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TITLE I - GENERAL PROVISIONS

Section I: General Provisions

Section 1.1 - 1. Title

This city code shall be known as the official city code of the City of East Gull Lake upon its adoption and passage by the city council. Ordinances within this city code shall be cited as East Gull Lake City Code and shall include the most recent ordinances adopted by the East Gull Lake City Council and any amendments thereto. Reference to the East Gull Lake City Code may include the terms “Code,” “the Code” or “this Code.”

Section 1.1 - 2. Rules of Interpretation

1. The word person includes a firm, association, partnership, trust, and company or corporation as well as individual persons.
2. The word “shall” is mandatory, the word “may” is permissive and the word lot shall include the words “piece” and “parcel”.
3. Words used in the present tense shall include the future; words used in the singular form shall include the plural, and the plural the singular.

Section 1.1 - 3. Definitions

1. **Attorney.** The City Attorney appointed by the City Council to enforce the East Gull Lake City Code.
2. **City.** The area within the corporate boundaries of the City of East Gull Lake, Cass County, State of Minnesota as presently established or as amended by ordinance, annexation or other legal action at a future time. The term City when used in this code may also be used to refer to the City Council and its authorized representatives.
3. **Code.** The City of East Gull Lake City Code as amended and revised, including the adoption of new titles and sections.
4. **Council.** Unless otherwise indicated, the city council of the City of East Gull Lake.
5. **County.** The County of Cass, State of Minnesota.
6. **Ex Officio Member.** A member of a City Board or Commission whom shall have the right to speak to any questions before the Board or Commission, but shall not be counted in establishing a quorum or in any vote.
7. **Gender.** A word importing either the masculine or feminine gender only shall extend and be applied to the other gender and to persons.

8. **Minnesota Statutes.** Means any law, statute or rule enacted by the State of Minnesota.
9. **Officer, Employee, Department, Board, or Commission.** When referenced by title only shall be construed as if followed by the words “of the City of East Gull Lake” unless the context clearly requires otherwise.
10. **Ordinance.** Any ordinance duly adopted by the City Council of the City of East Gull Lake.
11. **Person.** Any corporation, firm, partnership, association, organization, trustee, lessee, government or any other group acting as a unit, as well as a natural person.
12. **State.** The state of Minnesota.
13. **Written or “In Writing.”** Includes any mode representing words and letters in the English language, but when the written signature of any person is required by law to any official or public writing or bond, it shall be in the proper handwriting of such person, or in case such person is unable to write, by such person's proper mark.

Section 1.1 - 4. Severability

Every section, provision or part of this code or any permit or license issued pursuant to this code is declared separable from every other section, provision or part thereof to the extent that if any section, provision or part of this code or any permit issued pursuant to this code shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

Section 1.1 - 5. Reference to Other Sections

Whenever one section of this code refers to another section thereof, the reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changes or materially altered by the amendment or revision.

Section 1.1 - 6. Reference to Offices

Reference to a public office or officer shall be deemed to apply to any other office, officer or employee of this city exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

Section 1.1 - 7. Errors and Omissions

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any words or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express the intent, the spelling shall be corrected and the word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of the error.

Section 1.1 - 8. Official Time

The official time, as established by applicable state and federal laws, shall be the official time within this city for the transaction of all city business.

Section 1.1 - 9. Reasonable Time

1. In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.
2. The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day is a legal holiday or a Sunday, it shall be excluded.

Section 1.1 - 10. Ordinances Repealed

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

Section 1.1 - 11. Ordinances Unaffected

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced by this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

Section 1.1 - 12. Effective Date of Ordinances

All ordinances passed by the City Council and subsequently published, shall take effect from and after the due publication thereof, unless otherwise expressly provided.

Section 1.1 - 13. Repeal or Amendment of Ordinances

1. Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part thus repealed or modified shall continue in full force and effect until the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.
2. No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

Section 1.1 - 14. Penalties, Offenses, Rights and Liabilities

All offenses committed under laws in force prior to the effective date of this code shall be prosecuted and remain punishable as provided by those laws. This code does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this code. The liabilities, proceedings and rights are continued; punishments, penalties, or forfeitures shall be enforced and imposed as if this code had not been enacted. Any agreement granting permission to utilize rights-of-way, contracts entered into or franchises granted, the acceptance, establishment or vacation of any right-of-way, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

Section 1.1 - 15. Copies of Code

The official copy of this code shall be kept in the office of the City Clerk for public inspection. The Clerk shall provide copies for sale at a reasonable charge.

Section 1.1 - 16. Adoption of Statutes and Rules by Reference

It is the intention of the City Council that all future amendments to any state or federal rules and statutes adopted by reference in this code or references within this code are hereby adopted by reference or references as if they had been in existence at the time

this code was adopted, unless there is clear intention expressed in the code to the contrary.

Section 1.1 - 17. Enforcement

1. Any Licensed Peace Officer of the City's Police Department, should the City of East Gull Lake establish a City Police Department, the County Sheriff, or any Deputy Sheriff shall have the authority to enforce any provision of this code.
2. As permitted by M.S. § 626.862, as it may be amended from time to time, the City Clerk shall have the authority to administer and enforce this code. In addition, under that statutory authority, certain individuals designated within the code or by the Clerk or City Council shall have the authority to administer and enforce the provisions specified. Any and all person or persons designated may issue a citation in lieu of arrest or continues detention to enforce any provision of this code.
3. The City Clerk and any City official or employee designated by this code who has the responsibility to perform a duty under this code may with the permission of a licensee of a business or owner of any property or resident of a dwelling, or other person in control of any premises, inspect or otherwise enter any property to enforce compliance with this code.
4. If the licensee, owner, resident or other person in control of a premises objects to the inspection or entrance to their property, the City Clerk, Peace Officer, or employee or official charged with the duty of enforcing the provisions of this code may, upon showing probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain such a search warrant before conducting the inspection or otherwise entering the property. This warrant shall be only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions only, and no criminal charges shall be made as a result of the warrant. No warrant shall be issued unless there be probably cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on the specific knowledge of the condition of a particular property.
5. Every licensee, owner, resident or other person in control of property within the City shall permit inspections of or entrance to the property by the City Clerk or any other authorized city officer or employee at reasonable times only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with

and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses or city service to the property. Mailed notice shall be given to the licensee, owner, resident or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident or other person in control of the property shall be given an opportunity to appear before the City Clerk to object to the termination before it occurs, subject to appeal of the Clerk's decision to the City Council at a regularly scheduled or special meeting.

6. Nothing in this section shall be construed to limit the authority of the City to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety and welfare.

Section 1.1 - 18. Supplemental Administrative Penalties

1. Reserved

Section 1.1 - 19. General Penalty

1. Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than \$1,000, or both.
2. Any person, firm or corporation who violates any provision of this code, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor, shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than \$300.
3. In either the case of a misdemeanor or petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.
4. The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.
5. In addition to any penalties provided for in this section or in § 1.18, if any person, firm or corporation fails to comply with any provision of this code,

the Council or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

TITLE II: ADMINISTRATION

SECTION I - GENERAL PROVISIONS

Section 2.1 - 1. City Council Meetings

1. Regular meetings. Regular meetings of the City Council shall be held at least once each month, at a date, time and place as established by the City Council. Any regular meeting falling upon a holiday shall be held as determined by the City Council. All meetings, including special and adjourned meetings, shall be held in the city hall unless the City Council decides otherwise at a prior meeting, or meeting in the city hall is impossible.
2. Special meetings. The Mayor or any two members of the City Council may call a special meeting of the City Council upon at least 24 hours written notice to each member of the City Council. Pursuant to M.S. Ch. 16D, as it may be amended from time to time, written notice of any special meeting shall be posted giving the date, time, place and purpose of the meeting at least three days before the meeting.
3. Emergency meetings. Notice of emergency meetings shall be given as required by M.S. Ch. 16D, as it may be amended from time to time. An emergency meeting is a meeting defined by M.S. Ch. 16D, as it may be amended from time to time.
4. Initial meeting. At the first regular City Council meeting in January of each year, the City Council shall:
 - A. Designate depositories of city funds;
 - B. Designate the official newspaper;
 - C. Choose one of the Council Members as Acting Mayor, who shall perform the duties of the Mayor during the disability or absence of the Mayor from the city or, in case of a vacancy in the office of Mayor, until a successor has been appointed and qualifies;
 - D. Appoint officers and employees and members of departments, boards, commissions and committees as may be necessary;
 - E. Establish and appoint Council Members to those City Council committees as are deemed appropriated for the efficient and orderly management of the city.
5. Public meetings. All City Council meetings, including special, emergency and adjourned meetings of City Council committees, as well as meetings of City Commissions and Boards, shall be conducted in accordance with the

Minnesota Open Meeting Law, M.S. Ch. 16D. as it may be amended from time to time.

Section 2.1 - 2. Presiding Officer

1. Who presides. The Mayor shall preside at all meetings of the City Council. In the absence of the Mayor, the Acting Mayor shall preside. In the absence of both, the City Clerk shall call the meeting to order and shall preside until the Council Members present at the meeting choose one of their number to act temporarily as presiding officer.
2. Procedure. The Presiding officer shall preserve order, enforce any rules of procedure adopted by the City Council, and determine without debate, subject to the final decision of the City Council on appeal, all questions of procedure and order.
3. Appeal procedure. Any member may appeal to the City Council a ruling of the presiding officer. If the appeal is seconded, the member may speak once solely on the question involved and the presiding officer may explain the ruling, but no other Council Member shall participate in the discussion. The appeal shall be sustained if it is approved by a majority of the members present, including the presiding officer.

Section 2.1 - 3. Minutes

1. Generally. Minutes of each City Council meeting shall be kept by the City Clerk or, in the City Clerk's absence, by the Deputy City Clerk. In the absence of both, the presiding officer shall appoint a secretary pro tem. Ordinances, resolutions and claims need not be recorded in full in the minutes if they appear in other permanent records of the City Clerk and can be accurately identified from the description given in the minutes.
2. Approval. The minutes of each meeting shall be reduced to typewritten form and copies thereof shall be distributed to each Council Member as soon as practicable after the meeting. The City Clerk shall sign one official copy. At the next regular City Council meeting following the delivery, approval of the minutes shall be considered by the City Council. The minutes need not be read aloud, but the presiding officer shall call for any additions or corrections

Section 2.1 - 4. Order of Business

1. Order established. Each meeting of the City Council shall convene at the time and place appointed therefore. City Council business shall be conducted in the order established by the presiding officer and City Council or other procedures adopted by Council resolution.
2. Petitions and agenda. Petitions and other papers addressed to the City Council shall be read or copies distributed by the City Clerk upon presentation of the same to the City Council. All persons desiring to present new business before the City Council shall inform the City Clerk thereof at least 72 hours before new business is to be heard. The City Clerk may prepare an agenda of the new business for submission to the City Council on or before the time of the next regular meeting.

Section 2.1 - 5. Voting

The votes of the Council Members on any question may be taken in any manner which signifies the intention of the individual members, and the votes of the Council Members on any action taken shall be recorded in the minutes. The vote of each Council Member shall be recorded on each appropriation of money, except for payments of judgments, claims and amounts fixed by statute. If any Council Member is present but does not vote, the minutes, as to his or her name, shall be marked "Present-Not-Voting."

