any person with equitable or legal fee title or a long term (exceeding ten years) leasehold to any plot of land within the city.

Subd. 8. "Person" means any natural person, firm, partnership, association, corporation, company, or other legal entity, private or public, whether for profit or non-profit.

Subd. 9. "Telecommunications facilities" means any cables, wires, lines, wave guides, antennas and any other equipment or facilities associated with the transmission or reception of wireless communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, the term telecommunications facilities shall not include:

- (a) any satellite earth station antenna;
- (b) any amateur radio operator equipment as licensed by the FCC;
- (c) any television station or radio station equipment; or
- (d) any television or radio equipment designed only to receive television or radio signals.

Subd. 10. "Tower" means a self-supporting lattice, guyed or monopole structure constructed from grade which supports telecommunications facilities. The term tower shall not include amateur radio operators' equipment, as licensed by the FCC.

720.07. Development of towers. Subdivision 1. License required. No person shall build, erect or construct a tower without having first secured a license as provided for in this subsection. No license shall be issued for a tower unless it complies with the Robbinsdale zoning section.

Subd. 2. Application. Application for a tower license shall be submitted on a form provided by the city and shall include:

- (a) the name, address and telephone number of the owner and lessee of the parcel of land upon which the tower is situated. If the applicant is not the owner of the parcel of land upon which the tower is situated, the written consent of the owner shall be evidenced in the application;
- (b) the legal description, property identification number (PID) and street address of the parcel of land upon which the tower is situated;
- (c) the names, addresses and telephone numbers of all owners of other towers or usable antenna support structures within a one mile radius of the proposed new tower site, including city-owned property;
- (d) written, technical evidence from an engineer that the proposed structure meets the standards set forth in section 720.09, subdivision 4, "structural requirements", of this section;
- (e) written, technical evidence from an electrical engineer that the proposed site of the tower or telecommunications facilities does not pose a risk of explosion, fire or other danger due to its proximity to volatile, flammable, explosive, or hazardous materials such as LP gas, propane, gasoline, natural gas, corrosive or other dangerous chemicals;
- (f) a map of the city and the first half-mile of all bordering communities showing the design of the applicant's entire existing or proposed wireless telecommunications network. Such map shall, at minimum, indicate the exact location of all proposed or existing tower and antenna sites, their dimensions, specifications and signal area coverage;
- (g) the results of drive test data or other computerized signal area coverage studies conducted by the applicant within the city; and
- (h) the zoning of the proposed tower and evidence of any zoning approval.

Subd. 3. Proprietary information. All information submitted with an application that is trade secret information or is for other reasons proprietary shall be clearly marked as such when submitted with an application.

Subd. 4. License fees. The annual license fee is set by Appendix B.

- (a) Each application for a license shall be submitted to the city clerk and payment made to the city. Each application for a license shall be accompanied by payment in full of the required license fee. Upon rejection of any application for a license, the city shall refund the license fee.
- (b) Licenses expire annually on December 31. Each license shall be issued for a period of one year, except that if a portion of the license year has elapsed when the application is made, a license may be issued for the remainder of the year for a pro rated fee. In computing such fee, any unexpired fraction of a month shall be counted as one month. (Amended, Ord. No. 02-05)

- (c) No part of the fee paid for any license shall be refunded if the use is discontinued.

Subd. 5. Process for application. An application for a license shall be placed on the city council agenda for consideration. The complete application for a new license must be received four weeks prior to the city council meeting at which formal action is requested. License renewal is subject to the license provisions described in section 1005 Licensing Procedures. (Amended, Ord. No. 02-05)

Subd. 6. Conditional licenses. The council may grant a license for a new or existing tower conditioned upon the applicant making reasonable improvements to the proposed premises or the property upon which the tower is situated. The council, in granting a conditional license, will specify when the modifications must be completed. Failure to comply with the conditions of the license is grounds for the city council to refuse to renew the license.

Subd. 7. Penalty/revocation of license.

- (a) Any person violating any provision of this section is guilty of a misdemeanor and upon conviction shall be punished not more than the maximum penalty for a misdemeanor as prescribed by state law.
- (b) Any violation of this section shall be a basis for the suspension or revocation of any license granted hereunder. In the event that the city council proposes to revoke or suspend the license, the licensee shall be notified in writing of the basis for such proposed revocation or suspension. The council shall hold a hearing for the purpose of determining whether to revoke or suspend the license, which hearing shall be within ten days and no later than 30 days of the date of the notice.
- (c) The city council shall determine whether to suspend or revoke a license within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner, and shall notify the licensee of its decision within that period.

