

CHAPTER 11. ZONING

SECTIONS:

- 1100 Zoning**
- 1100.05.1 Right of Way (ROW)**
- 1100.06 Classification of Districts**
- 1100.09 Special Use Permits**
- 1100.091 Establishing Rules and Regulations for Special Events**
- 1100.11 Signs**
- 1110 Regulating the Surface Use of Tanners Lake**

SECTION 1100 – ZONING

This Chapter shall be known and may be cited and referred to as “Landfall Village; Village Zoning Ordinance,” when referred to in this Chapter, it shall be known as “the Ordinance.”

Sec. 1100.01 Purpose and Intent. This Ordinance shall be adopted for the following purposes:

- A. To protect the public health, peace, safety, morals, comfort, convenience and general welfare.
- B. To divide the City into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration and use of structures and land.
- C. To promote orderly development of the residential, business, recreational, and public areas.
- D. To provide for adequate light, air, and convenience of access to property by regulating the use of land and buildings and the bulk of buildings in relation to surrounding properties.
- E. To limit congestion in the public right-of-way.
- F. To provide for the compatibility of different land uses and encourage the most appropriate use of land throughout the City.
- G. To provide for the administration of said chapters and amendments thereto.
- H. To define the powers and duties of the administration officers and bodies, as provided after the enactment date of this Code.

Sec. 1100.02 Scope. From and after the effective date of City Code, the use of all land and every building or portion erected, altered in respect to height and area, added to, or relocated and every use within a building or use accessory thereto in the City shall be in conformity with the provisions of this ordinance. Any existing building or structure, and any existing use of properties not in conformity with the regulations, may be continued, extended or changed, subject to the special regulations provided in this Section with respect to non-conforming properties or uses.

Sec. 1100.03 Interpretation. In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public health, comfort, convenience, and general welfare. Where the provisions of this Ordinance impose grater restrictions than those of any other Code provision, ordinance or regulation, the provisions of this Ordinance shall be controlling. Where the provisions of any statute, other Code provision, ordinance or regulation impose greater restrictions than this Ordinance, the provisions of such statute, other ordinance or regulation shall be controlling.

Sec. 1100.04 Rules. For the purpose of this Ordinance, words used in the present tense shall include the future; words in the singular shall include the plural, and the plural the singular; the word “building” shall include the word “structure”; the word “lot” shall include the “plot”; and the word “shall” is mandatory and not discretionary.

Sec. 1100.05 General Zoning Provisions.

Subd. 1 Performance and Other Standards. It shall be the intent of this Subdivision to provide that commercial, residential, and related activities shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each such permitted use shall be a good neighbor to adjoining properties by the control of the following:

- A. **Landscaping in Commercial Zones.** All required yards shall either be open landscaped and green areas or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a sightly and well-kept condition. Yards adjoining the

Residential District shall be buffered. Plans of the buffering shall be submitted for approval as a part of the site plan. A plan for maintenance shall be submitted along with the building permit.

- B. **Noise.** Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity. At the property line, the sound pressure level of noise radiated continuously from a facility shall not exceed the values given in Table 1 in any octave band frequency. The sound pressure level shall be measured with a Sound Level Meter and an octave Bank Analyzer that conforms to specifications published by the American Standard Specifications for an Octave Band Filter Set for the Analysis of Noise and Other Sounds, Z24. 10-1953, American Standards Associations, Inc. New York, N.Y. shall be used.

TABLE 1

Maximum permissible sound-pressure levels at specified points of measurement for noise radiated continuously from a facility.

| Frequency | Decibel Bank Cycles Per Second | Level :-:- |
|-----------------|--------------------------------|------------|
| 20 – 75 | | 69 |
| 75 – 150 | | 54 |
| 150 – 300 | | 47 |
| 300 – 600 | | 41 |
| 600 – 1,200 | | 37 |
| 1,200 – 2,400 | | 34 |
| 2,400 – 4,800 | | 31 |
| 4,800 – 10,000 | | 28 |
| 10,000 – 20,000 | | 26 |
| 20,000 – 30,000 | | 25 |
| 30,000 – 40,000 | | 24 |
| 40,000 – 50,000 | | 23 |

-/- According to the following formula: Sound pressure level in Decibels equals $10 \log P1-P2$ where P equals 0.0002 dynes-cm².

- C. **Glare.** Glare, whether direct to or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line.
- D. **Exterior Lighting.** Any lights used for exterior illumination for any purpose shall direct light away from adjoining properties. In the commercial district, any lighting used to illuminate an off-street parking area, sign, or other structure, shall be arranged as to deflect light away from the adjoining residential zone or from the public streets. Direct or sky reflected glare, whether from floodlights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of light shall be hooded or controlled in some manner so a not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. No light or combination of lights which case light on a public street shall exceed one (1) foot candle meter reading as measured from the centerline of the street nor shall any light or combination of lights which cast light on residential property exceed 0.4 foot candles meter reading as measured from any part of the property.
- E. **Vibration.** Vibration shall not be discernible at any property line to the human sense of feeling for three minutes or more duration in any one hour. Vibration of any kind shall not produce at any time an acceleration of more than 0.1 gravities or shall result in any combination or amplitudes and frequency or, beyond the “safe” range of Table VII United States Bureau of Mines Bulleting No. 442, “Seismic Effects of Quarry Blasting”, on any structure. The methods of equations of Bulletin No. 442 shall be used to compute all values for the enforcement of this provision.
- F. **Smoke and other Emissions into the Air.** The emissions shall meet the current regulations of the MN Pollution Control Agency.
- G. **Fumes or Gases.** Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic, or corrosive. The values given in Table 1 (Hygienic Standards – Maximum Allowable Concentration for eight hour day, five days per week), Table III (Odor Thresholds) Table IV (Concentrations of Substances Causing Pain in the Eyes), and Table V (Exposure to Substances Causing Injury to Vegetation) in the latest revision of Chapter 5, 2 “Hysiological Effects,” that contains the tables, in the “Air Pollution Abatement Manual,” by the Manufacturing Chemists Association Inc., Washington, D. C. shall be hereby established as guides for the determination of permissible concentration or amounts. Detailed plans for the elimination of fumes or gases may be required before the issuance of a building permit.

- H. **Hazard.** Every operation shall be carried on with reasonable precautions against fire and explosion hazards.
- I. **Water Supply.** The design and construction of water supply facilities and water supply source shall be in accord with City and MN State Department of Health standards and requirements. All necessary permits from the Division of Waters, Department of Conservation, shall be attached to the proposed plans when submitted.
- J. **Waste.** All sewage and commercial wastes shall be treated and disposed of in such a manner as to comply with City and MN State Department of Health standards and requirements, and the MN Pollution Control Agency's standards and requirements.
- K. All Commercial property dumpsters and Waste containers shall be kept within the confines of a 100% opaque wall or fence which screen the containers from public view.
- L. Any business within the commercial district may use the refuse haulers of their choice provided that the refuse hauler shall be properly licensed with the City.

Subd. 2 Off –Street Parking and Loading Regulations in Commercial District.

- A. **Minimum Size Regulations:** Each space shall contain a minimum area of not less than one hundred and eight (180) square feet exclusive of access drives, a width of not less than nine (9) feet, and a depth of not less than twenty (20) feet. Each space shall be adequately served by access drives as determined by the Planning Commission. All loading spaces shall be sufficient to meet the requirements of each use and shall provide adequate space for storage and maneuvering of the vehicles it is designed to serve.
- B. **Reduction and Use of Parking Loading Space:** Off-street parking facilities existing at the effective date of the enactment of this Code shall not subsequently be reduced to an amount less than that required under this Ordinance for a similar new building or use. Off-street parking facilities provided to comply with the provisions of this Ordinance shall not subsequently be reduced below the requirements of this Ordinance. The required parking or loading space shall not be used for storage of goods or for storage of vehicles that are inoperable or for sale or rent.
- C. **Computing Requirements:** In computing the number of such parking spaces required the following rules shall govern:
 1. Floor space shall mean the gross floor area of the specific use.
 2. Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.
 3. The parking space requirement for a use not specifically mentioned in this Section shall be the same as required for a use of similar nature as determined by the Planning Commission.
- D. **Yards:** Off-street parking and loading facilities shall be subject to the front yard, side yard, and rear yard regulations for the district in which the parking is located.
- E. **Buffer Fences and Planting Screens:** Off-street parking and loading areas near or adjoining to the Residential District shall be screened by a buffer fence of adequate design or a planting buffer screen; plans of such screen or fence shall be submitted for approval as a part of the required site or plot plan and the fence or landscaping shall be installed as part of the initial construction.
- F. **Access:** Parking and loading space shall have proper access from a public right-of-way as determined by the Planning Commission.
- G. **Location of Parking Facilities:** Required off-street parking space shall be provided either on the same lot or adjacent lots of the principal building or use is located.
- H. **Parking in Residential District:** Only vehicles with passenger license plates shall be parked in the residential district, unless special permission shall be granted by the City Council.
- I. **Lighting:** Lighting shall be in accordance with the standards set forth in Subsection 1100.05.
- J. **Required Site Plan:** Any application for a building permit shall include a site plan or plot plan drawn to scale and dimensioned showing off-street parking and loading space to be provided in compliance with this Chapter. The site plan shall show an acceptable drainage plan and landscape plan.
- K. **Application of Parking and Loading Regulations:** Off-street parking and loading regulations shall apply to all buildings and uses of land established after the effective date of the enactment of this Code.

Sec. 1100.05.1 RIGHT-OF-WAY (ROW)

Article I. In General, Section 1100.05.1 City of Landfall Village, County of Washington, Minnesota, "Right-of-Way Ordinance" is herewith adopted into city code. Any and all previously adopted sections or articles which may appear contrary or in conflict with this ordinance are hereby replaced or modified by this code.

Subd. 1 – FINDINGS, PURPOSE, AND INTENT.

The City of Landfall Village holds the ROW within its geographical boundaries as an asset in trust for its citizens. The City and other public entities have invested millions of dollars in public funds to build and maintain the ROW. It also recognizes that some persons, by placing their equipment in the ROW and charging the citizens of the City for goods and services delivered thereby, are using this property held for the public good. Although such services are often necessary or convenient for the citizens, such persons receive revenue and/or profit through their use of public property. Although the installation of such

service delivery facilities are in most cases necessary and proper use of the ROW, the City must regulate and manage such uses. To provide for the health, safety and well-being of its citizens and to ensure the structural integrity of its streets and the appropriate use of ROW, the City strives to keep its ROW in a state of good repair and free from unnecessary encumbrances. Although the general population bears the financial burden for the upkeep of the ROW, one of the causes for the early and excessive deterioration of its ROW is frequent excavation or other intrusions into its sub-surface area.