Section 2.1 - 6. Ordinance, Resolutions, Motions, Petitions and Communications

1. Signing and publication proof. Every ordinance and resolution passed by the City Council shall be signed by the Mayor, attested by the City Clerk, and filed by the City Clerk in the ordinance or resolution book. Proof of publication of every ordinance shall be attached and filed with the ordinance.
2. Repeals and amendments. Every ordinance or resolution repealing a previous ordinance or resolution or a section or subdivision thereof shall give the number, if any, and the title of the ordinance or code number of the ordinance or resolution to be repealed in whole or in part. Each ordinance or resolution amending an existing ordinance or resolution or part thereof shall set forth in full each amended section or subdivision as it will read with the amendment.

Section 2.1 - 7. Suspension or Amendment of Rules

These rules may be suspended only by a two-thirds vote of the members present and voting.

Section 2.1 - 8. Compensation of Mayor and Council Members

The compensation of the Mayor and the compensation of each Council Member shall be established from time to time by City Council ordinance pursuant to M.S. 415.11, as it may be amended from time to time. The compensation established by the ordinance shall not take effect until after the next city election after the ordinance was adopted and published.

Section 2.1 - 9. Compensation of Officers and Employees

Officers and employees of the city shall be compensated at a rate as established from time to time by the City Council.

Section 2.1 - 10. Quorum for Conducting Business

1. A quorum shall consist of a majority of the entire City Council, including the Mayor. A quorum shall be necessary to transact the business of the City Council.
2. If no quorum is present, the City Council shall not thereby stand adjourned, but the members present shall adjourn or recess the City Council by a majority vote of those present.

Section 2.1 - 11. Fees and Charges

The City Council may enact an ordinance establishing those fees and charges that are authorized by this code. Until that ordinance becomes effective, all fees and charges established by ordinance or resolution prior to the adoption of this code shall remain in effect. All fees and charges established by the ordinance establishing fees and charges may be amended from time to time by amending the schedule of fees approved by the City Council.

Section 2.1 - 12. Application of State Laws

The provisions of the Government Data Practices Act, M.S. Ch. 13, the Opening Meeting Law, M.S. Ch. 13D, and the laws relating to Gifts to Local Officials, M.S.

471.895, as these laws may be amended from time to time, apply to the City Council and all boards and commissions of the city and their members.

SECTION II - DEPARTMENTS, BOARDS AND COMMISSIONS

Section 2.2 - 1. Establishment of Police Department

1. RESERVED

Section 2.2 - 2. Establishment of Fire Department

1. RESERVED

Section 2.2 - 3. Establishment of Planning Commission

1. The Planning Commission is established by Section 8.10-3 of the zoning code.

Section 2.2 - 4. Establishment of Wastewater Committee

1. RESERVED

Section 2.2 - 5. Establishment of Streets Committee

1. RESERVED

Section 2.2 - 6. Establishment of Public Safety Committee

1. RESERVED

Section 2.2 - 7. Establishment of Parks and Trails Committee

1. RESERVED

Section 2.2 - 8. Establishment of Budget Committee

1. RESERVED

Section 2.2 - 9. Establishment of Airport Committee

1. RESERVED

SECTION III - EMERGENCY MANAGEMENT

RESERVED

TITLE III: PUBLIC WORKS

SECTION I - GARBAGE

Section 3.1 - Reserved

SECTION II - SEWER USE REGULATIONS

(Revisions included in this section from Ordinance Amendment 2016-01)

Purpose

An ordinance regulating the use of public and private sewers and drains, private wastewater disposal, the installation and connection of building sewers, and the discharge of waters and wastes into the public sewer systems(s); and providing penalties for violations thereof.

Further, the purpose of the Subsurface Sewage Treatment System (SSTS) Ordinance is to provide minimum standards for and regulation of Individual Sewage Treatment Systems (ISTS) and Midsized Sewage Treatment Systems (MSTS) including the proper location, design and construction; their necessary modification and reconstruction; their operation, maintenance and repair to protect surface water and groundwater from contamination by human sewage and waterborne household and commercial wastes; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under Minnesota Statutes sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82, the City of East Gull Lake Comprehensive Plan and the City of East Gull Lake Land Use Ordinance.

1. EFFECTIVE DATE

The provisions set forth in this Ordinance shall become effective on June 7, 2016.

2. SCOPE

This Ordinance regulates the siting, design, installation, inspection, alterations, operation, maintenance, monitoring, and management of all SSTS within East Gull lakes applicable jurisdiction including, but not necessarily limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of East Gull Lake shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this Ordinance or by a system that has been permitted by the MPCA.

Be it ordained and enacted by the Council of the City of East Gull Lake, Minnesota as follows:

1. ABROGATION AND GREATER RESTRICTIONS

It is not intended by this Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All

other Ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.

2. INTERPRETATION

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.

3. SEVERABILITY

If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this Ordinance shall not be affected and shall remain in full force.

4. REPEALOR

The adoption of this Ordinance repeals Section 3.2-5(1) of the East Gull Lake City code.

5. CITY ADMINISTRATION

- A. The City of East Gull Lake shall administer the SSTS program and all provisions of this ordinance.
- B. The Cities duties and responsibilities include, but are not be limited to, the following;
 - 1. Review all applications for SSTS
 - 2. Issue all permits required in this Ordinance
 - 3. Inspect all work regulated in this Ordinance
 - 4. Investigate all complaints regarding SSTS
 - 5. Issue certificates of installation, certificates of compliance or notices of noncompliance where applicable
 - 6. Enact enforcement provisions of this Ordinance as necessary
 - 7. Refer unresolved violations of this Ordinance to the City Attorney
 - 8. Maintain current records for each permitted SSTS including all site evaluation documents, design documents, inspection documents, and other applicable documents.
 - 9. The City shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program
 - 10. Submit annual reports to MPCA as required

Section 3.2 - 1. Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall have the meanings hereinafter designated:

- 1. **Act:** The Federal Water Pollution Control Act also referred to as the Clean Water Act, as amended, 33. U.S.C. 1251, et seq.
- 2. **ASTM:** American Society for Testing Materials.

3. **Authority:** The City of East Gull Lake, Minnesota or its representative thereof.
4. **BOD₅ or Biochemical Oxygen Demand:** The quantity of oxygen utilized in the biochemical oxidation of organic matter under the standard laboratory procedure in five (5) days at 20° Centigrade in terms of milligrams per liter (mg/l).
5. **Building Drain:** That part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the building wall.
6. **Building Sewer:** The extension from the building drain to the public sewer or other place of disposal, also referred to as a house connection or service connection
7. **City:** The area within the corporate boundaries of the City of East Gull Lake as presently established or as amended by ordinance or other legal actions at a future time. The term “City” when used herein may also be used to refer to the City Council and its authorized representative.
8. **Chemical Oxygen Demand (COD):** The quantity of oxygen utilized in the chemical oxidation of organic matter as determined by standard laboratory procedures, and as expressed in terms of milligrams per liter (mg/l).
9. **Class V Injection Well:** A shallow well used to place a variety of fluids directly below the land surface, which includes all subsurface sewage treatment systems serving two-family dwellings or larger and systems serving other sewage generating establishments that serve more than 20 people. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).
10. **Cluster System:** A SSTS under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings
11. **Compatible Pollutant:** Biochemical Oxygen Demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES/SDS Permit if the treatment facilities are designed to treat such pollutants to a degree which complies with effluent concentration limits imposed by the permit.

12. **Control Manhole:** A structure specially constructed for the purpose of measuring flow and sampling of wastes.
13. **Design Flow:** The daily volume of wastewater for which an SSTS is designed to treat and discharge.
14. **Easement:** An acquired legal right for the specific use of land owned by others.
15. **ERC:** Equivalent Residential Connection for the purposes of calculating the user charge and debt service charge (connection charge), a building service with an anticipated peak month volumetric flow not exceeding 300 gallons per day and an anticipated peak month average flow of 185 gallons per day or a service serving an individual dwelling unit; at a strength not greater than 250 mg/l of BOD₅ and 302 mg/l of total suspended solids.
16. **Failure to Protect Groundwater:** At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in MR Chapter 7080.1500 Subp. 4 D and E; and a system not abandoned in accordance with part 7080.2500. The determination of the threat to groundwater for other conditions must be made by a Qualified Employee or an individual licensed pursuant to Section 5 hereof. An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rule 7080.1500, Subp. 4(B) shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within ten months upon receipt of a notice of noncompliance and must meet Class I sizing requirements according to Minnesota Rule 7080.1860.
17. **Fecal Coliform:** Any number of organisms common to the intestinal tract of man and animals whose presence in sanitary sewage is an indicator of pollution.
18. **Floatable Oil:** Oil, fat, or grease in a physical state, such that it will separate by gravity from wastewater.
19. **Garbage:** Animal and vegetable waste resulting from the handling, preparation, cooking, and serving of food.
20. **Imminent Threat to Public Health and Safety:** At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a

Qualified Employee or a SSTS inspection business licensed pursuant to Section 5 hereof.

- 21. **Incompatible Pollutant:** Any pollutant that is not defined as a compatible pollutant (Section 3.2-2(9)) including non-biodegradable dissolved solids.
- 22. **Industry:** Any nongovernmental or nonresidential user of a publicly owned treatment works which is identified in the North American Industrial Classification System, latest edition, which categorizes industries into two-digit industry sectors which are subdivided further into three-, four-, five-, and six-digit industry codes.
- 23. **Industrial Waste:** Gaseous, liquid, and solid wastes from industrial or manufacturing processes, trade or business, or from the development, recovery, and processing of natural resources, as distinct from residential or domestic strength wastes.

SIC CODE(S)	INDUSTRY CATEGORY
753-7549	Automotive Repairs and Services
7231,7241	Beauty Shops, Barber Shops
7211-7219	Laundry Cleaning and Garment Services
4011-4581	Transportation (Maintenance only)
8062-8069	Hospitals
2000-3999	Manufacturing
2000-2099	Food Products
2100-2199	Tobacco Products
2400-2499	Lumber and Wood Products, except Furniture
2500-2599	Furniture and Fixtures
2600-2699	Paper and Allied Products
2700-2799	Printing, Publishing, and Allied Industries
2800-2899	Chemicals and Allied Products
2900-2999	Petroleum Refining and Related Industries
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3000-3099	Rubber and Miscellaneous Plastics
3100-3199	Leather Tanning and Finishing
3200-3299	Stone, Clay, Glass, and Concrete Products
3300-3399	Primary Metal Industries
3400-3499	Fabricated Metal Products (except Machinery, and Transportation Equipment
3500-3599	Industrial and Commercial Machinery and Computer Equipment
3700-3799	Transportation Equipment

3800-3899	Measuring, Analyzing, and Controlling Instruments; Photographic, Medical and Optical Goods; Watches and Clocks
3900-3999	Miscellaneous Manufacturing Industries

24. **Infiltration:** Water entering the sewage system (including building drains and pipes) from the ground through such means as defective pipes, pipe joints, connections, and manhole walls.
25. **Infiltration/inflow - (I/I):** The total quantity of water from both infiltration and inflow.
26. **Inflow:** Water other than wastewater that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers, catch basins, surface runoff, street wash or drainage.
27. **Interference:** The inhibition or disruption of the City’s wastewater disposal system processes or operation which cause or significantly contributes to a violation of any requirement of the City’s NPDES and/or SDS Permit. The term includes violation of sewage sludge use of disposal by the City in accordance with published regulations providing guidelines under Section 405 of that Act of any regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria applicable to the method of disposal or use employed by the City.
28. **ISTS:** An individual sewage treatment system having a design flow of no more than 5,000 gallons per day.
29. **Malfunction:** The partial or complete loss of function of a SSTS component, which requires a corrective action to restore its intended function.
30. **Management Plan:** A plan that describes necessary and recommended routine operational and maintenance requirements, periodic examination, adjustment, and testing, and the frequency of each to ensure system performance meets the treatment expectations, including a planned course of action to prevent an illegal discharge.
31. **Minor Repair:** The repair or replacement of an existing damaged or faulty component/part of an SSTS that will return the SSTS to its operable condition. The repair shall not alter the original area, dimensions, design, specifications or concept of the SSTS.
32. **MSTS:** A “midsized subsurface sewage treatment system” under single ownership that receives sewage from dwellings or other establishments

having a design flow of more than 5,000 gallons per day to a maximum of 10,000 gallons per day.

