

CHAPTER 4. BUILDING CODE AND CONSTRUCTION LICENSING

Section 400 – BUILDING CODE ADOPTED

400.01 Codes Adopted by Reference. The Minnesota State Building Code, as adopted by the Commissioner of Administration pursuant to Minnesota Statutes Chapter 16B.59 to 16B.75, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Division, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this ordinance. The Minnesota State Building Code is hereby incorporated in this ordinance as if fully set out herein.

400.02 Application, Administration and Enforcement. The application, administration, and enforcement of the code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by Minnesota Statutes, 16B.62, Subdivision 1, when so established by this ordinance.

The code enforcement agency of this municipality is called the Department of Building Safety.

This code shall be enforced by the Minnesota Certified Building Official designated by this Municipality to administer the code (Minnesota Statute 16B.65), Subdivision 1.

400.03 Permits and Fees. The issuance of permits and the collection of fees is authorized in Minnesota Statutes, 16B.62, Subdivision 1. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the municipality.

400.04 Violations and Penalties. Violation of a section, subdivision, paragraph or provision of this ordinance is considered a misdemeanor, and upon conviction the violator may be sentenced to not more than 90 days, or to a payment of a fine of not more than \$1,000.00, or both. A defendant convicted of a misdemeanor under this section of the City ordinances, in addition to the other penalties proscribed by law, shall be made responsible for reimbursing the City its costs of prosecution. This section is adopted in conformance with Minnesota Statutes Section 412.231, as may be amended from time to time, which the City hereby adopts and incorporates herein.

Section 405 – PERMITS AND REGULATIONS

405.01 Permit Fees. Fees for permits under this Chapter, which may include a surcharge, shall be determined by the Council and fixed by its resolution, a copy of which shall be in the office of the City Administrator and uniformly enforced.

405.02 Building Permits.

Subd. 1 Permits Required. It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure in the City, except an agricultural building as defined by Minnesota law, or any part or portion thereof including, but not limited to, the plumbing, electrical, ventilating, heating or air conditioning systems, or cause the same to be done, without first obtaining a separate building or mechanical permit for each such building, structure or mechanical components from the City.

Subd. 2 Survey Required. All applications to construct or enlarge a building or structures shall be accompanied by a boundary survey, performed by a surveyor licensed by the State of Minnesota, of the property for which the application is made. The survey shall include all existing building or structures, easements, foliage, waterways and the location of the proposed improvements for which the application is submitted.

Subd. 3 Staking. Prior to the construction or enlargement of any building or structure to which Subd. 2 above applies, a surveyor, licensed by the State of Minnesota, shall establish the boundaries of the lot, using iron stakes, and the boundaries of the building or structure as set forth in the building permit issued for said improvement.

Subd. 4 Plan Review. All applications to construct or enlarge a building or structure shall be accompanied by two (2) complete sets of plans and specifications of the improvement. The Building Official shall perform a plan review of the plans submitted and shall make any changes to bring the plans into conformance. One approved set of plans and specifications shall be returned to the applicant and shall be kept on the site until the project is completed. The other set of plans and specifications shall be retained by the Building Official.

405.03 Unsafe Buildings.

Subd. 1 Definition and Abatement. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, or abandonment, as specified in the SBC or another provision of the City Code, or any other law, are for the purpose of this Section, unsafe buildings. All unsafe buildings are

declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this Section.

Subd. 2 Notice to Owner. The Building Official shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building, the Building Official shall give to the owner of such building or structure written notice stating the defects. This notice may require the owner or person in charge of the building or premises, within 48 hours, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within 90 days from the date of notice, unless otherwise stipulated by the Building Official. If necessary, such notice also shall require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the Building Official. Proper service of such notice shall be by personal service upon the owner of record, if the owner shall be found within the City. If the owner is not found in the City such service may be made upon said owner by registered mail or certified mail; provided, that if such notice is by registered mail or certified mail, the designated period within which said owner or person in charge is required to comply with the order of the Building Official shall begin as of the date of delivery shown upon the return receipt.