This Article imposes reasonable fees and regulations on the placement and maintenance of equipment currently within its ROW or to be placed therein at some future time. It is intended to complement the regulatory roles of state, federal and other agencies. Under this Article, persons disturbing and obstructing the ROW will bear a fair share of the financial responsibility for its integrity. This Article also provides for recovery of the City's costs associated with managing its ROW.

Subd. 2 - The provisions and requirements of this ordinance shall not apply to inter-governmental entities that have Joint Powers Agreements with the City *or other ROW users exempted by the statutes of the state of Minnesota.*

Subd. 3 - DEFINITIONS.

The following words, terms and phrases, as used herein, have the following meanings:

Abandoned Facility - (1) a facility no longer in service and physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service; or (2) a facility that is deemed abandoned by the ROW user.

Applicant – Any person or entity requesting permission to excavate or obstruct a ROW.

City - means the corporate municipality, its elected officials, its manager and/or appointed employees to include the Director of Public Works or his/her designee, City of Landfall Village, Minnesota.

City Management Costs - the actual costs incurred by the City for public ROW management; including, but not limited to, costs associated with registering applicants seeking permission to excavate or obstruct a ROW; issuing, processing and verifying ROW permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting or moving user equipment during public ROW work; determining the adequacy of ROW restoration; restoring work inadequately performed after providing notice and opportunity to correct the work; mapping of "as built" locations of facilities located in ROW; and revoking ROW permits and performing all other functions required by this Article, including other costs the City may incur in managing the provisions of this Article.

Degradation – means a decrease in the useful life of the ROW caused by excavation in or disturbance of the ROW, resulting in the need to reconstruct such ROW earlier than would be required if the excavation or disturbance did not occur. This condition is only applicable in ROW's that are not included in the current 5-year street replacement plan scheduled for full removal and reconstruction.

Degradation Cost – subject to Minnesota Rules 7819.1100 means the cost to achieve a level of restoration, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown on Landfall Village plates 1 to 13, and set forth in Minnesota Rules parts 7819.9900 to 7819.9950.

Degradation Fee – Means the estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the ROW caused by the excavation, and which equals the degradation cost. This fee does not include the cost of patching, which is the sole responsibility of the ROW user.

Delay Penalty - *In accordance with Minnesota Rule 7819.1000 subd. 3, the director shall impose a delay penalty for unreasonable delays in ROW excavation, obstruction, patching, or restoration by permittee. The delay penalty shall be proposed by the director and established from time to time by city council resolution.*

Director - the City's Director of Public Works or his/her designee.

Emergency - a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a customer.

Emergency Hole - excavation of a hole necessitated by a condition creating a clear and immediate threat to life, health, safety or property or requiring immediate repair or replacement in order to restore service to a customer.

Engineer – the City's Director of Public Works or his/her designee.

Equipment - any tangible asset used to install, repair or maintain facilities in any ROW.

Excavate - to dig into or in any way remove or physically disturb or penetrate any part of a ROW.

Excavation Permit - a permit which must be obtained before a person may excavate in a ROW. An excavation permit allows the holder to excavate only in that part of the ROW described in the permit.

Facility or Facilities - any tangible asset in the ROW required to provide utility service. *The term does not include facilities to the extent the location and relocation of such facilities are preempted by Minnesota Statute 161.45, governing utility facility placement in state trunk highways.*

Franchise – any person or entity with tangible assets or equipment in the ROW for the purpose of providing utility service to the general public having been previously approved by the city by written agreement, contract or by franchise ordinance.

Hole - an excavation having a length on the long side that is less than 2 times the dimension of the width of the excavation and that conforms to O.S.H.A. standards.

Obstruct - to place any tangible object in a public ROW so as to hinder free and open passage over that or any part of the ROW for an aggregate period of five (5) hours or more in conjunction with the issuance of a ROW permit.

Obstruction Permit - a permit which must be obtained before a person may obstruct a ROW, allowing the holder to hinder free and open passage over the specified portion of that ROW by placing equipment described therein on the ROW for the duration specified in the permit.

Patch or Patching - a method of pavement replacement that is considered temporary in nature. A patch consists of (1) the compaction of the sub base and aggregate base, and (2) the replacement in kind, to match the existing pavement per Landfall Village Plates 1-13. A patch shall be considered “full restoration” only if the pavement is included in the City's five year project plan.

Pavement Repair Plates – Drawings and details for the reconstruction and repair of Landfall Village ROW pavements (all types) that are herewith copied and adopted from the original thirteen (13) plates as suggested and provided by the Minnesota Public Utilities Commission and any supplemental additions as provided by the City of Landfall Village.

Permit Holder - any person to whom a permit to excavate, obstruct, or place equipment or facilities in a ROW has been granted by the City under this Article.

Person – a private individual or authorized representative or agent of an entity subject to all laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

Registrant - any person or entity that digs, excavates, intrudes or has or seeks to have its facilities or equipment located in any ROW for temporary or permanent placement.

Restoration or “Full Restoration” - the process by which the ROW and surrounding area, including pavement, foundation, and turf areas is returned to the same or better condition and life expectancy that existed immediately before excavation.

Restoration Cost - the amount of money paid to the City by a permit holder to have the city or its designated contractor perform the work to achieve the required level of restoration according to Landfall Village plates 1 to 13, which are attached hereto and incorporated herein.

ROW – (Right-of-Way) - the area on, below, or above a public roadway, highway, street, cart way, bicycle lane, and public sidewalk in which the City has an interest, including other dedicated ROW for travel purposes and/or utility easements of the City.

ROW Engineer – that person or persons appointed, directed and empowered by the Director of Public Works to administrate the management of the Office of the Right-of-Way Engineer and those necessary responsibilities empowered by the City ROW Ordinance.

ROW Permit - either an excavation permit or obstruction permit, or both, depending on the context required by this Article.

ROW User - (1) a telecommunications ROW user as defined by Minnesota Statutes, Section 237.162, subdivision 4; or (2) a person owning or controlling a facility in the public ROW that is used or is intended to be used for providing utility service and who has a right under the law, franchise, or ordinance to use the public ROW.

Trench - an excavation having a length that is in excess of two (2) times the width of the excavation for the sections of roadway where the work is occurring, including a directional bore.

Utility or Utility Service – means services provided by: (1) a public utility as defined in Minnesota Statutes, *section 216B.02*; (2) *services of a telecommunications ROW user, including the transporting of voice or data information*; (3) *services provided by a cable communications system as defined in Minnesota Statutes, Chapter 238*; (4) *natural gas or electric energy or telecommunications services provided by a local government unit*; (5) *services provided by a cooperative electric association organized under Minnesota Statutes, chapter 308A*; and (6) water, sewer, steam, cooling, heating services, community television antenna system, fire and alarm communications, storm sewer, light, or power services including wind generation.

Wireless Telecommunication Facility - a tangible asset used to provide wireless telecommunication or data services, including all antennas, support devices, equipment including ground equipment, associated cables, and attachments.

Subd. 4 - REGISTRATION.

(a) **Registration Required Prior to Work.** No one shall construct, install, repair, remove, relocate or perform any work within any ROW without first being registered pursuant to this Section. Such registration shall be made on an application form provided by the City's Department of Public Works and shall be accompanied by the registration fee set forth in this Code. Registration and the accompanying fee shall be required each calendar year. A franchised service or utility service operating under this section shall be registered pursuant to this Section but need not annually provide registration information as required by subsection (c) of this Section if such information has been submitted pursuant to a franchise agreement or ordinance. Further, a franchised service or utility service operating pursuant to a franchise agreement or ordinance shall be

exempt from payment of an annual registration fee providing said franchise fee has been paid per written agreement or ordinance. Exceptions to the registration requirements, as described in section 32-7, shall be determined at the discretion of the ROW Engineer.

(b) **Exceptions.** The following are not subject to the requirements of this Section:

- (1) Person or Persons planting or maintaining pre-approved boulevard surface plantings or gardens.
- (2) Person or Persons installing mail boxes or private sidewalk from street or curb to dwelling or commercial structure.
- (3) Person or Persons engaged in commercial or private snow removal activities.
- (4) Person or Persons installing street furnishings. **Sec. 1100.05.1 Right-of-Way.**
- (5) Person or Persons installing irrigation systems.
- (6) City of Oakdale*
- (7) Board of Water Commissioners of the City of Saint Paul*
- (8) Persons acting as agents, contractors or subcontractors for a registrant who has properly registered in accordance with this Section.

* See Appendix I

(c) **Registration Information.** The registrant shall provide the following at the time of registration and shall promptly notify the City of changes in such information:

- (1) Registrant's name, address, telephone number, facsimile number and Gopher One Call registration certificate number if required by state law.
- (2) Name, address, telephone number and facsimile number of the person responsible for fulfilling the obligations of the registrant.
- (3) Unless exempted by previous or existing agreements or ordinance, a current Certificate of Insurance from a company licensed to do business in the State of Minnesota providing minimum coverage in the following amounts:

GENERAL LIABILITY:

Public Liability, including premises, products and complete operations
 Bodily Injury Liability - \$1,000,000 each person, \$3,000,000 each occurrence
 Property Damage Liability - \$3,000,000 each occurrence
 In lieu of (1) and (2) Bodily Injury and Property Damage Combined - \$3,000,000 single limit

COMPREHENSIVE:

Automobile Liability Insurance, including owned, non-owned and hired vehicles.
 Bodily Injury Liability - \$1,000,000 each person, \$3,000,000 each occurrence
 Property Damage Liability - \$3,000,000 each occurrence
 In lieu of (1) and (2) Bodily Injury and Property Damage Combined - \$3,000,000 single limit

Such certificate shall verify that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the ROW by the registrant, its officers, agents, employees and permit holders, and (ii) placement and use of equipment or facilities in the ROW by the registrant, its officers, agents, employees and permit holders, including but not limited to, protection against liability arising from completed operations, damage of underground equipment and collapse of property. Such certificate shall also name the City as an additional insured as to whom the coverage required herein are in force and applicable and for whom defense will be provided as to all such coverage. Such certificate shall require that the City be notified thirty (30) days prior to cancellation of the policy.