33. **MPCA:** Minnesota Pollution Control Agency.
34. **National Categorical Pretreatment Standards:** Federal regulations established pretreatment standards for introduction of pollutants in publicly-owned wastewater treatment facilities which are determined to be not susceptible to treatment by such treatment facilities or would interfere with the operation of such treatment facilities, pursuant to Section 307(b) of the Act.
35. **National Pollutant Discharge Elimination System (NPDES) Permit:** A permit issued by the MPCA, setting limits on pollutants that a permittee may legally discharge into navigable waters of the United States pursuant to Sections 402 and 405 of the Act.
36. **Natural Outlet:** Any outlet, including storm sewers and combined sewers combined sewers, which overflow into a watercourse, pond, ditch, lake or other body of surface water or ground water.
37. **Non-contact Cooling Water:** The water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added, is heat.
38. **Normal Domestic Waste:** Wastewater that is primarily introduced by residential units complying with Minnesota Rules, Chapter 7080.2150 subp3K. In accordance with Minnesota Rules, Chapter 7080.1550 subp 2B the system must provide additional treatment if wastewater does not comply with parameters of Minnesota Rules, Chapter 7080.2150 subp 3K.
39. **Notice of Noncompliance:** Notice of noncompliance” means a document written and signed by a certified inspector after a compliance inspection that gives notice that an ISTS is not in compliance as specified under part 7080.1500.
40. **Person:** Any individual, firm, company, association, society, corporation, or group.
41. **pH:** The logarithm of the reciprocal of the concentration of hydrogen ions in terms of grams per liter of solution.
42. **Pretreatment:** The treatment of wastewater from industrial sources prior to the introduction of the waste effluent into a publicly-owned treatment works. (See Subdivision 24.)
43. **Properly Shredded Garbage:** The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than 1/2 inch (1.27 cm) in any dimension.

44. **Qualified Employee:** An employee of the state or a local unit of government, who performs site evaluations or designs, installs, maintains, pumps, or inspects SSTS as part of the individual's employment duties and is registered on the SSTS professional register verifying specialty area endorsements applicable to the work being conducted.
45. **Record Drawings:** A set of drawings which to the fullest extent possible document the final in-place location, size, and type of all SSTS components including the results of any materials testing performed and a description of conditions during construction of the system.
46. **Sewage:** Waste from toilets, bathing, laundry, or culinary activities or operations or floor drains associated with these sources, including household cleaners and other constituents in amounts normally used for domestic purposes.
47. **Sewer:** A pipe or conduit that carries wastewater or drainage water.
- A. Collection Sewer a sewer whose primary purpose is to collect wastewaters from individual point source discharges and connections.
 - B. Combined Sewer a sewer intended to serve as a sanitary sewer and a storm sewer.
 - C. Force Main a pipe in which wastewater is carried under pressure.
 - D. Interceptor Sewer a sewer whose primary purpose is to transport wastewater from collection sewers to a treatment facility.
 - E. Private Sewer a sewer which is not owned and maintained by a public authority.
 - F. Public Sewer a sewer owned, maintained and controlled by a public authority.
 - G. Sanitary Sewer a sewer intended to carry only liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters which are not admitted intentionally.
 - H. Storm Sewer or Storm Drain a drain or sewer intended to carry storm waters, surface runoff, ground water, sub-surface water, street wash water, drainage, and unpolluted water from any source.
48. **Significant Industrial User:** Any industrial user of the wastewater treatment facility which has a discharge flow (1) in excess of 25,000 gallons per average work day, or (2) has exceeded five percent (5%) of the total flow received at the treatment facility, or (3) whose waste contains a toxic pollutant in toxic amounts pursuant to Section 307(a) of the Act, or (4) whose discharge has a significant effect, either singly or in combination with other contributing industries, on the wastewater disposal system, the

quality of sludge, the system's effluent quality, or emissions generated by the treatment system.

49. **Slug:** Any discharge of water or wastewater which in concentration of any given constituent, or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average 24-hour concentration of flows during normal operation, and shall adversely affect the collection and/or performance of the wastewater treatment works.
50. **SSTS:** Subsurface sewage treatment system Including an ISTS, MSTS or LSTS.
51. **State:** The State of Minnesota
52. **State Disposal System (SDS) Permit:** Any permit (including any terms, conditions and requirements thereof) issued by the MPCA pursuant to Minnesota Statutes 115.07 for a disposal system as defined by Minnesota Statutes 115.01, Subdivision 8.
53. **Superintendent:** The utilities superintendent or a deputy, agent or representative thereof.
54. **Suspended Solids (SS) or Total Suspended Solids (TSS):** The total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater, latest edition, and referred to as non-filterable residue.
55. **Toxic Pollutant:** The concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse affects as defined in standards issues pursuant to Section 307(a) of the Act.
56. **Treatment Level:** Treatment system performance levels defined in Minnesota Rules, Chapter 7083.4030, Table III for testing of proprietary treatment products.
57. **Type I System:** An ISTS that follows a standard trench, bed, at-grade, mound, or graywater system design in accordance with MPCA rules, Minnesota Rules, Chapter 7080.2200 through 7080.2240.
58. **Type II System:** An ISTS with acceptable modifications or sewage containment system that may be permitted for use on a site not meeting the conditions acceptable for a standard Type I system. These include systems on lots with rapidly permeable soils or lots in floodplains and privies or holding tanks.
59. **Type III System:** A custom designed ISTS having acceptable flow restriction devices to allow its use on a lot that cannot accommodate a standard Type I soil treatment and dispersal system.

60. **Type IV System:** An ISTS, having an approved pretreatment device and incorporating pressure distribution and dosing, that is capable of providing suitable treatment for use where the separation distance to a shallow saturated zone is less than the minimum allowed.
61. **Type V System:** An ISTS, which is a custom engineered design to accommodate the site taking into account pretreatment effluent quality, loading rates, loading methods, groundwater mounding, and other soil and other relevant soil, site, and wastewater characteristics such that groundwater contamination by viable fecal coliforms is prevented.
62. **Unpolluted Water:** Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards, and would not benefited by discharge to the sanitary sewers and wastewater treatment facilities. (See Non-contact Cooling Water, Sec . 27.).
63. **User:** Any person who discharges or causes or permits the discharge of wastewater into the City's wastewater disposal system.
64. **Wastewater:** The spent water of a community and referred to as sewage. From the standpoint of source, it may be a combination of the liquid and water-carried wasters from residences, commercial buildings, industrial plants, and institutions together with any ground water, surface water and storm water that may be present.
65. **Wastewater Treatment Works or Treatment Works:** An arrangement of any devices, facilities, structures, equipment, or processes owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power, and other equipment and their appurtenances; extensions, extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and similar facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.
66. **Watercourse:** A natural or artificial channel of the passage of water, either continuously or intermittently.
67. **WPCF:** The Water Pollution Control Federation.

Section 3.2 - 2. Control by the Utilities Superintendent

1. The Utilities Superintendent shall have control and general supervision of all public sewers and service connections in the City, and shall be responsible for administering the provisions of this ordinance to the end that a proper and efficient public sewer is maintained.

Section 3.2 - 3. Use of Wastewater Facilities

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under jurisdiction, any human or animal experiment, garbage or objectionable waste.
2. It shall be unlawful to discharge to any natural outlet any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance and the City's NPDES/SDS Permit.
3. Except as provided hereinafter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
4. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes from which wastewater is discharged, and which is situated within the City and adjacent to any street, alley, or right-of-way in which there is now located, or many in the future be located, a public sanitary sewer of the City, shall be required at the owner(s) expense to install a suitable service connection to the public sewer in accordance with provisions of this Code, within ninety (90) days of the date said public sewer is operational, provided said public sewer is within 100 feet of the property containing the structure generating the wastewater. All future buildings constructed on property adjacent to the public sewer shall be required to immediately connect to the public sewer. If sewer connections are not made pursuant to this section, an official thirty (30) day notice shall be served instructing the affected property owner to make said connection.
5. In the event an owner shall fail to connect to a public sewer in compliance with a notice given under Section 3.2-4, Subdivision 4 of the Ordinance, the City must undertake to have said connection made and shall assess the cost thereof against the benefited property. Such assessment, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the Auditor of the County of Cass, Minnesota and shall be collected and remitted to the City in the same manner as assessments for

local improvements. The rights of the City shall be in addition to any remedial or enforcement provisions of this ordinance.

Section 3.2 - 4. Private Wastewater Disposal

1. ALL SSTS

Except as explicitly set forth in Section 207, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.

2. PROHIBITIONS

A. Occupancy or Use of a Building without a Compliant SSTS

It is unlawful for any person to maintain, occupy, or use any building intended for habitation or that contains plumbing fixtures that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this Ordinance.

B. Sewage Discharge to Ground Surface or Surface Water

It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.

C. Sewage Discharge to a Well or Boring

It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rule 4725.2050, or any other excavation in the ground that is not in compliance with this ordinance.

D. Discharge of Hazardous or Deleterious Materials

It is unlawful for any person to discharge into any treatment system regulated under this Ordinance any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

3. PERMIT REQUIREMENTS

A. Activities Not Requiring a Land Use Permit

A land use permit is not required for minor repairs or replacements of system components that do not alter the original function of the system; change the treatment capacity of the system; change the location of the system; or otherwise change the original system design, layout, or function. Examples are, but not limited to, pumps, baffles, and effluent screens or filters.

B. Activities Requiring a Land Use Permit

A land use permit shall be obtained by the property owner or an agent of the property owner from the City prior to the installation, construction, replacement, modification, alteration, or capacity expansion of a SSTS. It is unlawful for any person to construct, install, modify or replace a SSTS without the appropriate permit from the City including repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. The issuing of any permit, variance, or conditional use under the provisions of this ordinance shall not absolve the applicant of responsibility to obtain any other required permit.

C. Permit Requirements

Land Use Permit applications shall be made on forms provided by the City and signed by the applicant or applicant's agent, and must include the following information and documentation:

1. Applicant name, mailing address, telephone number, and email address
2. Property Identification Number, property address and legal description of property location
3. Site Evaluation Report, as described in Minnesota Rules Chapter 7080.1730, shall be made on one that is acceptable to the City
4. Design Report, as described in Minnesota Rules Chapter 7080.2430, and shall be made on a form that is acceptable to the City
5. A maintenance management plan, as described in Minnesota Rule 7082.0600

D. Application Review and Response

The City shall review a permit application and supporting documents according to the East Gull Lake Land Use Ordinance and East Gull Lake SSTS ordinance.

E. Appeal

The applicant may appeal any decision of the City in accordance with East Gull Lake Land Use Ordinance.