720.09. Tower performance standards. Subdivision 1. The following performance standards apply to any tower that is erected, constructed, placed, re-erected, or replaced in the city.

Subd. 2. Co-location. No new tower shall be built, constructed or erected in the city unless such tower is capable of supporting two telecommunications facilities comparable in weight, size and surface area to each other.

Subd. 3. Setbacks.

- (a) All towers shall be set back on all sides at least a distance equal to the underlying setback requirement in the applicable zoning district.
- (b) Setback requirements for towers shall be measured from the base of the tower to the nearest property line of the parcel on which it is located.
- (c) In addition to the setback requirements in section 720.09, subdivision 3(a), towers shall have a separation requirement as set forth in section 720.09, subdivision 5.

- (d) The city council, at its discretion, may reduce the required setback or separation to allow the integration of a tower into an existing or proposed structure or feature such as a church steeple, light standard, power line support device, sports stadium or similar structure or feature.

Subd. 4. Structural requirements. All towers must be designed and certified by an engineer to be structurally sound and, at a minimum, in conformance with the state building codes and any other standards outlined in this section.

Subd. 5. Separation or buffer requirements.

- (a) Towers shall be separated from all residentially zoned lands by a minimum of 200 feet or 200% of the height of the proposed tower, whichever is greater.
- (b) Tower separation distances for the purpose of compliance with this section shall be measured from the base of a tower to the closest point of a designated area. The minimum tower separation distance shall be calculated and applied irrespective of city jurisdictional boundaries.

Subd. 6. Height. Towers are exempt from the maximum height restrictions of the districts where located. Towers shall be permitted to a height of 175 feet. Towers may be permitted in excess of 175 feet in accordance with section 720.15, subdivision 2, "Criteria for site plan development modifications".

Subd. 7. Method of determining tower height. Measurement of tower height for the purpose of determining compliance with all requirements of this article shall include the tower structure itself, the base pad, and any other telecommunications facilities attached thereto. Tower height shall be measured from grade.

Subd. 8. Illumination. Towers shall not be artificially lighted except as required by the federal aviation administration (FAA) or other federal or state authority.

Subd. 9. Design requirements. Proposed or modified towers shall meet the following design requirements:

- (a) towers shall be of a neutral color, not artificially lighted, and designed to minimize visibility and blend into the surrounding environment except in cases where color and lighting is dictated by the FAA or other federal or state authority;
- (b) towers shall be of a monopole design unless the city council, at its discretion, approves an alternative design;
- (c) Treatment. Towers shall be constructed of, or treated with, corrosive resistant material; and
- (d) Appurtenant structures. No antenna or tower shall have affixed or attached to it, in any way, any catwalk, crow's nest or like structure, except during periods of construction or repair.

Subd. 10. Security. All towers must be reasonably posted and secured to protect against trespass. All towers shall be protected to discourage climbing of the towers by unauthorized persons.

Subd. 11. Fencing. Fences constructed around or upon parcels containing towers, antenna support structures, or telecommunications facilities shall be constructed in accordance with the fencing requirements applicable in the zoning district where the tower or antenna support structure is located, unless more stringent fencing requirements are required by FCC regulations. The city council may require six foot fencing around any tower if deemed necessary.

Subd. 12. Landscaping. All landscaping on parcels containing towers, antenna support structures or telecommunications facilities shall be in accordance with the applicable landscaping requirements in the zoning district where the tower, antenna support structure or telecommunications facilities are located.

Subd. 13. Access. All parcels upon which towers are located must provide access to at least three paved vehicular parking spaces on site.

Subd. 14. Certifications and inspections.

- (a) All towers shall be certified by an engineer to be structurally sound and in conformance with the requirements of the state building code and all other construction standards set forth by the city's code, federal and state law. For new monopole towers such certification shall be submitted with an application pursuant to section 720.07, subdivision 2 and every five years thereafter. For new lattice or guyed towers such certification shall be submitted with an application pursuant to section 720.07, subdivision 2 and every two years thereafter. The tower owner may be required by the city to submit more frequent certifications should there be reason to believe that the structural and electrical integrity of the tower is jeopardized.
- (b) The city and its agents shall have authority to enter onto the property upon which a tower is located, between the inspections and certifications required above, to inspect the tower for the purpose of determining whether it complies with the state building code and all other construction standards provided by the city's code, federal and state law.
- (c) The city reserves the right to conduct such inspections at any time, upon reasonable notice to the owner and the operator of the telecommunications facility. All expenses related to such inspections by the city shall be borne by the owner.