- (4) A 24 hour emergency number.
- (5) An acknowledgment by the registrant of the indemnification pursuant to this Code.
- (6) Such additional information as the City may require.

Subd. 5 - FRANCHISE REPORTING OBLIGATIONS.

Each franchise registrant shall, at the time of registration and not later than November 1st of the preceding year, file a proposed construction and major maintenance plan for underground facilities with the City. Such plan shall be submitted using a format designated by the City and shall contain the information determined by the City to be necessary to facilitate construction coordination and reduction in the frequency of excavations and obstructions of ROW. The plan shall include, but not be limited to, the following information:

- (a) To the extent known, the locations and the estimated beginning and ending dates

of all projects to be commenced during the next calendar year; and

(b) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year.

The City will have available for inspection in the Engineer's office a composite list of all known or planned projects that have been adopted for the next calendar year. All registrants are responsible for keeping themselves informed of the current status of this improvement list. Each franchise registrant must notify the City immediately of any change in its list of planned projects.

Subd. 6 - PERMIT REQUIREMENT.

(a) Permit Required.

No person may obstruct or excavate any ROW without first having been issued the appropriate ROW permit pursuant to this Section, except as otherwise provided in this Code. Exceptions to the permitting requirements, as described in section 32-9, shall be made at the discretion of the ROW Engineer.

(1) **Excavation Permit.** An excavation permit is required by the registrant to excavate that part of the ROW described in each permit that may hinder free and open passage over the specified portion of the ROW when placing or repairing facilities therein, to the extent and for the duration specified in the permit.

(2) **Obstruction/Aerial/Interduct Permit.** An obstruction/aerial/interduct permit is required by a registrant if the work proposed may hinder free and open passage over the specified portion of ROW by placing or repairing equipment described therein within the ROW, to the extent and for the duration specified in the permit. An obstruction/aerial/interduct permit is not required if a registrant has been issued a valid excavation permit for the same project.

(3) **Pole Attachment Permit.** A pole attachment permit is required by the registrant in order to attach a wireless telecommunication facility to an existing public utility structure in the public ROW. A pole attachment permit is not required if a registrant has been issued a valid excavation permit for the same project.

(b) **Permit Extension.** No person may excavate or obstruct the ROW beyond the date or dates specified in the permit or do any work outside the area specified in the permit unless such person makes a supplementary application before the expiration of the permit. Payment of all fees for an extension of the permit is required before extension may be granted by the City; if the work could not be completed because of circumstances beyond the control of the permit holder or the work was delayed or prohibited by unseasonable or unreasonable conditions, the City may grant and extend the completion date of the work.

(c) **Delay Penalty.** Notwithstanding Subsection (b) of this Section, the City may impose a delay penalty where excavating or obstruction work in the ROW is not completed within the time specified if no permit extension application has been made prior to the expiration date of the permit. A delay penalty will not be imposed if the delay is due to circumstances beyond the control of the applicant, including without limitation inclement weather, acts of God, or civil strife.

(d) **Application and Fee.** An application for a ROW permit shall be made on forms provided by the City and shall be accompanied by a fee as set forth in this Code established to reimburse the City for costs. A person who pays a franchise fee to the City in accordance with a franchise agreement shall be exempt from the payment of permit fees. If the work is to be performed by an agent, contractor, or subcontractor on behalf of the registrant, such application shall be signed by the registrant. The application shall also be accompanied by the following:

(1) Scaled drawings showing the location of all known existing facilities and improvements proposed by the applicant. The applicant will be requested to submit in English measurement two (2) paper copies at 1" = 50' scale plans at the smallest and/or one (1) copy in Auto CAD format (Washington County Coordinate system) with X, Y, Z dimensions to 1 foot accuracy electronic plan. All plans must be dimensional and show existing utilities, curb and gutter, sidewalks, bikeways, signal poles, driveways, boxes, relevant structures, property lines and corners and property addresses.

(2) A description of the methods that will be used for installation.

(3) A proposed schedule for all work.

(4) The location of any public streets, sidewalks or alleys that will be temporarily closed to traffic during the work and proposed detour route with appropriate signage.

(5) A description of methods for restoring any public improvements disrupted by the work.

(6) Any other information reasonably required by the City.

(e) **Security.** A performance bond and cash deposit in an amount determined by the City shall be required from each applicant. The applicant, at its option, may post security sufficient to cover all projects contemplated for the current calendar year. The performance bond must be approved by the City Attorney. Security required pursuant to this Subsection shall be conditioned that the holder will perform the work in accordance with this Article and applicable regulations and will pay to

the City any costs incurred by the City in performing work pursuant to this Article. Said conditions will indemnify and save the City and its officers, agents and employees harmless against any and all claims, judgment or other costs arising from any excavation and related work covered by the ROW permit. And to include further indemnification by reason of any accident or injury to persons or property through the fault of the permit holder, either for improperly fencing and guarding the excavation or for any other injury resulting from the negligence or willful actions of the permit holder. The bond or any unused portions of a cash deposit shall be released by the City upon completion of the work and compliance with all conditions imposed by the ROW permit. For permits allowing excavations within public streets, such bond or unused part of a cash deposit shall be held for a period of twenty-four (24) months to guaranty adequacy of all restoration work.

(f) **Permit Issuances; Conditions.** The City shall grant a ROW permit upon finding the work will comply with the requirements of this Article. The City may impose reasonable conditions upon the issuance of the permit and the performance of the applicant there under to protect the public health, safety and welfare, to insure the structural integrity of the ROW, to insure completion of restoration of the ROW within a specified period, to protect the property and safety of other users of the ROW and to minimize the disruption and inconvenience to the traveling public. If it is determined by the Office of the ROW Engineer that the proposed ROW intrusion or use is not in the best interest of the city and no agreement or alternative compromise solution is feasible, the applicant may appeal the Engineers decision to the Director of Public Works. Should the issue there remain un-resolved, the applicant may then request to address the case before the Landfall Village City Council for final disposition. If the applicant’s ROW permit application is terminated at any given level, the city may at its discretion, elect to grant a partial refund of fees that may have been paid but shall not disburse any part of the basic Registration Fee or more that 50% of the Administrative Fees. No ROW permit shall be issued to any person who has failed to register pursuant to this code.

(g) **Dumpsters/Portable-on-Demand-Storage (POD) Units.** The placement of dumpsters or POD units in the street portion of the ROW is not allowed. Dumpsters or POD units may be placed within the boulevard or driveway portions of the ROW provided that they do not obstruct pedestrian traffic along sidewalks or trails and the boulevard is restored to previous conditions. In extraordinary circumstances, the City Right of Way Engineer may make exceptions to this provision and applicant shall be subject to the permitting and fee requirements of this ordinance.

(h) **Exceptions.** No permit shall be required for the following:

- (1) Approved surface landscaping work.
- (2) Approved private sidewalks, street furnishings, posts and pillars.
- (3) Snow removal activities.
- (4) Irrigation systems provided that the system does not connect directly to water mains in the ROW installed at the property owner risk.
- (5) Activities of the City of Landfall Village.
- (6) If granted approval by the city, piercing or drilling a street or sidewalk/trail pavement for the purpose of exploratory examination or utility depth determination.

Subd. 7 - TIMELINESS OF WORK.

The work to be done under the ROW permit and the patching and restoration of the ROW as required herein, must be completed within the dates specified in the permit. It may be increased by as many days as work could not be done because of circumstances beyond the control of the permit holder or when work was prohibited as unseasonable or unreasonable.

Subd. 8 - STANDARDS FOR CONSTRUCTION OR INSTALLATION.

(a) **General Standards.** The permit holder shall comply with the following standards, to the extent consistent with applicable Minnesota rules, when performing the work authorized under the permit:

- (1) Take such precautions as are necessary to avoid creating unsanitary or unsafe conditions. Observe and comply with all laws, rules and regulations of the State and local governments.
- (2) Conduct the operations and perform the work in a manner as to insure the least obstruction to and interference with traffic.
- (3) Take adequate precautions to insure the safety of the general public and those who require access to abutting property.
- (4) Notify adjoining property owners prior to commencement of work which may disrupt the use of and access to such adjoining properties.
- (5) Comply with the Minnesota Manual of Uniform Traffic Control Devices at all times during construction or installation.
- (6) Exercise precaution at all times for the protection of persons, including employees and property.

- (7) Protect and identify excavations and work operations with barricade flags and if required, by flagmen in the daytime and by warning lights at night.
- (8) Provide proper trench protection as required by O.S.H.A..
- (9) Protect the root growth of trees and shrubbery.
- (10) Where possible, provide for space in the installation area for other telecommunication ROW users and companies which install facilities in public ROW.
- (11) Maintain maximum access to all properties and cross streets as possible during construction operations and maintain emergency vehicle access at all times.
- (12) Maintain planned alignment and grade unless otherwise authorized by the City. Field changes not approved by the City will require removal and reconstruction.
- (13) During trenching of facilities, a warning tape must be placed at a depth of twelve (12) inches above all copper cables with over two hundred (200) pairs and above any fiber facilities.
- (14) Beneath concrete or bituminous paved road surfaces, directional bore facilities shall be installed in conduit of a type approved by the city.
- (15) The placing of all telecommunications facilities must comply all with the National Electric Safety Code, as incorporated by reference in Minn. Stat. Sec. 326.243.
- (16) Locate all property lines near ROW lines and replace any disturbed property corner markers or judicial monuments. ***A Minnesota licensed surveyor must be used in the replacement of disturbed property corners markers or judicial monuments.***
- (17) Excavations, trenches and jacking pits off the roadway or adjacent to the roadway or curbing shall be sheathed and braced depending upon location and soil stability and as directed by the City.
- (18) Excavating, trenches and jacking pits shall be protected when unattended to prevent entrance of surface drainage.
- (19) All backfilling materials must be placed in 6 inch lifts (maximum) at optimum moisture and compacted with the objective of attaining ninety-five percent (95%) of Standard Proctor Density. Compaction shall be accomplished with hand, pneumatic or vibrating compactors as appropriate.
- (20) Backfill material shall be subject to the approval of the City. The City may permit backfilling with the material from the excavation provided such material is granular in nature and acceptable to the City.
- (21) Compacted backfill shall be brought to bottom of the gravel of the approved street section.
- (22) All work performed in the ROW shall be done in conformance with Landfall Village Plates 1 to 13, unless a less stringent standard is approved by the City.
- (23) Street and pedestrian traffic shall be maintained throughout construction unless provided otherwise by the permit.
- (24) No road surface damaging lugs, cleats or equipment may be used or driven upon paved city street surfaces.
- (25) Dirt, trash or other debris must be periodically removed during construction
- (26) Other reasonable standards and requirements of the City.