F. Permit Expiration

A Land Use Permit for a new SSTS is valid, and must be completed, for a period of no more than two years from its date of issue. A Land Use Permit for the replacement of SSTS failing to protect groundwater is valid and must be completed, for ten months. A Land Use Permit for the replacement of SSTS that are imminent threats to public health is valid and must be completed, for ten months. Satisfactory completion of construction shall be determined by as-built drawings and a signed

certification that the construction and installation of the system was completed in reasonable conformance with the approved design documents by a qualified employee of the City or a licensed inspection business, which is authorized by the City and independent of the owner and the SSTS installer.

G. Transferability

A Land Use Permit may be transferred to a new owner provided there are no proposed changes to the SSTS design.

H. Suspension or Revocation

The City may suspend or revoke a Land Use Permit issued under this section for any false statements, misrepresentations of facts on which the Land Use Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid Land Use Permit is obtained.

I. SSTS Assessment Requirements

For those SSTS without a management plan or operating permit according to the provisions of this Ordinance, the following provisions apply:

1. The owner of an ISTS or the owner's agent shall regularly, but in no case less frequently than every three years, assess whether sewage tanks leak below the designed operating depth and whether sewage tank tops, riser joints, and riser connections leak through visual evidence of major defects and measure or remove the accumulations of scum, grease, and other floating materials at the top of each septic tank and compartment, along with the sludge, which consists of the solids denser than water
2. All solids and liquids must be removed by pumping from all tanks or compartments in which the top of the sludge layer is less than twelve inches from the bottom of the outlet baffle or transfer hole or whenever the bottom of the scum layer is less than three inches above the bottom of the outlet baffle or transfer hole. Total sludge and scum volume must not be greater than 25% percent of the tank's liquid capacity. Removal of accumulated sludge, scum, and liquids from septic tanks and pump tanks must be through the maintenance hole. The removal of solids from any location other than the maintenance hole is not a compliant method of solids removal from a sewage tank,

and this method does not fulfill the solids removal requirement of this part or a management plan. Liquid and solids removal from clean-out pipes is allowed for holding tanks

4. EXISTING PERMITS

Unexpired permits which were issued prior to the effective date of this Ordinance shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system design, whichever is earlier.

5. SSTS ON LOTS CREATED AFTER JANUARY 23, 1996

All lots created after January 23, 1996, must have a minimum of two soil treatment and dispersal areas that can support Type 1 systems as defined by Minnesota Rule 7080.2200.

6. UPGRADE, REPAIR, REPLACEMENT AND ABANDONMENT

A. SSTS Capacity Expansions

Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Ordinance at the time of the expansion.

B. Bedroom Addition

Any addition to a structure that includes bedroom(s) that require a land use permit from the City shall require that the SSTS meet the required design flow according to Minnesota Rule 7080.1860 or be upgraded to meet Class 1 sizing for both the septic tanks and soil absorption area. Any required upgrades shall be completed within two years.

C. Imminent Threat to Public Health or Safety

An SSTS posing an imminent threat to public health or safety shall be pumped within twenty four hours and managed as a holding tank in accordance with Minnesota Rule 7080.1500, Subp.4(A) and said SSTS shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within ten months upon receipt of a notice of noncompliance and must meet Class I sizing requirements according to Minnesota Rule 7080.1860.

D. Abandonment

Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minnesota Rule 7080.2500.

7. SSTS IN FLOODPLAINS

SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minnesota Rule 7080.2270 and all relevant local requirements are met.

8. CLASS V INJECTION WELLS

All owners of new or replacement SSTS that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, Title 40, Part 144, are required by the Federal Government to submit a UIC Class 5 Inventory Form to the Environmental Protection Agency as described in 40 CFR Part 144. Further, owners are required to identify all Class V injection wells in property transfer disclosures.

9. OPERATING PERMIT

- A.** An Operating Permit shall be required for the following SSTS:
1. SSTS with high strength waste effluent standards that exceed Minnesota Rule 7080.2150, Subp.3(K)
 2. Holding Tanks
 3. SSTS serving three or more connections
 4. Type III, Type IV and Type V SSTS
 5. SSTS that exceed a daily flow of 2,500 gallons per day; or
 6. MSTs designed under Minnesota Rules Chapter 7081
- B.** Operating Permits shall be a signed agreement between the City and the property owner and shall include monitoring, performance, mitigation, and reporting requirements.
- C.** A valid Operating Permit shall be considered a certificate of compliance if that system is in compliance with the requirements of the Operating Permit.
- D.** Owners of holding tanks and vaulted privies shall provide the City with a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner and prevents an illegal discharge in accordance with Minnesota Rule 7082.0100, Subd.3(G). This requirement is waived if the owner is a farmer who is exempt from licensing under Minn. Stat., § 115.56, Subd.3(b)(3).
- E.** Operating Permits shall be valid for the specific term stated on the permit as determined by the City.
- F.** An Operating Permit must be renewed prior to its expiration. If not renewed, the City may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within ninety calendar days of the expiration date, the City may require that the system be abandoned in accordance with Section 300 (E).
- G.** Operating Permits do not transfer to new property owners. New owners shall apply for an Operating Permit in accordance with Section 1005. The City shall not terminate the current permit until ninety calendar days after the date of sale unless an imminent threat to public health and safety

exists. To consider the new owner's application, the City may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.

- H. A report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the City on a form acceptable to the City on or before the compliance reporting date stipulated in the Operating Permit as required. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described in the Operating Permit.
- I. The City may suspend or revoke any Operating Permit issued under this section for any false statements or misrepresentations of facts on which the Operating Permit was issued.
- J. If suspended or revoked, the City may require that the treatment system be removed from service, operated as a holding tank, or abandoned.
- K. At the Cities sole discretion, the Operating Permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

10. COMPLIANCE INSPECTION PROGRAM

A. City Responsibility

It is the responsibility of the City, or its agent, to perform installation inspections of new SSTS or upgrades of SSTS to assure that the requirements of this Ordinance are met.

- 1. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors
 - 2. The City shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, "property" does not include a residence or private building
 - 3. No person shall hinder or otherwise interfere with the Cities employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the City shall be deemed a separate and distinct offense
- B. A signed winter agreement, as per Section 303 D of the East Gull Lake Land Use Ordinance, may be accepted in lieu of a compliance inspection for property transfers, between November 1 and April 30, provided the required information is submitted to the City by June 1 of the subsequent year. Failure to fulfill all of the obligations of the winter agreement shall be a violation of this Ordinance

C. New Construction or Replacement

- 1. New installation inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081, respectively, according to this section. SSTS

found to be noncompliant with other applicable requirements must be repaired or replaced according to the Cities requirements

2. It is the responsibility of the SSTS owner or the owner's agent to notify the City twenty four hours prior to the installation inspection
3. If the installer provides proper notice and the City does not provide an inspection within one hour after an inspection time was set, the installer may complete the construction per the following: The installer shall submit photographs of the entire uncovered system and an as-built drawing with a certified statement that the installation of the SSTS met the appropriate standards of this Ordinance within five working days of the installation
4. A Certificate of Installation for new SSTS construction or replacement shall be issued by the City within thirty days of inspection if the City has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit
5. The Certificate of Installation must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with the ordinance requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those ordinance provisions with which the SSTS does not comply
6. No SSTS shall be placed into operation until a valid Certificate of Installation has been issued
7. Certificates of Installation for new construction or replacement shall remain valid for five years from the date of issue unless the City finds evidence of noncompliance

D. Existing Systems

1. Compliance inspections shall be required when any of the following conditions occur
 - a. When applying for a land use permit, shoreline alteration permit, minor subdivision, plat, land use reclassification, conditional use permit or variance and the Certificate of Installation is more than five years old or the Certificate of Compliance is more than three years old.
 - b. Prior to conveyance of any real property and the Certificate of Installation is more than five years old or the Certificate of Compliance is more than three years old.
 - c. Any time there is a change in use of the property being served by an existing SSTS which may impact the performance of the system.

- d. At any time as required by this Ordinance or the City deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.
2. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions, must be assessed, or verified
 - a. Watertightness assessment of all treatment tanks including a leakage report.
 - b. Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including vertical soils separation verification report unless soils have been verified according to Minnesota Rule 7082.0700, Subp. 4(B).
 - c. Sewage backup, surface seepage or surface discharge including a hydraulic function report.
 3. The Certificate of Compliance must include a certified statement by a Qualified Employee or licensed inspection business, indicating whether the SSTS is in compliance with the requirements of this Ordinance. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those ordinance provisions with which the SSTS does not comply. An SSTS construction permit application must be submitted to the City if the required corrective action is not a minor repair
 4. The Certificate of Compliance or notice of noncompliance must be submitted to the City no later than fifteen calendar days after the date the inspection was performed
 5. Certificates of Compliance for existing SSTS shall remain valid for three years from the date of issue unless the City finds evidence of noncompliance

E. Transfer of Property

1. Any individual sewage treatment system located on real property lying within East Gull Lake shall be brought into compliance with the requirements of the East Gull Lake Subsurface Sewage Treatment System Ordinance upon conveyance of said real property.
2. Prior to the conveyance of any real property, the seller shall disclose in writing to the buyer information about the status and location of all known SSTS on the property by delivering to the buyer either a sworn affidavit by the seller that no SSTS exists on the property to the best of their knowledge after diligent investigation, or a certificate of compliance or notice of non-compliance meeting all provisions of this

ordinance being the result of a compliance inspection conducted by a Minnesota state registered inspector holding a Designer I or Inspector certification. A certificate of compliance or notice of noncompliance meeting all provisions of this ordinance shall be submitted to the East Gull Lake and the seller within 30 days after the compliance inspection.

3. If the seller fails to provide a Certificate of Compliance, the seller shall provide the buyer sufficient security in the form of an escrow with the City, a licensed real estate closer, licensed attorney-at-law, or a federal or state chartered financial institution. The escrow must list the City as having the “release authority”. If the escrow is held by some entity other than the City, a copy of the escrow and written estimate must be submitted to the City. The amount escrowed shall be equal to 125% of a written estimate to install a complying ISTS provided by a licensed and certified installer. The buyer may, by mutual written agreement with the seller, assume the responsibility to fund the escrow. The seller or buyer may, by written agreement, assign a third party to receive the disbursement from the escrow account. After a complying SSTS has been installed and a certificate of compliance issued, the City must provide the holder of the escrow a copy of the Certificate of Compliance, and the City of East Gull Lake shall authorize the escrow to be released to the maker of the escrow or their assigns.
4. At the time of recording the conveyance of any real property within the unincorporated areas of East Gull Lake, the seller shall provide to the City one of the following: (A) a sworn affidavit by the seller certifying that no subsurface sewage treatment system exists on said property to the best of their knowledge after diligent investigation (affidavit), or (B) a Certificate of Compliance on forms approved by the City (certificate), or (C) a packet consisting of the following documents to be referred to as an escrow packet: 1) an escrow agreement as provided by subdivision “3” of this section, 2) an attached written estimate or contract to install a complying SSTS provided by a licensed and certified installer; and, 3) an attached SSTS permit application for the installation of the SSTS (packet), or (D) an SSTS permit application and SSTS Compliance Inspection Agreement for conveyances which take place between November 1st and April 30th when compliance cannot be determined (winter agreement). Failure to comply with a requirement of this subdivision does not impair the validity of the deed. Failure to present to the City an affidavit,

certificate of compliance, escrow packet, or a winter agreement as outlined in this subdivision shall constitute a misdemeanor and shall be punishable as defined by Minnesota State Statutes.