Subd. 15. Maintenance.

- (a) Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

- (b) Tower owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures and other equipment in substantial compliance with the requirements of the national electric safety code and all FCC, state and local regulations, and in such manner that will not unreasonably interfere with the use of other property.
- (c) All towers, telecommunications facilities and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.
- (d) All maintenance or construction on towers, telecommunications facilities or antenna support structure shall be performed by licensed maintenance and construction personnel.
- (e) All towers shall maintain compliance with current radio frequency emission standards of the FCC.
- (f) In the event the use of a tower for which it was licensed is discontinued by the tower owner, the tower owner shall provide written notice to the city of its intent to discontinue use and the date when the use shall be discontinued. The tower and all equipment shall be removed within 60 days and the entire site be restored to its original condition within 180 days.

720.11. Telecommunications facilities on antenna support structures. Subdivision 1. Any telecommunications facilities which are not attached to a tower may be permitted on an antenna support structure as set forth in the zoning code. Telecommunications facilities are prohibited on all other structures. For any telecommunications facility on an antenna support structure, the owner of such structure shall, by written certification to the building official, establish the following at the time plans are submitted for a building permit:

- (a) that the combined height from grade of the telecommunications facilities and antenna support structures shall not exceed the height from grade of the antenna support structure by more than 15 feet;
- (b) that the antenna support structure and telecommunications facilities comply with the state building code;
- (c) that any telecommunications facilities and their appurtenances, located upon the roof of an antenna support structure, are set back at least 15 feet from the edge of the roof of the antenna support structure. However, this setback requirement shall not apply to telecommunications facilities and their appurtenances located above the roof of an antenna support structure if such facilities are appropriately screened from view through the use of panels, walls, fences or other screening techniques approved by the city. Setback requirements shall not apply to antennas designed to blend into the environment which are mounted to the exterior of antenna support structures below the roof, but which do not protrude more than 24 inches from the side of such an antenna support structure; and
- (d) that the appropriate zoning approvals, if necessary, have been obtained.

720.13. Performance standards for telecommunications facilities on antenna support structures. Subdivision 1. The following performance standards apply to any telecommunications facilities on antenna support structures that are erected, constructed, placed, re-erected, or replaced in the city:

- (a) Lighting. Telecommunications facilities and their appurtenances shall not be artificially lighted unless it is required by the FAA or other federal or state authority;
- (b) Structural requirements. All telecommunications facilities on antenna support structures must be designed and certified by an engineer to be structurally sound and in conformance with the uniform building code;
- (c) Maintenance. All telecommunications facilities and antenna support structures shall be maintained in accordance with section 720.09, subdivision 15; and
- (d) Certification/inspection. All antenna support structures shall be inspected and certified as deemed necessary by the city.

720.15. Accessory buildings and equipment. All buildings and structures accessory to a tower or telecommunications facility attached to an antenna support structure shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the applicable sections of the zoning code. Ground mounted equipment shall be screened from view by vegetation or other means of screening as approved by the city planner.

720.17. Additional site plan development review. Subdivision 1. The city council may waive or modify the requirements of section 720.09, subdivision 3 (setbacks); section 720.09, subdivision 6 (height); section 720.09, subdivision 9 (design requirements); and/or section 720.11, subdivision 1, 2 and 4 (telecommunications facilities on antenna support structures) based only on the criteria set forth in subdivision 2 of this section.

Subd. 2. Criteria for site plan development modifications.

- (a) The city council may grant a site plan development modification pursuant to subdivision 1 above if a person, upon application to the city, demonstrates with written evidence that:
 - (1) the location, shape, appearance or nature of use of the proposed tower will not substantially detract from the aesthetics of the area nor change the character of the neighborhood in which the tower is proposed to be located; and
 - (2) the site plan development modification will not create any threat to the public health, safety or welfare.
- (b) In addition to the requirements of subparagraph (a) of this section the applicant must also demonstrate with written evidence, the following:

- (1) in the case of a requested modification to the setback requirements, that the area of the parcel of land upon which the tower is proposed to be located makes compliance with section 720.09, subdivision 3 impossible, and the only alternative for the person is to locate the tower at another site which poses a greater threat to the public health, safety or welfare or is closer in proximity to a residentially zoned land;
- (2) in the case of a request for modification of the height limit in a zoning district for towers and telecommunications facilities, that the modification is necessary to (i) facilitate collocation of telecommunications facilities in order to avoid construction of a new tower; or (ii) meet the coverage requirements of the applicant's wireless communications system, which requirements must be documented with written, technical evidence from an electrical engineer(s).