(b) Standards for Installation of Underground Utilities. The permit holder shall comply with the following standards when installing facilities underground:

- (1) Underground facilities must be placed as far off the roadway as possible to provide access from outside of the paved area.
- (2) Buried fiber facilities shall be at a minimum depth of three (3) feet and a maximum depth of four (4) feet unless an alternate location is approved by the City. Buried copper facilities beneath concrete or bituminous paved road surfaces must be placed at no less than three (3) feet but no more than four (4) feet deep. Other buried copper facilities must be placed at a minimum depth of thirty (30) inches and a maximum depth of four (4) feet.
- (3) Crossing of streets and hard surfaced driveways shall be directional bored unless otherwise approved by the City.
- (4) If construction is open cut, the permit holder must install the visual tracers approximately twelve (12) inches above buried facilities. If other construction methods are used, substitute location methods will be considered.
- (5) The permit holder shall register with Gopher State One Call and comply with the requirements of that system.
- (6) Compaction in trench backfill material shall be ninety-five percent (95%) of the standard proctor density and copies of test results shall be submitted to the City. All tests and their locations shall be determined by the City. Tests must be conducted by an independent testing firm approved by the City. Street pavement replacement will not be permitted until sub-base densities are approved by the city. Testing shall be required at the discretion of the ROW engineer. Street Pavement structure and materials shall be as specified by the city and re-paved in accordance with Landfall Village plates 1-13. All pavement replacement shall be done in the presence of a City inspector with certified pavement material to City specifications.
- (7) The facilities shall be located so as to avoid traffic signals and signs which are generally placed a minimum of five (5) feet behind the curb.
- (8) When utilizing trenchless installation methods to cross an area in which a municipal utility is located, and/or when

directed by the City, the permit holder shall excavate an observation hole over the utility to ensure that the City utility is not damaged. Observation holes shall not be backfilled until viewed and approved by the city ROW Inspector.

- (9) All junction boxes or access points shall be located no closer than ten (10) feet from municipal fire hydrants, valves, manholes, lift stations or catch basins unless an alternate location is approved by the City.
- (10) Underground facilities shall not be installed between a hydrant and an auxiliary valve.
- (11) Underground facilities shall not be installed within five (5) feet of hydrants, valves, lift stations or manholes in areas where utility easements exist beyond the ROW. In those areas in which no utility easement exists, placement of an underground facility shall be between the edge of pavement and no closer than three (3) feet to an existing municipal utility appurtenance unless approved by the City.
- (12) In areas where an extensive effort to determine the location of municipal utility lines will be required to accommodate the installation of private facilities, the City's representative for Gopher State One Call must be contacted by the permit holder two (2) weeks prior to the beginning of the work to schedule meetings.
- (13) Buried telecommunication facilities must have a locating wire or conductive shield, except for di-electric cables.
- (14) Buried fiber facilities must be placed in a conduit of a type determined by the ROW user unless the permit holder obtains a waiver from the City.
- (15) The standards set forth in the Standards of Installation of Water Mains required by the Board of Water Commissioners of the City of Saint. Paul.

(c) **Standards for Installation of Overhead Facilities.** The permit holder shall comply with the following standards when installing facilities overhead:

- (1) All wires must be in compliance with the National Electric Safety Code and at a location that does not interfere with traffic signals, overhead signs, or street lights.

(d) **Standards for Wireless Telecommunication Facilities.**

(1) **Purpose.** The City of Landfall Village desires high quality wireless communication services to accommodate the needs of residents and businesses. At the same time, the City strives to minimize the negative impacts that wireless telecommunication facilities can have on aesthetics and public safety. Due to the many services that must be delivered within its limited area, the City also strives to avoid unnecessary encumbrances within the public ROW. The City allows and regulates wireless telecommunication facilities outside of the public ROW through performance standards and height limits. The purpose of this Section is to regulate wireless telecommunication facilities within the public ROW in a manner that balances desire for service with aesthetic, public safety, and ROW flexibility concerns.

Public ROW are appropriate locations for wireless telecommunication facilities that present minimal impacts (i.e. small pole attachments that do not require new poles, do not require pole extensions, and do not have associated ground mounted equipment). Wireless telecommunication facilities that require greater heights than can be afforded by existing poles in the public ROW and that require ground mounted equipment are more appropriately sited outside the public ROW in accordance with adopted performance standards of this Code. However, the City recognizes that as wireless technology advances, some residential areas of the City may be hard to serve with wireless technology due to the lack of acceptable siting alternatives in the immediate vicinity. In such areas, where no alternative non-ROW locations are available, wireless telecommunication facilities that require pole extensions and ground equipment will be allowed in the public ROW subject to the requirements of this Section which are meant to protect the public health, safety, and welfare.

(2) **Wireless Telecommunication Facilities as Pole Attachments.** Wireless telecommunication facilities that comply with the following requirements may be attached to existing public utility structures within the ROW after issuance of a pole attachment permit.

- (A) The wireless telecommunication facility shall not extend above the top of the existing public utility structure and the height of the existing public utility structure shall not be increased to accommodate the wireless telecommunication facility.
- (B) If the public utility structure must be replaced to structurally accommodate the wireless telecommunication facility, the replacement public utility structure height shall not exceed the existing public utility structure height and the replacement public utility structure diameter shall not exceed the existing public utility structure diameter by more than 50 percent.
- (C) The wireless telecommunication facility shall not be larger than three (3) cubic feet and shall have no individual surface larger than four (4) square feet.
- (D) The wireless telecommunication facility shall not extend outward from the existing pole or tower or arm thereof by more than two and one half (2 1/2) feet, except that an antenna one half inch in diameter or less may extend an additional six inches.
- (E) The wireless telecommunication facility shall include no ground mounted equipment.
- (F) The wireless telecommunication facility shall not interfere with public safety communications and shall meet the

requirements of this Code.

(G) Wireless telecommunication facilities in the ROW shall be removed and relocated at City request subject to the provisions of this Article.

(H) The wireless telecommunication facility shall not block light emanating from the public utility structure and shall not otherwise interfere with the original use of the public utility structure.

(3) Wireless Telecommunication Facilities as Pole Extensions or with Ground Mounted Equipment. Wireless telecommunication facilities that require increased public utility structure height or that have ground mounted equipment may be erected in the public ROW only when in compliance with the following provisions and after issuance of a pole attachment permit or excavation permit:

(A) The applicant shall demonstrate to the satisfaction of the City or his/her designee that the wireless telecommunication facility cannot be placed in a Code complying location outside the ROW within one quarter (1/4) mile of the proposed location.

(B) The replacement public utility structure, including lightning rods and all other attachments, shall not exceed the height of the existing public utility structure by more than fifteen (15) feet. Once the height of a public utility structure has been increased under the provisions of this Section, the height shall not be further increased.

(C) The replacement public utility structure diameter shall not exceed the existing public utility structure diameter by more than fifty (50) percent.

(D) The wireless telecommunication facility shall not extend outward from the public utility structure by more than two (2) feet.

(E) If feasible and desirable, as determined by the City, the replacement public utility structure shall match the original and surrounding public utility structures in materials and color.

(F) The wireless telecommunication facility shall not interfere with public safety communications and shall meet the requirements of this Code.

(G) A pole attachment or excavation permit for a wireless telecommunication facility that has ground mounted equipment will be issued only if the Issuing Authority finds the following:

(i) the ground mounted equipment will not disrupt traffic or pedestrian circulation;

(ii) the ground mounted equipment will not create a safety hazard;

(iii) the location of the ground mounted equipment minimizes impacts on adjacent property; and,

(iv) the ground mounted equipment will not adversely impact the health, safety, or welfare of the community.

(H) Ground mounted equipment associated with the wireless telecommunication facility shall meet the following performance standards:

(i) be set back a minimum of ten (10) feet from the edge of street or curb line;

(ii) be separated from a sidewalk by a minimum of three (3) feet;

(iii) be set back a minimum of fifty (50) feet from the nearest intersecting ROW line;

(iv) be separated from the nearest ground mounted wireless telecommunication equipment installation on the same block face by a minimum of 330 feet unless the equipment is placed underground;

(v) if located adjacent to residential uses, ground mounted equipment shall be limited to three (3) feet in height above grade and twenty seven (27) cubic feet in cumulative size;

(vi) if located adjacent to non-residential uses, ground mounted equipment shall be limited to five (5) feet in height above grade and eighty-one (81) cubic feet in cumulative size;

(vii) ground mounted equipment located outside the public ROW shall conform to the requirements of this Code.

(viii) vegetative or other screening compatible with the surrounding area shall be provided around the ground mounted equipment if deemed necessary by the City.

(I) Wireless telecommunication facilities in the ROW shall be removed and relocated at City request subject to the provisions of this Article.

(4) New Poles. The construction in the ROW of a new pole to support wireless telecommunication facilities is not allowed, except as a replacement of an existing public utility structure subject to the requirements of this Section.

(5) Charges. In addition to the permit fees outlined in this Code, the City reserves the right to charge telecommunication providers for their use of the public ROW to the extent that such charges are allowed under state law. Telecommunication providers shall be responsible for payment of property taxes attributable to their equipment in the public ROW.

Subd. 9 - PATCHING OR FULL RESTORATION OF ROW.

The permit holder shall patch its own work. In lieu of ROW restoration, a ROW user may elect to pay a degradation fee as determined by the City.

(a) **City Restoration.** If the City restores the ROW, the permit holder shall pay the costs thereof within thirty (30) days of billing. If, during the twenty-four (24) months following such surface restoration, the pavement settles due to the permit holder's improper backfilling and compaction, the permit holder shall pay to the City, within thirty (30) days of billing, all costs associated with having to correct the defective work.