5. Liability for Failure to Disclose: Unless the buyer and seller agree to the contrary in writing before the closing of the sale, a seller who fails to disclose the existence of a subsurface sewage treatment system at the time of sale and knew or had reason to know of the existence of a subsurface sewage treatment system is liable to the buyer for costs relating to bringing the subsurface sewage treatment system into compliance with the East Gull Lake Subsurface Sewage Treatment System Ordinance, and reasonable attorney's fees for collection of costs from the seller, if the action is commenced within two (2) years after the date the buyer closed the purchase of the real property where the subsurface sewage treatment system is located. Said civil liability shall in no way impair a criminal prosecution for the same violation.
6. In accordance with section 4(D) above, all property conveyances subject to this ordinance occurring during the period between November 1st and April 30th when ISTS compliance cannot be determined due to frozen soil conditions shall require a winter agreement, which includes an application for an SSTS permit and an SSTS Compliance Inspection Agreement. The compliance inspection shall be completed by following June 1st by a state-licensed compliance inspector. If upon inspection the SSTS is found to be in compliance, the permit fee will be refunded. If upon inspection the system is found to be failed, an escrow agreement shall be established in accordance with section 3, above, and the system shall be upgraded.

F. Commercial SSTS

1. Septic tank effluent testing for Carbonaceous Biochemical Oxygen Demand (CBOD), Biological Oxygen Demand (BOD), Total Suspended Solids (TSS), and oil/grease combination is mandatory for all SSTS that serve commercial establishments that serve food and beverages or have a flow that exceeds 1000 gallons per day as part of any compliance inspection.
2. Effluent testing shall not be required for commercial SSTS that have a current operating permit as of the date this Ordinance is effective. If all provisions of the operating permit are met, the SSTS shall be considered to be in compliance.
3. An SSTS with effluent testing that does not meet the standards in the Minnesota Rule 7080.2150, Subp.3(K) shall be upgraded within three

years to meet said standards and be placed on an Operating Permit as provided in this Ordinance.

G. Vertical Separation Reduction

Minnesota Rule 7080.1500, Subp. 4(D) is hereby adopted allowing a 15% reduction in vertical separation distance for settling of sand or soil, normal variation of measurements and interpretations of the limiting layer for existing SSTS. This provision does not apply to Section 1000.

11. SSTS PRACTITIONER LICENSING

- A.** No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules Chapter 7083 except as exempted in Rule 7083.0700.
- B.** An MPCA license is not required of an individual who is constructing a SSTS on land that is owned by the individual and functions solely as a dwelling for that individual pursuant to Minnesota Rule 7083.0700. Installation of the system shall be based upon a design by a licensed designer. The system shall be inspected before it is covered and a twenty four hour notification to the City for inspection is required. Commercial SSTS and any other pressurized system cannot be constructed by anyone other than a licensed installer.

12. ENFORCEMENT

Enforcement of this Ordinance shall follow the standards in Section XI of the East Gull Lake Land Use Ordinance.

13. STATE NOTIFICATION OF VIOLATION

The City shall notify the MPCA of any inspection, installation, design, construction, alteration or repair of an SSTS by a licensed/certified person or any septage removal by a licensed maintainer that is performed in violation of the provisions of this Ordinance. The City shall also notify the MPCA of any discovered straight pipes pursuant to Minnesota Statute 115.55 Subdivision 11.

14. RECORD KEEPING

The City shall maintain a current record of all permitted systems. The record shall contain all permit applications, issued permits, fees assessed, variance requests, Certificates of Compliance, notices of noncompliance, enforcement proceedings, site evaluation reports, design reports, record drawings, management plans, maintenance reports, Operating Permits, an annual list of all sewage tanks installed in the City sorted by licensed installation businesses, and other records the City deems relevant to a particular system.

15. ANNUAL REPORT

The City shall provide an annual report of SSTS permitting activities to MPCA no later than February 1 for the previous calendar year.

16. FEES

From time to time, the City Council shall establish fees for activities undertaken by the City pursuant to this Ordinance. Fees shall be due and payable at a time and in a manner to be determined by the City.

17. DISPUTE RESOLUTION

Resolution of disputes between SSTS Certified Individuals regarding conflicting compliance inspections, determination of seasonally saturation of soils and other technical issues shall follow Minnesota Rule 7082.0700, Subp.5.

Section 3.2 - 5. Building Sewers and Connection

1. Any new connection(s) to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to capacity for flow, BOD₅, and Suspended Solids, as determined by the Superintendent.
2. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered one building sewer. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such connection aforementioned.
3. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent or his representative, to meet all requirements of this ordinance.
4. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
5. Any person desiring a license to make a service connection with public sewers shall apply in writing to the City Council with satisfactory evidence that the applicant or employer is trained or skilled in the business and qualified to receive a license. All applications shall be referred to the Superintendent for recommendations to the Council. If approved the Council, such license shall be issued by the City Clerk upon the filing of a bond as hereinafter provided.

6. No license shall be issued to any person until a bond, prescribed by the City Fee Schedule, to the City, approved by the Council, is filed with the City Clerk conditioned that the licensee will carry liability insurance and will indemnify and save harmless the City from all suits, accidents, and damage that may arise by reasons of any opening in any street, alley, or public ground, made by the licensee or by those in the licensee's employment for any purpose whatever, and that the licensee will replace and restore the street and alley over such opening to the condition existing prior to installation, adequately guard with barricades and lights and will keep and maintain the same to the satisfaction of the Superintendent, and shall conform in all respects to the rules and regulations of the Council relative thereto, and pay all fines that may be imposed on the licensee by law. The City Council shall establish the limits required on liability insurance carried by the licensee.
7. The license fee for making service connections is as prescribed by the City Fee Schedule. All licenses shall expire on December 31 of the license year unless the license is suspended or revoked by the Council for cause. Upon failure to apply for a license renewal prior to the expiration date thereof, the license fee for the ensuing year shall be prescribed by the City Fee Schedule.
8. The Council may suspend or revoke any license issues under this Section for any of the following causes:
 - A. Giving false information in connection with the application for the license.
 - B. Incompetence of the licensee.
 - C. Willful violation of any provisions of this Section or any rule or regulation pertaining to the making of service connections.

Section 3.2 - 6. Use of Public Services - DELETED (2016-01)

Section 3.2 - 7. Destruction of System Components

No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities.

Section 3.2 - 8. User Rate Schedule for Charges

Each user of sewer service shall pay the charge(s) applicable to the type of service, and in accordance with the provisions set forth in Section 3.4.

Section 3.2 - 9. Powers and Authority of Inspectors

1. The Superintendent or other duly authorized employees of the City, bearing proper credentials and identifications, shall be permitted to enter all properties for the purpose of inspection, observations, measurement, sampling, and testing pertinent to the discharges to the City's sewer system in accordance with the provisions of this Ordinance.
2. The Superintendent or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the type and source of discharge to the wastewater collection system. An industry may withhold information considered confidential however, the industry must establish that the revelation to the public of the information in question, might result in an advantage to competitors.
3. While performing necessary work on private properties, the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 3.2-7 subdivision 9 of this Ordinance.
4. The Superintendent or other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Section 3.2 - 10. Penalties

1. Any person found to be violating any provision of this Ordinance, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Any person who shall continue any violation beyond the time limit provided for in subdivision 1 of section 3.2-11, shall be subject to penalties prescribed by this code and guilty of a misdemeanor, and on conviction thereof, shall

be fined in the amount not exceeding \$100.00 for each violation. Each day in which any such violation occurs shall be deemed as a separate offense.

3. Any person violating any of the provision of this Ordinance shall become liable to the City for any expense, loss, or damage occasioned by the City by reason of such violation.

Section 3.2 - 11. Validity

1. This Ordinance shall be in full force and take effect from and after its passage and approval and publication as provided by law.
2. All other Ordinances and parts of other Ordinances inconsistent or in conflict with any part of this Ordinance, are hereby repealed to the extent of such inconsistency or conflict.

SECTION III - SEWER SERVICE CHARGE SYSTEM

Section 3.3 - 1. Purpose

An ordinance providing for Sewer Service Charges to recover costs established with:

1. Operation, maintenance, and replacement to ensure effective functioning of the City's Wastewater Treatment System.
2. Local Capital costs incurred in the construction of the City's Wastewater Treatment System.

By resolution the City Council shall establish and periodically update a Schedule of Wastewater Fees to be applicable pursuant to the terms of this Ordinance.

Section 3.3 - 2. Definitions

Unless the context specifically indicates otherwise, the meaning of the terms used in this Ordinance shall be as hereafter designated.

1. **Administration.** Those fixed costs attributable to administration of the Wastewater treatment works (i.e. billing and associated bookkeeping and accounting costs).
2. **Apartment Unit.** Rental housing quarters used as residence for a family of one or more members or one or more unrelated persons.
3. **Availability Charge.** A charge of 35% of the connection charge for providing sewer service to vacant properties adjacent to the sewer lines. This charge will be credited upon payment of the full connection charge.
4. **Biochemical Oxygen Demand or BOD₅.** See Section 3.2-1, Item 4
5. **City.** See Section 3.2-1, Item 7
6. **Commercial User.** A place of business that discharges sanitary waster as a distinct from industrial wastewater.
7. **Commercial Wastewaters.** Domestic wastewater emanating from a place of business as distinct from industrial wastewater.
8. **Connection Charge or Debt Service Charge.** A charge levied, including interest, on users of wastewater collection and treatment facilities for the cost of repaying money bonded to construct said facilities.
9. **Equivalent Residential Connection (ERC).** See Section 3.2-1, Item 15
10. **Normal Domestic Strength Wastewater.** See Section 3.2-1, Item 38
11. **Extra Strength Waste.** Wastewater having a BOD and/or TSS greater than domestic waste as defined in Section 3.3-2 above and not otherwise classified as an incompatible waste.

12. **Governmental User.** Users which are units, agencies or instrumentalities of federal, state or local government discharging Normal Domestic Strength wastewater.
13. **Guest House.** A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot; dependent upon the principal structure for primary utilities, services, entrance, parking and accesses; and not for rent or lease. Any accessory structure with kitchen or bathroom plumbing facilities shall be considered a dwelling guest quarters.
14. **Incompatible Waste.** Waste that either singly or by interaction with other wastes interferes with any waste treatment process, constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in the receiving waters of the wastewater treatment works.
15. **Industrial Users or Industries.** See Section 3.2-1, Item 24
16. **Industrial Waste.** See Section 3.2-1, Item 23
17. **Institutional User.** Users other than commercial, governmental, industrial, or residential users, discharging primarily Normal Domestic Strength wastewater (e.g. Non-profit organizations).
18. **North American Industry Classification System.** Bureau of Labor Statistics, latest edition. Categorizes Industries into two-digit industry sectors which are subdivided further into three-, four-, five-, and six-digit industry codes.
19. **Non-conforming Structure.** See City of East Gull Lake Zoning Ordinance.
20. **Operation and Maintenance.** Activities required to provide for the dependable and economical functioning of treatment works, throughout the design or useful life, which ever is longer of the treatment works, and at the level or performance for which the treatment works were constructed. Operation and Maintenance includes replacement.
21. **Operation and Maintenance Costs.** Expenditures for operation and maintenance, including replacement.
22. **Public Wastewater Collection System.** A system of sanitary sewers owned, maintained, operated and controlled by the City.
23. **Replacement.** Obtaining and installing of equipment, accessories, or Appurtenances which are necessary during the design life or useful life, whichever is longer, of the treatment works to maintain the capacity and performance for which such works were designed and constructed.
24. **Replacement Costs.** Expenditures for replacement.