Subd. 3 Posting of Signs. The Building Official shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER, UNSAFE TO OCCUPY. Building Department, City of Montgomery." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the Building Official and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

Subd. 4 Right to Demolish. In case the owner shall fail, neglect, or refuse to comply with the notice to repair, rehabilitate, or to demolish and remove said building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this Section and may order the Building Official to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council, who shall cause the same to be paid and levied as a special assessment against the property.

Subd. 5 Costs. Costs incurred under Subd. 4 shall be paid out of the Treasury. Such costs shall be charged to the owner of the premises involved as a special assessment on the land on which the building or structure is located, and shall be collected in the manner provided for special assessments.

Subd. 6 Unlawful Act. It is unlawful for the owner of any property to suffer or permit an unsafe building to remain.

Subd. 7 Statutes Prevail. If any provisions of this Section are inconsistent with, or less restrictive than Minnesota Statutes, applicable Minnesota Statutes shall govern.

405.04 Underground Utility Construction.

Subd. 1 Underground Construction Required. All utility lines hereafter installed, constructed or otherwise placed within the City for electric, telephone, TV cable or other like or similar services to serve residential, commercial and industrial customers in newly platted areas, and which utilize metallic conductors to carry electric current whether owned, installed or constructed by the supplier, consumer or any party, shall be installed and placed underground, subject only to the exceptions stated in this Section. However, above-ground placement, construction, modification or replacement of meters, gauges, transformers, street lighting and service connection pedestals shall be allowed. The requirements of this Section shall apply equally outside of the corporate limits of the City coincident with City jurisdiction of platting, subdivision regulation or comprehensive planning as may now or in the future be allowed by law. All companies installing and operating lines such as those described in this Section shall be referred to as “utility companies” for purposes of this Section.

Subd. 2 Exceptions to Application. The following exceptions to the strict applicability of this Section shall be allowed upon the conditions stated:

A. Transmission Lines. Above-ground placement, construction, modification or replacement of those lines commonly referred to as “high voltage transmission lines” upon which the conductor’s normal operating voltage equals or exceeds 23,000 volts (phase to phase) shall be allowed. Provided, however, that sixty days prior to commencement of construction of such a project, the City shall be furnished notice of the proposed project and, upon request, the utility company involved shall furnish any relevant information regarding such project to the City. This Section shall not be construed as waiving the requirements of any other ordinance or regulation of the City as the same may apply to any such proposed project.

B. Technical and Economic Feasibility. Above-ground placement, construction, modification or replacement of lines shall be allowed in residential, commercial and industrial areas where the Council, following consideration and recommendation by the Planning Commission, finds that:

1. Underground placement would place an undue financial burden upon the landowner or the utility company or deprive the landowner of the preservation and enjoyment of substantial property rights; or,

2. Underground placement is impractical or not technically feasible due to topographical, subsoil or other existing conditions which adversely affect underground utility placement.

C. Temporary Service. Above-ground placement of temporary service lines shall only be allowed:

1. During the new construction of any project for a period not to exceed twenty-four months;
2. During any emergency to safeguard lives or property within the City;
3. For a period or not more than seven months when soil conditions make excavation impractical.

Subd. 3 Repair and Maintenance of Existing Installations. Nothing in this Section shall be construed to prevent repair, maintenance, replacement or modification of existing overhead utility lines.

Subd. 4 Developer Responsibility. All owners, platters or developers are responsible for complying with the requirements of this Section, and prior to the final approval of any plat or development plan, shall submit to the Planning Commission written instruments from the appropriate utility companies showing that all necessary arrangements with said companies for installation of such utilities have been made.

Subd. 5 Placement.

A. All utility lines shall be placed within appropriate easements or dedicated public ways so as to cause minimum conflict with other underground services. Whenever feasible, all utilities shall be placed within the same trench.

B. All utility companies shall submit annually to the Building Inspector current maps revealing locations of underground installations, whether such installations were installed prior to the effective date of this Section or hereafter.

Effective Date. This ordinance shall take effect upon its adoption by the City Council and publication in the City's legal newspaper.