(b) **Permit Holder Restoration.** If the permit holder restores the ROW, it shall at the time of application for a ROW permit post a performance bond or cash deposit in an amount determined by the City to be sufficient to cover the cost of restoration and any associated erosion and sediment control measures. The performance bond or cash deposit must be approved by the City Attorney. If, within twenty-four (24) months after completion of restoration of the ROW, the City determines the ROW has been properly restored, the posted security will be released.

(c) **Standards.** The permit holder shall perform patching and restoration according to the Landfall Village standards specified in Plates 1 to 13, which are attached hereto and incorporated herein.

(d) **Guarantees.** If the permit holder performs the restoration work, the permit holder shall guarantee such work and its maintenance for twenty-four (24) months following its completion. During this twenty-four (24) month period it shall, upon notification from the City, promptly and within 7 working days from receipt of notification, correct all faulty restoration work to the extent necessary, using the method required by the City.

Subd. 10 - JOINT APPLICATIONS.

(a) **Joint Application.** Registrants may jointly apply for permits to excavate or obstruct the ROW at the same place and time.

(b) **Shared Fees.** Registrants who apply for permits for the same obstruction or excavation may share in the payment of the obstruction or excavation permit fee. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

Subd. 11 - OTHER OBLIGATIONS.

(a) **Compliance With Other Laws.** The permit holder must obtain all other necessary permits, licenses and approvals and pay all fees required. The permit holder shall comply with all requirements of local, state and federal laws, including Minn. Stat. Secs. 216D.01-.09 ("One Call Excavation Notice System"). A permit holder shall perform all work in conformance with all applicable codes and established rules and regulations and is responsible for all work done in the ROW pursuant to its permit, regardless of who does the work.

(b) **Prohibited Work.** Except in an emergency, and with the approval of the City, no ROW excavation or obstruction may be done when seasonally prohibited or when conditions are unreasonable for such work.

(c) **Interference with ROW.** A permit holder shall not so obstruct a ROW that the natural free and clear passage of water through the gutters or other waterways shall be interfered with.

Subd. 12 - DENIAL OF PERMIT.

The City may deny a permit based on any of the following grounds:

(a) Failure to register pursuant to requirements of this Code.

(b) The applicant is subject to revocation of a prior permit issued pursuant to this Article.

(c) The proposed schedule for work would conflict or interfere with an exhibition, celebration, festival or any other similar event.

(d) The proposed schedule conflicts with scheduled or total or partial reconstruction of the ROW.

(e) The applicant fails to comply with the requirements of this Article or other provisions of this Code.

(f) The City determines that denial is necessary to protect the health, safety and welfare of the public or protect the ROW and its current use.

Subd. 13 - EMERGENCIES AND WORK DONE WITHOUT A PERMIT.

Each registrant shall immediately notify the City and all other affected parties or property owners of any event regarding its facilities, which it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. If the registrant has not been issued the required permit, the registrant shall, within two (2) business days after the occurrence of the emergency, apply for the necessary permits, pay the permit fees (where necessary) and fulfill the remaining requirements necessary to bring itself into compliance with this Article for the actions it took in response to the emergency.

If the City becomes aware of an emergency regarding a registrant's facilities, the City shall attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. The City may take whatever action deemed necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities

occasioned the emergency.

Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a ROW must subsequently obtain a permit and (where appropriate) as a penalty, pay twice the normal fee for the permit and shall deposit with the City the fees determined to correct any damage to the ROW.

Subd. 14 - INSPECTION.

(a) **Site Inspection.** The permit holder shall make the work site available to the City and to all others authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

(b) Authority of City

(1) At the time of inspection, the City may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

(2) The City may issue a stop work order to the permit holder for any work which does not conform to the terms of the permit or other applicable standards, conditions or codes. The order shall state that failure to correct the violation within a stated deadline will be cause for revocation of the permit. If the violation is not corrected within the stated deadline, the City may revoke the permit.

Subd. 15 - REVOCATION OF PERMITS.

(a) **Substantial Breach.** The City may revoke a ROW permit, without a fee refund, if there is a substantial breach of the terms or conditions of any statute, this Code, rule or regulation, or any condition of the permit. A substantial breach of a permit holder shall include, but not limited to, the following:

(1) The violation of any material provision of the permit.

(2) Any material misrepresentation of fact in the application for a permit.

(3) The failure to maintain the required bonds or other security and insurance.

(4) The failure to complete the work in a timely manner.

(5) The failure to correct, in a timely manner, work that does not conform to applicable standards, conditions or codes, upon inspection and notification by the City of the faulty condition.

(6) An evasion or attempt to evade any material provision of the ROW permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens.

(7) The failure to comply with the terms and conditions of any applicable federal, state and local laws, rules and regulations, including any provision of this Article.

(b) **Notice of Breach.** If the City determines that a permit holder has committed a substantial breach of a term or condition of any statute, this Code, rule or regulation or any condition of the permit, the City shall make a written demand upon the permit holder to remedy such violation within a reasonable period of time or be subject to potential revocation of the permit. The City may impose additional or revised conditions on the permit to mitigate or remedy the breach.

(c) **Reimbursement of City Costs.** If a permit is revoked, the permit holder shall reimburse the City for its reasonable costs, including restoration costs and the costs of collection and reasonable attorney fees incurred in connection with the revocation.

Subd. 16 - APPEAL.

(a) **Filing of Appeal.** Any person aggrieved by, (i) the denial of a permit application; (ii) the denial of a registration; (iii) the revocation of a permit, or (iv) the application of the fee schedule imposed by this Code, may appeal to the City Council by filing a written notice of appeal with the City Clerk. Said notice must be filed within twenty (20) days of the action causing the appeal.

(b) **Notice of Hearing.** The City Council shall hear the appeal at its next regularly scheduled meeting, unless the time is extended by agreement of the parties. Notice of the date, time, place and purpose of the hearing shall be mailed to the appellant.

(c) **Hearing and Decision.** The City Council shall, at the hearing, consider any evidence offered by the appellant, the City and any other person wishing to be heard. The Council shall issue a written decision within thirty (30) days of the completion of the hearing.

Subd. 17 - MAPPING DATA.

(a) **Information Required.** Each registrant shall provide mapping as required by the City and which shall include the following information:

(1) Location and approximate depth of registrant's mains, cables, conduits, switches and related equipment and facilities, with the location based on:

- (A) offsets from property lines, distances from the centerline of the public ROW and curb lines as determined by the City; or
- (B) Washington County Coordinate System; or
- (C) Any other system agreed upon by the ROW user and the City;
- (2) The type and size of the utility;
- (3) A description showing above-ground appurtenances;
- (4) A legend explaining symbols, characters, abbreviations, scale and other data shown on the map; and
- (5) Any facilities to be abandoned, if applicable, in conformance with Minnesota Statutes, Section 216D.04, subdivision 3.

(b) Submittal Requirement.

(1) Within two (2) years after the effective date of this ordinance, all telecommunication ROW users shall submit comprehensive detailed maps, if available, in accordance with Subsection (a) of this Section, for all facilities and equipment installed, used or abandoned within the public ROW.

(2) Subsequent to providing the required comprehensive facility map, interim mapping data shall be submitted by all registrants for all equipment and facilities which are to be installed or constructed after the effective date of this ordinance at such time as permits are sought pursuant to this ordinance.

(c) **Trade Secret Information.** At the request of any registrant, information requested by the City which qualifies as "trade secret" data under Minnesota Statutes, Sec. 13.37(b) shall be treated as trade secret information as detailed therein.

Subd. 18 - RELOCATION OF FACILITIES.

A ROW user shall promptly and at its own expense, with due regard for seasonal working conditions, remove and relocate its' facilities in the ROW when it is necessary to prevent interference or obstruction, but not merely for the convenience of the City, in connection with: (1) a present or future City use of the ROW for a public project or facility, (2) the public health or safety; or (3) the safety and convenience of travel over the ROW. The registrant shall restore any ROW to the condition it was in prior to removal and relocation.

Subd. 19 - DAMAGE TO OTHER FACILITIES.

When the City does work in the ROW and finds it necessary to maintain, support, or move registrant's facilities to protect it, the City shall notify the registrant as soon as possible. The costs associated therewith shall be billed to the registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the ROW which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

Subd. 20 - ROW VACATION.

(a) **Reservation of Right.** If the City vacates a ROW which contains the equipment or facilities of a registrant or permit holder, and if the vacation does not require the relocation of the registrant's or permit holder's equipment or facilities, the City shall reserve, to and for itself and all registrants or permit holders having equipment and facilities in the vacated ROW, the right to install, maintain and operate any equipment and facilities in the vacated ROW and to enter upon such ROW at any time for the purpose of reconstruction, inspecting, maintaining or repairing the same.

(b) **Relocation of Facilities.** If the vacation requires the relocation of the registrant's or permit holder's equipment or facilities; and (i) if the vacation proceedings are initiated by the registrant or permit holder, the registrant or permit holder must pay the relocation costs; or (ii) if the vacation proceedings are initiated by the City, the registrant or permit holder must pay the relocation costs unless otherwise agreed to by the City and the registrant or permit holder; or (iii) if the vacation proceedings are initiated by a person or persons other than the registrant or permit holder, such person or persons must pay the relocation costs.

Subd. 21 - ABANDONED AND UNUSABLE EQUIPMENT AND FACILITIES.

(a) **Discontinued Operations.** A registrant who has determined to discontinue all or a portion of its operations in the City must provide information satisfactory to the City that the registrant's obligations for its facilities in the ROW under this chapter have been lawfully assumed by another registrant.

(b) **Removal of Abandoned Facilities.** Any registrant who has abandoned facilities in any ROW shall remove it from that ROW to the extent such facilities interfere with another ROW repair, excavation, or construction, unless this requirement is waived by the City.

Subd. 22 - INDEMNIFICATION AND LIABILITY.

By registering with the City or by accepting a permit granted under this Article, a registrant or permit holder agrees as follows:

(a) **Limitation of Liability.** By reason of the acceptance of a registration or the grant of a ROW permit, the City does not assume any liability (i) for injuries to persons, damage to property or loss of service claims by parties other than the registrant or the City, or (ii) for claims or penalties of any sort resulting from the installation, presence, maintenance or operation of equipment or facilities by registrants or permit holders or activities of registrants or permit holders.