25. **Residential Dwelling.** A dwelling structure on residential property used as the residence of a family of one or more members or one or more unrelated persons whether year around or seasonal.
26. **Residential User.** A user of the treatment facilities whose premises or building is used primarily as a residence for one or more persons, including dwelling units such as detached and semi-detached housing, apartments, and mobile homes; and which discharges primarily normal domestic strength sanitary wastes.
27. **Resort Unit.** A rental unit not used as a residence.
28. **Sanitary Sewer.** See Section 3.2-1, Item 47
29. **Sewer Service Charge.** The aggregate of all charges, including charge for operation, maintenance and replacement; debt service; and other sewer related charges that are billed periodically to users of the City's wastewater treatment facilities.
30. **Sewer Service Fund.** A fund into which income from Sewer Service Charge is deposited along with other income, including taxes intended to retire debt incurred through capital expenditure for wastewater treatment. Expenditure of the Sewer Service Fund will be for operation, maintenance and replacement costs; and to retire debt incurred through capital expenditure for wastewater collection and treatment.
31. **Slug.** See Section 3.2-1, Item 49
32. **Suspended Solids (SS) or Total Suspended Solids (TSS).** See Section 3.2-1, Item 54
33. **Toxic Pollutant.** See Section 3.2-1, Item 55
34. **User Charge.** A charge levied on users of a treatment works for the user's proportionate share of the cost of operation and maintenance, including replacement.
35. **Users.** Those residential, commercial, governmental, institutional, and industrial establishments which are connected to the public sewer collection system.
36. **Wastewater or Sewage.** See Section 3.2-1, Item 46
37. **Wastewater Treatment Works or Treatment Works.** See Section 3.2-1, Item 65

Section 3.3 - 3. Establishment of a Sewer Service Charge System

1. The City of East Gull Lake hereby establishes a Sewer Service Charge System whereby all revenue is collected from users of the wastewater treatment facilities will be used to affect all expenditures incurred for annual operation, maintenance, and replacement and for debt service on capital expenditure incurred in constructing the wastewater treatment works.

2. Each user shall pay its proportionate share operation, maintenance and replacement costs of the treatment works, based on the user's proportionate contribution to the total wastewater loading from all users based on the equivalent residential connections (ERC's).
3. Each user shall pay debt service charges to retire local capital costs as determined by the City Council. (Connection and availability charge based on ERC's).
4. Sewer Service rates and charge to users of the wastewater treatment facility shall be determined and fixed in a "Sewer Service Charge System" developed according to the provisions of this Ordinance. Any subsequent change in Sewer Service rates and charges shall be adopted by a City Council resolution and shall be published in the official newspaper.
5. Revenues collected for Sewer Service shall be deposited in a separate fund known as "The Sewer Service Fund". Income from revenues collected will be expended to offset the cost of Operation, Maintenance and Equipment Replacement for the facility and to retire the debt for capital expenditure.
6. Sewer Service Charges and the Sewer Service Fund will be administered in with the provisions of Section 3.3-6 of this Ordinance.

Section 3.3 - 4. Determination of Sewer Service Charges

1. Users of the City of East Gull Lake wastewater treatment works shall be Identified as belonging to one of the following user classes:
 - A. Residential
 - B. Commercial
 - C. Industrial
 - D. Institutional
 - E. Governmental

The allocation of users to these categories for the purposes of assessing User Charges and Debt Service Charges shall be the responsibility of the City Administrator. Allocation of users to user classes shall be based on the substantive intent of the definitions of these classes contained herein.

2. Each user shall pay Operation, Maintenance, and Replacement (OM&R) costs and connection (debt retirement) costs in the proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment plant based on the Equivalent Residential Connections (ERCs) of the Connection.
3. The ERCs for residential users and those users of other classes discharging "Normal Domestic Strength Wastewater" only, can be classified as "Commercial Users" for the purpose of rate determination.
 - A. Residential Users

- i. Billable wastewater volume for a residential dwelling or apartment will be estimated at a peak month average of 185 gallons per day with a maximum of 300 gallons per day (1 ERC). As all properties are not metered, no deviation from these flows will be considered.

B. Commercial, Industrial, Institutional and Governmental Users

- i. Billable wastewater volume for a non-residential user will be estimated for the peak month average daily flow in accordance with the following schedule.

- a. Resort unit, model unit
 - 1. normal occupancy 2 0.5 ERC
 - 2. normal occupancy 3 0.75 ERC
 - 3. normal occupancy 4 or more 1.0 ERC
- b. Resort unit used as residence
or leased as residence 1.0 ERC
- ~~c. Dormitory: 3 employees 1.0 ERC~~
- c. Dormitory: 5 beds 1.0 ERC
- d. Day employees: 15 employees 1.0 ERC
- e. Conference Center: 60 seats 1.0 ERC
- f. Church: 200 seats 1.0 ERC
- g. Commercial:
 - 1. Retail stores, per each individual shop: 1.0 ERC
 - 2. Fast Food: 22 seats 1.0 ERC
 - ~~3. Restaurant: 75 meals 1.0 ERC~~
 - 3. Restaurant, full service: 8 seats 1.0 ERC
 - 4. Resort cafeteria/dining: 22 seats 1.0 ERC
 - 5. Cocktail lounge: 60 seats 1.0 ERC
 - 5. Coctail lounge: 23 seats 1.0 ERC
 - ~~6. Coffee shop: 60 seats 1.0 ERC~~
 - 6. Coffee shop: 23 seats 1.0 ERC
 - ~~7. General offices 1.0 ERC~~
 - 7. Offices: total building 2400 Ft² 1.0 ERC
 - ~~8. Laundromat: 75 square feet 1.0 ERC~~
 - 8. Commercial Laundry: 4 cycles/day,
274 gallons 1.0 ERC
 - 9. Public restroom 1.0 ERC
 - 10. Maintenance Building: total building
2400 ft² 1.0 ERC
 - 11. Massage rooms: 5 stations 1.0 ERC

12. Manacure/Pedicure stations: 9 stations	1.0 ERC
13. Meeting Rooms: 1650 ft ²	1.0 ERC
14. Banquet Room/Food Catered:	
2060 ft ²	1.0 ERC
15. Banquet Room/Food Catered with	
dishwashing: 1180 ft ²	1.0 ERC

- ii. Commercial users may appeal the flow assigned to a particular connection for user charges only by installing and maintaining, at their own expense, sewer meters of a type approved by the City. Such meters shall be equipped with remote registering recorders located at an accessible site on the owner’s property. Only peak month flow rates will be considered.
- iii. The City may, at its discretion, require non-residential users to install sewer meters for the purpose of determining wastewater volume. When so required, such meters be of a type approved by the City, equipped with remote registering recorders, and located at an accessible site on the owner’s property.

C. ERC Charges

- i. As all properties are not metered, no deviation from these flows will be considered except through an adjustment in the table by City Council.
- ii. As each ERC contributes an estimated maximum of 300 gpd, the ERCs will be the basis for the service charge.
- iii. After the initial determination of the number of ERCs, the Sewer Superintendent shall determine the number of ERCs per connection. Appeals from his decision shall be made to the Wastewater Committee.
- iv. Once established, the number of ERCs shall remain the same on the property unless an addition to the property is made. Only the involuntary removal or destruction of a non-conforming structure will be grounds for the City Council to cancel or reduce the number of ERCs on the property. This reduction shall apply to the user charge only. With the permission of the Council, an ERC can be transferred on the property from a structure being removed to a structure being constructed.

- v. The number of ERCs shall be adjusted for the City as a whole on annual basis for user charge purposes.
 - vi. Any use not represented on the table shall be considered as in (iii) above. Failure to determine the ERCs by the Sewer Superintendent based on estimated flows shall require that the Council consider establishment of a new usage category.
4. Calculation of basis for availability charge shall be as follows: The City of East Gull Lake will charge property an availability charge if it is vacant, but served by a lateral sewer. The vacant property will be charged on the basis of 0.25 ERC per buildable lot or 0.25 ERC per 150' of frontage on the lateral sewer.
5. Determination of Sewer Service Charges. The Sewer Service Charge for a particular connection shall be determined as follows:
- SSC = (U + C) x ERCs
 - SSC = Sewer Service Charge
 - U = User Charge for 1 ERC Residential
 - C = Connection and/or Availability Charge for Debt Service for 1 ERC
 - ERCs = Equivalent Residential Connections on Connection
6. Recovery of Construction Costs (Availability and Connection Charge):
- A. Connection charges based on ERCs will be recovered by a connection service charge, including interest and billed quarterly.
 - B. Availability charges on vacant property served by a sewer lateral or pressure sewer for a deferred ERC will be 25% of an ERC. The availability charge at the time of connection of an ERC.
 - C. Any of the charges in this section may be paid as one lump sum either upon connection or at a later time. Interest will be charged only for the period financed.
7. The Sewer Service Charges established in this Ordinance shall not prevent the Assessment of additional charges to users who discharge wastes with concentrations greater than Normal Domestic Strength or wastes of unusual character, or contractual agreements with such users, as long as the following conditions are met:
- A. The user pays Operation, Maintenance, and Replacement costs in proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment plant, and no user is charged at a rate less than that of "Normal Domestic Strength Wastewater.
 - B. The measurements of such wastes are conducted according to the latest edition of "Standard methods for the Examination of Water

and Wastewater” in a manner acceptable to the City as provided for in Section 3.2 of the Ordinance.

A study of unit costs of collection and treatment processes attributable to flow, BOD, TSS and other significant loadings shall be developed for determining the proportionate allocation of costs to flows and loadings for users discharging wastes of greater than normal domestic strength or wastes of unusual character.

Section 3.3 - 5. Sewer Service Fund

1. The City of East Gull Lake hereby establishes a “Sewer Service Fund” as an income fund to receive all revenues generated by the Sewer Service Charge System, and all other income dedicated to the operation, maintenance, replacement and construction wastewater treatment works, including taxes, special charges, fees, and assessments intended to retire construction debt. The City also establishes the following accounts as income and expenditure accounts within the Sewer Service Fund:
 - A. Operation and Maintenance Account
 - B. Equipment Replacement Account
 - C. Debt Retirement Account
2. All revenue generated by the Sewer Service Charge System, and all other income fund to receive all revenues generated by the Sewer Service Charge System, and all other income pertinent to the treatment system, including taxes and special assessments dedicated to retire construction debt, shall be held by the City Administrator separate and apart from all other funds of the City. Funds received by the Sewer Service Fund shall be transferred to the “Operation and Maintenance Account”, the “Equipment Replacement Account”, and the “Debt Retirement Account” in accordance with State and Federal regulations and the provisions of this ordinance.
3. Revenue generated by the Sewer Service Charge System sufficient to insure adequate replacement throughout the design or useful life, whichever is longer, of the wastewater facility shall be held separate and apart in the “Equipment Replacement Account” and dedicated to affecting replacement costs. Interest income generated by the “Equipment Replacement Account” shall remain in the “Equipment Replacement Account”.
4. Revenue generated by the Sewer Service Charge System sufficient for operation and maintenance shall be held separate and apart in the “Operation and Maintenance Account”.

Section 3.3 - 6. Administration

The Sewer Service Charge System and Sewer Service Fund shall be administered according to the following conditions:

1. The City Administrator shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement, and debt retirement costs of the treatment works, and shall furnish the City Council with a report of such costs annually in January. The City Council shall annually determine whether sufficient revenue is being generated for debt retirement. The Council will also determine whether the user charges are distributed proportionately to each user in accordance with Section 3.3-3, Subdivision 2 of this Ordinance and Section 204(b)(2)(a) of the Federal Water Pollution Control Act, as amended. The City shall thereafter, but not later the end of the year, reassess, and as necessary revise the Sewer Service Charge System then in use to ensure the proportionality of the user charges and to ensure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.
2. In accordance with Federal and State requirements, each user will be notified annually in conjunction with a regular billing of that portion of the Sewer Service Charge attributable to operation, maintenance and replacement.
3. In accordance with Federal and State requirements, the City Administrator shall responsible for maintaining all records necessary to document compliance with the Sewer Service Charge System adopted.
4. Bills for Sewer Service Charges shall be rendered on a quarterly basis succeeding the period for which the service was rendered and shall be due 10 days from the date of rendering. Any bill not paid in full 60 days after the due date will be considered delinquent. At that time the City shall notify the delinquent owner/occupant in writing regarding the delinquent bill and subsequent penalty.
5. The owner of the premises shall be liable to pay for the service to such premises, and the service is furnished to the premises by the City only upon the condition that the owner of the premises is liable to the City.
6. Any additional costs caused by discharges to the treatment works of toxics or other incompatible wastes, including the cost of restoring wastewater treatment services, clean up, restoration of the receiving waters and environs, and sludge disposal shall be borne by the discharger(s) of said wastes, at no expense to the City.

Section 3.3 - 7. Penalties

1. Each and every sewer service charge levied by pursuant to this Ordinance is hereby made a lien upon the lot or premises served, and all such charges which are on October 1 of each year past due and delinquent shall be certified to the County Auditor as taxes or assessments on the real estate. Nothing in this Ordinance shall be held or construed as in any way stopping or interfering with the right of the City to levy taxes or assessments against any premises affected any delinquent or past due sewer service charges.
2. In addition to levying a lien, the City may, at its discretion, file suit in a civil action to collect such amounts as are delinquent and due against the occupant, owner, or user of the real estate, and shall collect as well all attorney's fees incurred by the City in filling the civil action. Such attorney's fees shall be fixed by order of the court.
3. In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being serviced by the treatment works shall be liable for interest balances at the rate of 12% per annum.

Section 3.3 - 8. Severability and Validity

1. If any section or subdivision of this Ordinance shall be held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Ordinance, which shall continue in full force and effect.
2. The sewer service charge system shall take precedence over any terms or conditions of agreements or contracts that are inconsistent with the requirements of Section 204(b)(1)(A) of the Act and Federal regulation 40 CFR (Code of Federal Regulations) 35.2140 of the Environmental Protection Agency's grant regulations.
3. This Ordinance shall be in full force and take effect from and after its passage and approval and publication as provided by law.

SECTION IV - RATES AND CHARGES

Section 3.4 - 1. Schedule of Wastewater Fees

1. The connection charge for each individual ERC is as prescribed by the City Fee Schedule.
 - A. Wastewater users have the option of financing the connection charge over twenty (20) years at an interest rate of three (3) percent. The connection charge will be prorated for connections made at a later date; or
 - B. Wastewater users have the option of paying the connection charge in full upon connecting to the system or the balance of the connection charge at any time during the life of the loan.
2. The user charge per quarter per each ERC is as prescribed by the City Fee Schedule.
 - A. Wastewater users will be charged a fee as prescribed by the City Fee Schedule per quarter with an inflationary increase of twenty (20%) percent per year.

Section 3.4 - 2. Definitions

1. **Connection Charge or Debt Service.** See Section 3.3-2, Item 8
2. **Equivalent Residential Connection (ERC).** See Section 3.2-1, Item 15
3. **Sewer Service Charge.** See Section 3.2-1, Item 29
4. **User Charge.** See Section 3.2-1, Item 34

TITLE IV TRAFFIC CODE

SECTION I - TRAFFIC REGULATIONS

Section 4.1 - 1. General Provisions

1. State Highway Traffic Regulations Adopted By Reference
 - A. The Highway Traffic Regulations Act is hereby adopted by reference. The regulatory provisions of M.S. Chapter 169, as it may be amended from time to time, are hereby adopted as a traffic ordinance regulating the use of highways, streets and alleys within the city and are hereby incorporated in and made a part of this section as completely as if set out in full herein.
 - B. The penalty for violation of the provisions of state statutes adopted by reference in this section shall be identical with the penalty provided for in the statutes for the same offense.
2. Trucks Prohibited on Certain Streets
 - A. The City Council by resolution may designate streets on which travel by commercial vehicles in excess of 10,000 pounds axle weight is prohibited. The City shall cause appropriate signs to be erected on those streets. No person shall operate a commercial vehicle on posted streets in violation of the restrictions posted.
 - B. The weight restrictions established in division (A) shall not apply to city or emergency vehicles, public school buses or to garbage and refuse trucks making regular collections and are under contract with the city, nor shall the weight restrictions in division (A) apply if a commercial vehicle must use the particular street in question for the purpose of local pick-up or delivery.
3. Stop Intersections. The city may designate intersections as a stop intersection and require all vehicles to stop at one or more entrances to those intersections. The city shall post signs at those designated intersections, giving notice of the designation as a stop intersection. It shall be unlawful for any person to fail to obey the markings or signs posted under this section.
4. Through Streets and One-way Streets. The City Council by resolution may designate any street or portion of a street as a through street or one-way street where necessary to preserve the free flow of traffic or to prevent accidents. No trunk highway shall be so designated unless the consent of

the Commissioner of Transportation to the designation is first secured. The city shall cause appropriate signs to be posted at the entrance to designated streets. It shall be unlawful for any person to fail to obey the markings or signs posted under this section.

5. Turning Restrictions

- A. The City Council by resolution may, whenever necessary to preserve a free flow of traffic or to prevent accidents, designate any intersection as one where turning of vehicles to the left or to the right, or both, is to be restricted at all times or during specified hours. No intersection on a trunk highway shall be so designated until the consent of the Commissioner of Transportation to the designation is first obtained.
- B. The city shall mark by appropriate signs any intersection so designated.
- C. No person shall turn a vehicle at any intersection contrary to the direction on those signs.

6. Excessive Noise

- A. As used in this section, Light-Motor Vehicles means any automobile, van, motorcycle, motor-driven cycle, motor scooter, go cart, minibike, trail bike, or truck with a gross vehicular weight of less than 10,000 pounds.
- B. It shall be unlawful for any person to operate, or cause to operate, or use a light-motor vehicle in a manner as to cause, or allow to be caused, excessive noise levels as a result of unreasonable rapid accelerations, deceleration, revving of engine, squealing of tires, honking of horns, or as a result of the operation of audio devices including but not limited to radios, phonograph, tape players, compact disc players or any other sound-amplifying device on or from the light-motor vehicle.
- C. No person shall operate, or cause to operate, or use a light-motor vehicle in violation of the noise standards contained in Minn. Rules parts 7030.1050 and 7030.1060, as it may be amended from time to time.
- D. No person shall operate, or cause to operate, or use a light-motor vehicle that discharges its exhaust other than through a muffler or other device that effectively prevents loud or explosive noises. No person shall operate, or cause to operate, or use a light-motor vehicle whose exhaust system has been modified, altered, or

repaired in any way, including the use of a muffler cut-out or bypass, that amplifies or otherwise increases noise above that emitted by the light-motor vehicle as originally equipped.

- E. The following are exempted from the provisions of this section:
 - i. Sound emitted from sirens of authorized emergency vehicles.
 - ii. Burglar alarms on light-motor vehicles of the electronic signaling type which also transmit an audible signal to a receiver which can be carried by the owner or operator of the vehicle.
 - iii. Celebrations on legal holidays and celebrations in connection with duly authorized parades.

- 7. Exhibition Driving Prohibited. No person shall turn, accelerate, decelerate or otherwise operate a motor vehicle within the city in a manner which causes unnecessary engine noise or backfire, squealing tires, skidding, sliding, swaying, throwing of sand or gravel, or in a manner simulating a race. Unreasonable squealing or screeching sounds emitted by tires or the unreasonable throwing of sand or gravel by the tires is prima facie evidence of a violation of this section.

Section 4.1 - 2. Parades

- 1. Definitions. For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - A. Parade. Any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display in or on any street, sidewalk, park, or other public place in the city.
 - B. Parade Permit. A permit required by this subchapter
 - C. Parking Lot. Any paved or unpaved area used by a place of business or shopping center for the parking of vehicles of their customers, but shall not include those operated for hire.
- 2. Permit Required
 - A. No person or persons shall engage or participate in, aid, form or start any parade unless a parade permit has been obtained from the City Clerk or other authorized city official.
 - B. This section shall not apply to:
 - i. Funeral processions.
 - ii. Students going to and from school classes or participating in educational activities; provided, that the conduct is under the

immediate direction and supervision of the proper school authorities.

iii. A governmental agency acting within the scope of its functions.

3. Application Permit

A. Generally. A person seeking issuance of a parade permit shall file an application with the City Clerk.

B. Filing period. The application for a parade permit shall be filed not less than 72 hours but not more than 60 days before the date on which it is proposed to conduct the parade. Failure to file an application 72 hours in advance will not result in automatic denial of the permit; provided, that the applicant shows reasonable grounds why the application could not be filed 72 hours in advance.

C. Required information. The application for a parade permit shall set forth the following information:

i. The name, address, and telephone number of the person seeking to conduct the parade.

ii. If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address, and telephone number of the headquarters of the organization and of the authorized and responsible heads of the organization.

iii. The name, address, and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct.

iv. The date when the parade is to be conducted.

v. The route to be traveled, the starting point, and the termination point.

vi. The approximate number of persons, animals, and vehicles which will constitute the parade, the type of animals, if any, and the description of the vehicles.

vii. The hours when the parade will start and terminate.

viii. A statement as to whether the parade will occupy all or only a portion of the width of the streets, sidewalk, park or other public place proposed to be traversed.

ix. The location by street of any assembly area for the parade.

x. The time at which units of the parade will begin to assemble at any assembly area or areas.

xi. The interval of space to be maintained between units of the parade.

- xii. If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for the permit shall file a communication in writing from the person authorizing the applicant to apply for the permit on his or her behalf.
 - xiii. Any additional information reasonably necessary to a fair determination as to whether a permit should be issued.
 - D. There shall be paid at the time of filing an application for a parade permit a fee in an amount as established in the Ordinance Establishing Fees and Charges pursuant to this Code, as it may be amended from time to time.
- 4. Standards for Issuance of Permit. The City Clerk shall issue a permit when, from a consideration of the application and from other information obtained, he or she finds that:
 - A. The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
 - B. The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;
 - C. The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly areas.
 - D. The conduct of the parade will not interfere with the movement of firefighting equipment en route to a fire.
 - E. The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.
- 5. Notice of Rejection of Permit Application. If the City Clerk disapproves the application, he or she shall mail to the applicant within the three regular business days after the date on which the application was filed a notice of his or her action stating the reasons for his or her denial of the permit.
- 6. Appeal Procedure When Permit Denied. Any person aggrieved shall have the right to appeal the denial of a parade permit to the City Council. The appeal shall be taken within 30 days after notice of denial. The City Council shall act on the appeal within 30 days after its receipt.