(b) **Indemnification.** A registrant or permit holder shall indemnify, keep and hold the City, its officials, employees and agents, free and harmless from any and all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its equipment and facilities, or out of any activity undertaken in or near a ROW, whether or not any act or omission complained of is authorized, allowed or prohibited by a ROW permit. The foregoing does not indemnify the City for its own negligence except for claims arising out of or alleging the City's negligence in issuing the permit or in failing to properly or adequately inspect or enforce compliance with a term, condition or purpose of a permit. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant, permit holder or the City, and the registrant or permit holder, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert on its own behalf. If the registrant or permit holder is required to indemnify and defend, it shall thereafter have control of the litigation, but the registrant or permit holder may not settle the litigation without the consent of the City. Such consent will not be unreasonably withheld.

Subd. 23 - FRANCHISE HOLDERS.

If there is a conflict in language between the franchise of a person holding a franchise agreement with the City or the Water Service Agreement with the City and this Article, the terms of the franchise or Water Service agreement shall prevail.

Subd. 24 - SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this Article is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

APPENDIX I

ESSENTIAL MUNICIPAL SERVICES

Special conditions and provisions to regulate and control ROW intrusions by essential service providers for which previous agreements or ordinances have been enacted and approved by the City in concurrence with the respective service providers.

INDEX

Participating Municipal Provider:

City of Oakdale

Sec. 1100.06 Classification of Districts.

Subd. 1 Districts. For the purpose of this Ordinance, the City shall be hereby divided into three classes of districts which shall be designated as follows:

- RESIDENTIAL DISTRICT**
- GENERAL BUSINESS DISTRICT**
- INSTITUTIONAL DISTRICT**

Subd 2 Zoning Map. The location and boundaries of the districts referred to in this Ordinance shall be hereby set forth on the Zoning Map, and the Map shall be hereby made a part of this Ordinance; the Map shall be entitled "Zoning Map of Landfall Village 1991" and subsequent amendments. The map and all notations, references, and data shown thereon shall be hereby incorporated by reference into this Ordinance and shall be as much a part of it as if all were fully described in this Section. It shall be the responsibility of the Planning Commission to maintain the Map, and amendments thereto shall be recorded on the Zoning Map within thirty (30) days after official publication of amendments. The official Zoning Map shall be kept on file in the City Hall.

Subd. 3 District Boundaries. District boundary lines as indicated on the Zoning Map follow lot lines.

Sec. 1100.07 Residential District.

Subd. 1 Purpose. The Residential District is intended to provide a district which shall allow residential development in those areas where such development fits the Land Use Plan and policies.

Subd. 2 Permitted Uses. Within a Residential District, no building or land shall be used except for one or more of the following uses:

- A. Single family dwellings, one-story, owner occupied manufactured homes.
- B. Parks and recreational areas owned or operated by governmental agencies provided these have been reviewed for conformity to the City Plan.
- C. All government buildings and structures deemed necessary by the Council.

Subd. 3 Use by Special Use Permit. Within a Residential District, no building or land shall be used for one or more of the following uses except by Special Use Permit:

- A. Essential public utility and service structures.
- B. Home occupations, defined as any gainful occupation meeting all of the following requirements when engaged in by persons only while residing in their dwelling; when conducted in not more than one room within the principal structure; using only that equipment or machinery which is usually found in a home; and when the occupation does not involve the retail sale of products; and no signs. No accessory building shall be used for the home occupation.

Subd. 4 Accessory Uses. Within a Residential District, the following use shall be permitted accessory use:

- A. Accessory buildings which shall be clearly incidental to the use of the main building.

Sec. 1100.08 General Business District.

Subd. 1 Purpose. The General Business District is designed to furnish the City with a retail business district with a wide range of services and goods. This district shall be intended as a business district which shall be located next to Hudson Boulevard and separate from the residential areas.

Subd. 2 Permitted Uses. Within the General Business District, the following shall be permitted uses:

- A. Government owned buildings.
- B. Public Telephone Booths,
- C. Automobile and Motorcycle Dealerships selling new, used, or new and used automobiles, motorcycles, or a combination thereof. Such dealerships may also provide a repair service center which may be used for repairing vehicles, motorcycles, or both, and which may also be used for preparing automobiles, motorcycles, or both, for sale.

Subd. 3 Uses by Special Use Permit. With the exception of the permitted uses set forth in subdivision one above, within the General Business District no building or land shall be used except by Special Use Permit.

Subd. 4 Accessory Uses. Within the General Business District the following uses shall be permitted accessory uses:

- A. Off-street parking and loading as regulated by Subsection 1100.05.
- B. Signs as regulated by Subsection 1100.11.
- C. Any incidental repair or processing necessary to conduct a permitted use; however such accessory use shall not occupy more than fifty percent (50%) of floor area nor require more than fifty percent (50%) of the gross hours required to conduct the permitted use.

Subd. 5 Additional Requirements. Within the General Business District all uses shall:

- A. Provide parking areas which shall be paved with materials and the arrangement of entrances, exits, and parking stalls shall be subject to the approval of the City.
- B. Accomplish exterior illumination in such a way as to direct the light away from a public right-of-way or any of the adjoining properties.
- C. Outdoor business uses shall in no case be conducted in the front, rear and side yards set forth in this district except that in the case of rear and side yards this provision may be waived by a special use permit where acceptable fences and/or buffers shall be provided.
- D. Provide landscaping as determined by the City.

Subd. 6 Height, Yard Regulations.

A. **Height Regulations:** After the adoption of this Code, no building shall be erected or structurally altered to exceed the lesser of two (2) stories or 35 feet in height above ground. The 35 feet shall be an average of all four (4) sides of the building.

B. **Front Yard Regulations:** There shall be a front yard having a depth of not less than fifteen (15) feet.

C. Side Yard Regulations:

1. Side yards of at least 12 feet shall be required.
2. A side yard of at least 15 feet shall be required on the street side of a corner lot.
3. A side yard of 12 feet shall be required on the side abutting any residential district.
4. A rear yard of at least 12 feet shall be required.

Subd. 7 General Regulations. Additional regulations in the General Business District shall be set forth in Subsection 1100.05.

Sec. 1100.08.1 Institutional District

Subd. 1 Purpose. The Institutional District is intended to accommodate City and community buildings and uses, including City Hall, the maintenance garage, the teen center and the community/storm shelter center.

Subd. 2 Permitted Uses. Within the Institutional District, the following shall be permitted uses:

- A. Government owned buildings.
- B. Outdoor storage for City maintenance equipment and materials.
- C. Community Parking.
- D. Public Transit Shelter
- E. Parks and Pavilion (with public rental option)
- F. Playgrounds and Equipment
- G. Basketball Court

Subd. 3 Uses by Special Use Permit. With the exception of the permitted uses set forth in Subdivision 2 above, within the Institutional District no building or land shall be used except by Special Use Permit.

Subd. 4 Accessory Uses. Within the Institutional District the following uses shall be permitted accessory uses:

- A. Off-street parking and loading as regulated by Subsection 1100.05.
- B. Signs as regulated by Subsection 1100.11.
- C. Perimeter, Boundary and Safety Fencing.

Subd. 5 Height Regulations.

A. Height Regulations. No building shall be erected or structurally altered to exceed two (2) stories or 35 feet in height above ground, whichever is less. The 35 feet shall be an average of all four (4) sides of the building.

Sec. 1100.09 Special Use Permits

Subd. 1 Purposes and Intent. Certain uses, while generally not suitable, in zoning districts, may, under some circumstances, be suitable. When such circumstances exist, a special use permit may be granted. Conditions may be applied to issuance of the permit and a periodic review of the permit shall be required.

The Council may grant a special use permit after the Council has considered the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, morals and general welfare of the City and, if necessary, surrounding land, existing and anticipated traffic conditions, including parking facilities on adjacent streets and land, and the effect on values of property in the surrounding area, and the effect of the proposed use on the comprehensive municipal plan.

If special technical studies or investigations, such as traffic, planning or any other are determined necessary by the City Planning Commission or the Council no further action shall be taken by the City until sufficient monies have been deposited with the City to pay the cost of these studies.

If a permit is to be issued, the Council shall determine that the proposed use shall not be detrimental to the health, safety, morals or general welfare of the community, nor shall cause serious traffic congestion or hazards, nor shall seriously depreciate surrounding property values, and that the use shall be in harmony with the general purpose and intent of this Zoning Code and of the Comprehensive Plan.

If an application is denied, the reason or reasons therefore shall be stated in the resolution of denial.

Subd. 2 Application Procedure.

A. Application for the issuance of a Special Use Permit shall be made to the Planning Commission except that any proceedings to classify certain uses as conforming uses as provided, in this Chapter, may be initiated either by the application or by the Council or by the Planning Commission. The Planning Commission may hold hearings on the proposal to issue a Special Use Permit as it may consider necessary, but at least one public hearing shall be held on any application for a Special Use Permit. Following the hearing, the Planning Commission shall make a report upon the proposal to the Council and shall recommend to the Council whatever action it deems advisable in conjunction with the purpose and intent of this Ordinance.

B. To defray administrative costs of processing of requests for Special Use Permits, a fee established by Council Resolution shall be paid by the applicant.

C. The application shall be accompanied by development plans of the proposed use showing such information as may be necessary or desirable, including but not limited to those listed below. These plans need not meet engineering or

construction detail so long as they contain adequate information upon which the Planning Commission can determine the proposed development shall meet all development standards if the project proceeds in accordance with the plans.

1. Site plan drawn at scale showing parcel and building dimensions.
2. Location of all buildings and their square footages.
3. Driveways, access roads, parking spaces, off-street loading areas, and sidewalks.
4. Landscaping and screening plans including species and size of trees and shrubs proposed.
5. Finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated within the area.
6. Type of business or activity and proposed number of employees.
7. Proposed floor plan and elevations of any building with use indicated.

Sec. 1100.091 Special Events Permits

Section 1. PURPOSE. The purpose of this ordinance is to protect the health, safety and welfare of the citizens of the City of Landfall Village by regulating the time, place and manner of special events and by establishing permit requirements for conducting such events.

Section 2. DEFINITIONS. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

APPLICANT shall mean any person or organization who seeks a permit to conduct or sponsor a special event within the City.

AMPLIFIED EVENT shall mean any special event that includes electronically amplified music and/or voices.

NON-AMPLIFIED EVENT shall mean any special event that does not include electronically amplified music and/or voices.

SPECIAL EVENT shall mean an outdoor gathering of at least 25 individuals whether on public or private property, assembled with a common purpose, for a period of one hour or longer but may not exceed twelve hours in duration. Special Events include, but are not limited to concerts, theatrical productions, public dances, fairs, carnivals, circuses, parades, flea markets, auctions, marathons, walkathons, festivals, races, bicycle events, celebrations, or any other gathering or events of similar nature. Special Events do not include events that are not open to the public and held on private, residential property such as graduation parties or social parties.

Section 3. PERMIT REQUIRED. No person or organization shall hold, conduct or participate in a special event within the City unless a permit has been issued for such event upon timely written application made to the City.

Subdivision 1. Application for Permit. Each written application for a special event permit must be made at least 45 days in advance of the event’s proposed date in a form prescribed by the City Administrator or Clerk. This application period shall not begin to run until a complete application has been filed with the City. A fee, as established by City Council resolution from time to time, shall be paid to the City along with the completed application form. In addition to the fee, the applicant shall pay all additional costs incurred by the City as a direct result of the special event. Failure to provide a complete application or to pay the fee, as herein required, is sufficient reason to deny the special event permit.

Subdivision 2. Issuance of Permit, Conditions. Special event permits will be issued upon City Council approval. The Council may attach reasonable conditions to the permit as are deemed necessary to protect the health, safety and welfare of the community and of event participants. Such conditions may pertain to any of the following:

- a) Location and hours during which the event may be held;
- b) Sanitation/availability of potable water;
- c) Security/crowd management;
- d) Parking and traffic issues;
- e) Emergency and medical services;
- f) Clean-up of premises and surrounding area/trash disposal;
- g) Insurance;
- h) Lighting;

- i) Fire service/safety;
- j) Temporary construction, barricades/fencing;
- k) Removal of advertising/promotional materials;
- l) Noise levels;
- m) Alcohol consumption;
- n) Notification of residents or businesses;
- o) Any other conditions which the Council deems necessary.

Subdivision 3. Exceptions to the Permit Requirement. The permit requirement contained in this ordinance does not apply to the following:

- a) Special events sponsored and managed by the City or Sheriff's Office;
- b) Funerals and funeral processions;
- c) Events on the grounds of any school, community center, museum, place of worship, conference center, stadium, athletic field, arena, auditorium or similar place of assembly when used for regularly established assembly purposes.

Subdivision 4. Restriction on Number of Special Events. No more than four amplified events shall be permitted at one location in any one calendar year. There shall be no limit on the number of non-amplified events.

Subdivision 5. Noise Restrictions for Amplified Special Events. Special events shall comply with all applicable City, County and State noise ordinances.

Subdivision 6. Denial of Application. A permit may be denied based upon a determination that:

- a) The event would endanger public health or safety;
- b) The event would unreasonably inconvenience the general public;
- c) The event would unreasonably infringe upon adjacent property owners' rights;
- d) The event would conflict with another proximate event or interfere with construction or maintenance work;
- e) There are not sufficient safety personnel or other necessary staff to accommodate the event;
- f) The applicant has violated a condition of this ordinance or a special event permit issued to the applicant within the last 12 months;
- g) The property on which the event is to take place or the owners of the property on which the event is to take place is delinquent in the payment of property taxes, assessments, employment taxes or other financial claims of the City and or other public agencies.
- h) The applicant has failed to present acceptable evidence of compliance with Workers' compensation insurance requirements, as applicable.
- i) Other issues in the public interest were identified by the City Council.

Subdivision 7. Indemnification and Insurance.

- a) The permit holder shall agree to defend, indemnify and hold the City, its officers and employees harmless from any liability, claim, damages, costs, judgments, or expenses, including attorney's fees, resulting directly or indirectly from an act or omission including, without limitation, professional errors and omissions of event promoter, its agents, employees, arising out of or by any reason of the conduct of the activity authorized by such permit and against all loss caused in any way be reason of the failure of the event promoter to fully perform all obligations under this ordinance.
- b) As a condition of the granting of a permit for a special event conducted on public property or public streets or parking lots, the permit holder shall provide to the City a public liability insurance policy naming the City as an additional insured entity with limits of not less than one million dollars per occurrence.

Section 4. PENALTY. Any person who violates any condition of a special event permit or any provision of this chapter shall be guilty of a misdemeanor punishable as prescribed by Minnesota State Law. Enforcement of this ordinance may, at the Council's discretion, take any of the following forms:

- a) Citation/criminal prosecution;
- b) Injunctions, declaratory judgments or other civil remedies;
- c) Permit revocation; or
- d) Disbursement of persons gathered.

Section 5. EFFECTIVE DATE. This ordinance shall be in full force and effect upon its adoption and publication according to law.

Sec. 1100.10 Variances

Subd 1 Purpose of Variances. The Council may grant variances from the strict application of the provisions of this Zoning Code, in cases where there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Chapter. The Council may impose conditions and safeguards as to any variances granted.

Subd. 2 Application for Variance. An application for a variance shall be filed with the Planning Commission and shall state the exceptional conditions and the peculiar and practical difficulties claimed as a basis for a variance.

Subd. 3 Referral to Planning Commission. All applications for variances shall be referred to the Planning Commission, which shall hear the applicant or representative thereof. The Commission shall recommend the conditions relating to the granting of a variance as it shall deem necessary to adjust the hardship or special situation so as to carry out the intent and purpose of this Zoning Code or shall recommend the denial of the request.

Subd. 4 When Council May Act. The Council shall act on an application for a variance:

- A. When a recommendation is received from the Planning Commission.
- B. If no recommendation is received from the Planning Commission within 30 days, or such other time limit designated by the Council, and after the refusal to act by the Planning Commission.

Subd. 5 Granting or Denial of Variance. The Council shall consider each application for a variance at its next regular meeting. It shall grant or deny the application within 60 days of receipt of the completed application.

In recommending or granting any request the Planning Commission and Council shall make a finding of fact that the proposed action shall not in any way be contrary to the intent of this Zoning Code.

If a variance is denied by motion of the Council, the motion shall constitute a finding and determination by the Council that the conditions required for approval do not exist.

Sec. 1100.11 Signs.

Subd. 1 Purpose and Intent. The purpose of this Subsection shall be to protect and promote the general welfare, health, safety and order within the City through the establishment of a comprehensive and impartial series of standards, regulations and procedures governing the erection, use and/or display of devices, signs or symbols serving as a visual communicative media to persons situated within or upon public right-of-ways or properties.

The provisions of this Section shall be intended to encourage creativity, a reasonable degree of freedom of choice, an opportunity for effective communication, and sense of concern for the visual amenities on the part of those designing, displaying or otherwise utilizing needed communicative media of the types regulated by this Ordinance; while at the same time, assuring that the public health and welfare shall be not endangered.

All signs hereafter erected or maintained shall conform with the provisions of this Subsection and any other Code provision, ordinances or regulations of the City other than official traffic and street signs and signs in locations subject to the laws of higher governing bodies, except in cases where this Subsection shall be more restrictive.

Subd. 2 Construction. All signs shall be constructed in such a manner and of such material so as to be considered safe and substantial. Nothing in this Subsection shall be interpreted as authorizing the erection or construction of any sign not now permissible under the Zoning Ordinances of the City.

Subd. 3 Signs Permitted in All Districts. Subject to all other conditions of this Chapter, the following signs shall be permitted anywhere within the City.

A. Real Estate Signs.

1. One temporary real estate sign not exceeding twenty-four (24) square feet in area and located on any commercial property. If the lot, parcel or tract has multiple frontage, one additional sign not exceeding twenty-four (24) square feet in area shall be allowed on the property to be placed facing the additional frontage. Under no circumstances shall more than a maximum of two (2) such signs be permitted on the property.

2. Window signs. All real estate signs shall be placed in the window of the structure that is for sale. No real estate sign shall be placed in any yard of the home.

3. Temporary real estate signs shall be removed within thirty (30) days following the lease or sale,

B. Street Banners. Street banners advertising a public entertainment or event, if specifically approved by the Planning Commission, may be displayed fourteen (14) days prior to and three (3) days after the public entertainment or event.

C. Directional Signs. Name, directional and informational signs shall be permitted. Each sign shall not be more than four (4) square feet in area. The top of the sign shall not exceed eight (8) feet above grade. In the event that there is a need for more than one sign at one location, all such signs shall be consolidated and confined within a single frame, subject to the review and recommendation of the Planning Commission.

D. Bench Signs. Bench signs shall be permitted in the Commercial District, but only at designated bus stops. Each bench sign may not exceed ten (10) square feet and may only be affixed to either or both sides of the back of the bench.

Subd. 4 Exemptions. Size restrictions shall not apply to noncommercial signs from August 1 until ten days following the election in any State election year pursuant to MN Statute § 211B.045, The following types of signs shall be exempted from all the provisions of this Subsection, except for construction and safety regulations and the following standards:

A. Public Signs. Signs of a non-commercial nature and in the public interest, erected by, or on the order of, a public officer in the performance of public duty, such as directional signs, regulatory signs, warning signs, and information signs.

B. Temporary Signs. Temporary signs announcing any public, charitable, educational or religious event or function. Such signs shall be allowed no more than twenty-one(21) days prior to the event or function and shall be removed within three (3) days after the event or function. If building mounted, these signs shall be flat wall signs and shall not project above the roof line. If ground mounted, the top shall be no more than six (6) feet above ground level.

C. Private Traffic Direction. Signs directing traffic movement onto a premise or within a premise, not exceeding eight (8) square feet in area for each sign. Illumination of these signs shall conform to this Section, except that standard traffic signal light devices may be used if needed. Horizontal direction signs on and flush with paved areas shall be exempt from these standards.

D. Political Campaign Signs. Signs announcing candidates seeking public political office and other data pertinent there to shall be permitted up to a total area of nine (9) square feet for each premise in a residential zone and thirty-two (32) square feet in a commercial zone provided that property owner's permission shall have been obtained. These signs may be displayed thirty (30) days prior and three (3) days after the election for which intended. In cases where a final election follows within seventy- five (75) days of a primary election, those candidates who won in the primary election may continue to display their signs during the interim period and up to three (3) days after the final election.

E. Banners, Pennants, Whirling Devices, Balloons. Banners, pennants, whirling devices and balloons or any such sign resembling the same shall be prohibited from use within the City except when used as an integral part of the design of the building or when used in conjunction with grand openings (the initial commencement of business), or when allowed by the provisions of this Subsection. In the case of grand openings, banners and pennants shall be allowed for the week (maximum ten (10) days) of the grand opening. In other cases, a special permit shall be issued for ten (10) day periods, but limited to three (3) times a year per business.

F. National, State, County, or City Flags. Nothing in this Subsection shall in any way prohibit or limit the display of National, State, County or City flags.

Subd. 5 Prohibited Signs. The following signs shall be prohibited and shall be removed immediately:

A. Signs containing statements, words, or pictures of an obscene, indecent or immoral character, such as shall offend public morals or decency.

B. Signs which imitate an official traffic sign or signal or which contain the words 'stop,' 'go slow,' 'caution,' 'danger,' 'warning,' or similar words, except as provided in this Code.

C. Signs which are of a size, location, movement, content, coloring or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal or which obstruct the view in any direction at a street or road intersection.

D. Flashing or rotating signs resembling emergency vehicles or equipment.

E. Signs which are placed on a municipal, county, or state right-of-way, except that identification signs for a community or as otherwise specified in this Subtitle shall be allowed in rights-of-way providing that the sign shall be approved by the Planning Commission and Council and a sign permit shall be issued conditioned upon removal of the sign at no cost to the City at such time as the City may require.

F. Signs which are pasted or attached to utility poles, trees, fences, other signs or their own poles which shall not be specifically allowed by this Subsection.

G. Signs which move in any manner or have a major moving part or give an illusion of motion; signs which swing or otherwise noticeably move as a result of wind pressure because of the manner of suspension or attachment; and signs which are painted directly on the wall, exterior of window or any other structural part of a building.

Subd. 6 Billboard Signs. The number of billboard signs shall be limited to three, the number of such signs constructed as of the date this Code becomes effective. Billboard signs shall be defined as freestanding signs which advertise off premises products or events.

Subd. 7 Illumination.

A. The light from any illuminated sign or from any light source, including interior of a building, shall be so shaded, shielded or directed that the light intensity or brightness shall not adversely affect surrounding or facing premises nor adversely affect safe vision of operators of vehicles moving on public or private roads, highways or parking areas. Light shall not shine or reflect on or into residential structures.

B. No sign shall have blinking, flashing or fluttering lights or other illuminating devices which have a changing light intensity, brightness or color, or which are so constructed and operated as to create an appearance of illusion of writing or printing. An exception may be granted by the Planning Commission for signs providing public service information such as date, time, temperature and other weather devices. Nothing contained in this Subsection shall, however, be construed as preventing the use of lights or decorations related to religious and patriotic festivities, Beacon lights or search lights shall be permitted as a sign or for advertising purposes by obtaining a permit from the City.

C. No exposed reflective type bulbs and no strobe lights, incandescent lamps or zip flasher which exceed fifteen (15) watts shall be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public street or adjacent property.

D. When necessary to prevent a nuisance the City shall specify the hours during which illuminated signs shall be kept lighted.

Subd. 8 Permits and Fees.

A. **Permit Requirements.** No sign shall be erected, altered or relocated without a permit issued by the City Council. Any sign involving electrical components shall be wired by a licensed electrician, and the electrical components used shall bear and Underwriters Laboratories, Inc. seal of inspection. Fees for sign permits shall be set by Council resolution.

B. Applications.

1. The permit application shall be signed by the applicant. When the applicant is any person other than the owner of the property, it shall also be signed by the owner of the property. The application shall contain the following information:

- a) Name, address and telephone number of the property owners, sign owner and erector.
- b) Location of the sign or structure.
- c) Any electrical permit required for any sign.
- d) Other information as may be required by the Planning Commission.

Subd. 9 Enforcement, Inspection, Removal, Safety.

A. **Inspection.** Any sign for which a permit shall be required shall be inspected periodically by the City for compliance with this Subsection and all other applicable laws.

B. **Maintenance.** All signs and components thereof shall be kept in good repair and in safe, neat, clean and attractive condition.

C. **Removal of Signs.** The City shall order the removal of any sign erected or maintained in violation of this Subsection. Ten (10) days notice in writing shall be given to the owner of the sign, or of the building, structure or premises on which the sign is located, to either bring the sign into compliance with this Section or effect its removal. Upon failure to remove the sign or to comply with this notice, the City forces shall remove the sign. The City forces shall remove the sign immediately and without notice if it reasonably appears that the condition of the sign is such as to present an immediate threat to the safety of the public.

Any costs of removal incurred by the City shall be assessed to the owner of the property on which the sign is located and may be collected in the manner of ordinary debt or in the manner of taxes with all costs assessed against the property.

Sec. 1100.12 Amendments. This Ordinance may be amended whenever the public necessity and convenience and the general welfare require such amendment by following the procedure specified as follows:

A. Proceedings for amendments of this Ordinance shall be initiated by (1) a petition of the owner or owners of the actual property, the zoning of which is proposed to be changed; (2) a recommendation of the Planning Commission; (3) by action of the Council or (4) petition of a City resident or property owner when it relates to the text and not to a District.

B. Before any amendment shall be adopted, the Planning Commission or Council shall hold at least one public hearing thereon after a notice of the hearing has been published in the official newspaper at least ten (10) days before the hearing. Following the hearing the Planning Commission shall make a report of its findings and recommendations on the proposed amendment and shall file a copy with the Clerk within sixty (60) days after the hearing. If no recommendation is transmitted by the Planning Commission within sixty (60) days after the hearing, the Council may take action without awaiting the recommendation. If the application is made by a resident, the Council shall issue its decision within sixty (60) days of the completed application being filed.

C. Upon the filing of such report, the Council shall hold such public hearings upon the amendment as it shall deem advisable. After the conclusion of the hearings, if any, the Council may adopt the amendment or any part thereof in such form as it shall deem advisable. The amendment shall be effective only on a two-thirds vote of all the members of the Council concur in its passage.

SECTION 1110 – REGULATING THE SURFACE USE OF TANNERS LAKE.

Sec. 1110.01 Purpose, Intent, and Application. As authorized by MN Statutes 86B.201, 86B.205, and 459.20 and MN Rules 6110.3000 – 6110.3800 as now in effect and as hereafter amended, this ordinance is enacted for the purpose and with the intent to control and regulate the use of the waters of Tanners Lake in Washington County, MN, said bodies of water being located entirely within the boundaries of Washington County, to promote its fullest use and enjoyment by the public in general and citizens of Washington County in particular, to insure safety for person and property in connection with the use of said waters, to harmonize and integrate the varying uses of said waters, and to promote the general health, safety, and welfare of the citizens of Washington County, MN.

Sec. 1110.02 Definitions. Terms used in this ordinance related to boating are defined in MN Statute 86B.005.

Sec. 1110.03 Surface Zoning of Tanners Lake by Restricting Speeds of Operation.

- A. No watercraft shall be operated in excess of ten (10) miles per hour unless a permit is obtained from the Washington County Sheriff’s Department.
- B. A Slow No-Wake speed shall be in effect when the lake level on Tanners Lake exceeds 964.0 feet above sea level. Such restriction shall become effective when the water level reaches the 964.0 foot level on gauges located at all Public Access points and at other locations on the lake. Each gauge shall have the 964.0 foot level conspicuously marked with the slow no wake restriction posted on the gauge. When high water levels have subsided and have remained below the 964.0 above mean sea level for one (1) day, said restriction shall be removed.

Sec. 1110.04 Exemptions. All authorized Resource Management, Emergency, and Enforcement Personnel, while acting in the performance of their assigned duties are exempt from the foregoing restrictions.

Sec. 1110.05 Notification. It shall be the responsibility of the City of Oakdale to provide for adequate notification of the public, which shall include placement of a sign at each public watercraft access outlining essential elements of the ordinance, as well as the placement of necessary buoys and signs.

Sec. 1110.06 Enforcement and Penalties.

- A. The primary responsibility for enforcement of this ordinance shall rest with the Washington County Sheriff’s Department. This, however shall not preclude enforcement by other licensed peace officers or DNR personnel.
- B. A violation of this Section shall be a misdemeanor and any person convicted of violating any provision of this Section shall be subject to a fine of not more than \$500.00 or imprisonment for a term not to exceed ninety (90) days, or both.

CHAPTER 11 CHANGE RECORD:

Sec. 1100.7, Subd. 2 regarding Permitted Uses. Amended Owner Occupied to include Owners participating in the City’s Lease/Ownership program. Change is intended to reflect the City’s program of Lease-To-Own ownership in the City. Ordinance 2013-005 / 2-13-13.

Sec. 1110 – Entire section - Regulating Surface Use of Tanners Lake. The adoption is to replace language previously contained in Chapter 2 of the Landfall Village City Code and moved to Chapter 11-Zoning for clarity.

Sec. 1100.05.1 Right-of-Way (ROW) – Chapter 11 amended to enact a new section. Ordinance #2014-001 adopted 10-8-14 and published 12-21-16.

Sec. 1100.07, 2-A – Residential District regarding Home Ownership and Lease Program. Code is hereby amended, striking certain text, to reflect the City’s discontinuance of its Municipal Home Ownership and Lease Program and thus its definition of owner-occupied homes. Ordinance #2018-005 adopted 10-15-18 and published 10-24-18.

Sec. 1100.091 – Establishing Rules and Regulations for Special Events – Code is amended to add Special Events Rules and Regulations. Ordinance 2019-003 adopted 3-18-19 and published 4-10-19.

Sec. 1100.06 – Classification of Districts and Sec. 1100.08.1 – Institutional District

These amendments create a new “Institutional” Zoning district intended to accommodate City and community buildings and uses, including City Hall, the maintenance garage, the teen center and the community/storm shelter center. It includes Permitted Uses, Special Uses and Accessory Uses. The zoning map is amended to include the new district and shall be entitled “Zoning Map of Landfall Village 1991” and subsequent amendments. It is consistent with the future land use map in the 2040 Comprehensive Plan (adopted 9-17-18). Ordinance #2020-001 adopted 1-21-2020 and published 3-11-2020.