7. Alternative Permit. The City Clerk or other authorized city official, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different than that named by the applicant. An applicant desiring to accept an alternate permit shall file a written notice of his or her acceptance. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this subchapter.
8. Notice to City and Other Officials When Permit Issued. Immediately on the issuance of a parade permit, a copy thereof shall be sent to the City and County Sheriff.
9. Contents of Permit. Each parade permit shall state the following information:
 - A. Starting time.
 - B. Minimum speed.
 - C. Maximum speed.
 - D. Maximum interval of space to be maintained between the units of the parade.
 - E. The portions of the street, sidewalk, park or other public place to be traversed that may be occupied by the parade.
 - F. The maximum length of the parade in miles or fractions thereof.
 - G. Other information as is reasonably necessary to the enforcement of this subchapter.
10. Duties of Permittee. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The parade chairperson or other person heading or leading the activity shall carry the parade permit on his or her person during the conduct of the parade.
11. Public Conduct During Parades
 - A. Interference. No person shall unreasonably hamper, obstruct, impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.
 - B. Driving through parades. No driver of a vehicle except a police car or other emergency vehicle shall drive between the vehicles or persons comprising a parade when the vehicles or persons are in motion and are conspicuously designated as a parade.
 - C. Parking on parade route. The Police Chief or other authorized city official shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or other public thoroughfare or part thereof constituting a part of the route

of a parade. Signs shall be posted to the effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street or other public thoroughfare unless signs have been posted in accordance with this section.

12. Revocation of Permit. The city shall have the authority to revoke a parade permit issued hereunder on application of the standards for issuance as herein set forth.

SECTION II - PARKING REGULATIONS

Section 4.2 - 1. No Parking Where Posted

No person shall stop, stand or park a vehicle upon the public streets of the city at any place where official signs or where appropriate devices, marks, or painting, either upon the surface of the street or the curb immediately adjacent thereto, prohibit these acts.

Section 4.2 - 2. Limited Parking

No person shall stop, stand or park a vehicle upon the public streets of the city where official signs are erected limiting the parking time thereon, for a period of time in excess of the time as designated by the official signs.

Section 4.2 - 3. Other Parking Restrictions

1. The City Council may by resolution order the placing of signs, devices or marks, or the painting of streets or curbs prohibiting or restricting the stopping, standing, or parking of vehicles on any street where, in its opinion, as evidenced by a finding in its official minutes, the stopping, standing or parking is dangerous to those using the highway, or where the stopping, standing or parking of vehicles would unduly interfere with the free movement of traffic. The signs, devices, marks or painting shall be official signs, devices, marks or painting, and no person shall stop, stand or park any vehicle in violation of the restrictions thereon or as indicated thereby.
2. "No Parking" signs may be places by city employees on any street of the city to permit construction, repair, snow removal, street cleaning or similar temporary activities. While the signs are in place, it shall be unlawful to park any vehicle on the streets or portion thereof so posted.
3. It shall be unlawful for a person to park in an area designated by City Council resolution and posted as a fire lane.
4. It shall be unlawful for a person to park a vehicle or permit it to stand, whether attended or unattended, on an alley within the city, provided that this does not prohibit the parking of vehicles for less than one hour on an alley for the purpose of access to abutting property for loading or unloading merchandise or other material when parking on the property itself is not available.
5. It shall be unlawful for a person to park a motor vehicle in an area designated by posted signs pursuant to City Council resolution for certain types of vehicles, unless the motor vehicle is one of the types of vehicles specifically permitted.

6. Every vehicle parked upon any street with a curb shall be parked parallel to the curb, unless angle parking is designated by appropriate signs or markings. On streets with a curb, the right-hand wheels of any vehicle parked shall be within one foot of the curb. On streets without a curb, the vehicle shall be parked to the right of the main traveled portion of the street and parallel to it and in such a manner as not to interfere with the free flow of traffic, unless angle parking is designated by appropriate signs or markings.

Section 4.2 - 4. Declaration of Snow Emergency; Parking Prohibited

1. The Mayor, Police Chief or other designated official may declare a snow emergency in the city. The emergency shall continue in effect for a period of 24 hours or until the snow has been removed from the city's streets or until the snow emergency has been rescinded by action of the Mayor, Police Chief or other designated officer.
2. Notice of the declaration of a snow emergency shall be given by notifying the local news media; however, the notification shall be a service aid only and not a duty on the part of the officials.
3. During a declared snow emergency, no motor vehicle shall be left parked on any street or public way in the city.
4. During a declared snow emergency, any police officer who finds a motor vehicle in violation of this section shall attempt to contact the owner of the motor vehicle and require the owner to immediately move the motor vehicle so as not to be in violation of this section. If the owner does not immediately remove the motor vehicle or the owner cannot be located, the police officer is authorized to have the motor vehicle removed at the owner's expense.

Section 4.2 - 5. Overnight Parking

The following vehicles shall not be allowed to park on city streets overnight: repair, delivery, rented vehicles with commercial plates, and refuse and recycling haulers or any other vehicle not registered as a passenger vehicle.

Section 4.2 - 6. Repairing of Vehicles

Minor repairs and tune-ups, such as replacement of spark plugs, spark plug wires, thermostat, radiator or heater hoses, oil changes and brake jobs shall be permitted on city streets; provided, that they can be accomplished within the same day and completed by 10:00 p.m. All other repairs shall be considered major repairs and shall not be permitted on any city street, unless the repairs are made within an enclosed structure allowed within the zoning district. Damage to city streets because of repairs

or lack of repairs shall be charged to the person responsible for the damage to the city streets.

Section 4.2 - 7. Impoundment

Any peace officer may order the removal of a vehicle from a street to a garage or other place of safety when the vehicle is left unattended and constitutes an obstruction to traffic or hinders snow removal, street improvements or maintenance operations. The vehicle shall not be released until the fees for towing and storage are paid in addition to any fine imposed for violation of this section.

Section 4.2 - 8. Prima Facie Violations

The presence of any motor vehicle on any street when standing or parked in violation of this section is prima facie evidence that the registered owner of the vehicle committed or authorized the commission of the violation.

SECTION III - SNOWMOBILES

Section 4.3 - 1. Intent

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Section 4.3 - 2. Definitions

1. **Deadman Throttle or Safety Throttle.** A device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.
2. **Operate.** To ride in or on and control the operation of a snowmobile.
3. **Operator.** Every person who operate or is in actual physical control of a snowmobile.
4. **Owner.** A person, other than a lien holder having the property in or title to a snowmobile, or entitled to the use or possession thereof.
5. **Person.** Includes an individual, partnership, corporation, the state and its agencies and subdivision, and any body of persons, whether incorporated or not.
6. **Right of Way.** The entire strip of land traversed by a highway or street in which the public owns the fee or an easement for roadway purposes.
7. **Roadway.** That portion of a highway or street improved, designed or ordinarily used for vehicular travel.
8. **Snowmobile.** A self-propelled vehicle designed for travel on snow or ice, steered by skis or runners.
9. **Street.** A public thoroughfare, roadway, alley or trail used for motor vehicular traffic which is not an interstate, trunk, county-state aid, or county highway.

Section 4.3 - 3. Application of Traffic Ordinances

The provisions of Title IV of this code shall apply to the operation of snowmobiles upon streets and highways, except for those relating to required equipment, and except those which by their nature have no application.

Section 4.3 - 4. Restrictions

1. It is unlawful for any person to enter, operate or stop a snowmobile within the limits of the city:
 - A. On the roadway of any street, except the most right hand lane then available for traffic or as close as practicable to right hand curb or edge of the roadway, except when overtaking and passing another

vehicle stopped in the lane or proceeding in the same direction, or in making a left turn. Snowmobiles may also be operated upon the outside slope of trunk, county-state aid and county highways where the highways are so configured within the corporate limits.

- B. On a public sidewalk provided for pedestrian travel.
 - C. On boulevards within any public right-of-way.
 - D. On private property of another without specific permission of the owner or person in control of the property.
 - E. Upon any school grounds, except as permission is expressly obtained from responsible school authorities.
 - F. On public property, playgrounds and recreation areas, except areas previously listed or authorized for the use by resolution of the City Council, in which case the use shall be lawful, and snowmobiles may be driven in and out of those areas by the shortest route.
 - G. On streets as permitted by this chapter at a speed exceeding 10 miles per hour.
 - H. During the hours of 10:00 p.m. to 7:00 a.m., Sunday through Thursday, and 12:01 a.m. to 8:00 a.m. on other days closer than 100 feet from any residence. This provision is not intended to prohibit snowmobiles from operating on city streets during the hours specified herein.
2. It is unlawful for any person to operate a snowmobile within the limits of the city:
- A. So as to tow any person or thing in a public street or highway except through use of a rigid tow bar attached to the rear of the snowmobile; provided, that a disabled snowmobile may be towed to a private residence or a place of business where snowmobiles are repaired without the use of a rigid tow bar.
 - B. Within 100 feet of any fisherman, pedestrian, skating rink or sliding area where the operation would conflict with use or endanger other persons or operation.
 - C. To intentionally drive, chase, run over or kill any animal.

Section 4.3 - 5. Stopping and Yielding

No snowmobile shall enter any uncontrolled intersection without making a complete stop. The operator shall then yield the right-of-way to any vehicles or pedestrians at the intersection, or so close to the intersection as to constitute an immediate hazard.

Section 4.3 - 6. Persons Under 18

1. No person under 14 years of age shall operate on streets or make a direct crossing of a city street as the operator of a snowmobile. A person 14 years of age or older, but less than 18 years of age, may operate a snowmobile on streets as permitted under this chapter and make a direct crossing of those streets only if he or she has in his or her immediate possession a valid snowmobile safety certificate issued pursuant to M.S. 84.872, as it may be amended from time to time.
2. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provision of this section.

Section 4.3 - 7. Equipment

It is unlawful for any person to operate a snowmobile any place within the limits of the city unless it is equipped with the following:

1. Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass straight pipe or similar device on a snowmobile motor.
2. Brakes adequate to control the movement of and to stop and hold the snowmobile under any condition of operation.
3. A safety or so called deadman throttle in operating condition.
4. When operated between the hours of one-half hour after sunset to one-half hour before sunrise, or at times of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. The head lamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile operator. It shall also be equipped with at least one red light plainly visible from a distance of 500 feet to the rear during hours of darkness under normal atmospheric conditions.
5. Snowmobiles shall display safety markings, as required by State Statutes, when operated on public streets.
6. Reflective material at least 16 square inches on each side, forward of the handlebars and at the highest practical point on any towed object, so as to reflect lights at a 90 degree angle.

Section 4.3 - 8. Unattended Snowmobiles

Every person leaving a snowmobile on a public place shall lock the ignition, remove the key and take the same with him or her.

Section 4.3 - 9. Emergency Operations Permitted

Notwithstanding any prohibitions in this chapter, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time and at locations where snow upon the roadway renders travel by automobile impractical.

SECTION IV - RECREATIONAL VEHICLES

Section 4.4 - 1. Purpose and Intent

1. The purpose of this chapter is to provide reasonable regulations for the use of recreational motor vehicles on public and private property in the city.
2. This chapter is not intended to allow what the Minnesota Statutes prohibit nor to prohibit what the Minnesota Statutes expressly allow.
3. It is intended to ensure the public safety and prevent a public nuisance.

Section 4.4 - 2. Definition

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. **Recreational Motor Vehicle.** Any self-propelled vehicle any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes including, but not limited to trail bike, off-highway motorcycle, as defined by Minnesota Statutes Section 84.92, Subd. 8, it may be amended from time to time, motorized go-carts, hovercraft or motor vehicle licensed for highway operation which is being used for off-road recreational purposes.

Section 4.4 - 3. Operation Requirements

It is unlawful for any person to operate a recreational motor vehicle:

1. On private property of another without specific written permission of the owner of the property; (Written permission may be given by a posted notice of any kind or description, so long as it specifies the kind of vehicles allowed, that the owner, occupant or lessee prefers, such as by saying "Recreational Vehicles Allowed," "Trail Bikes Allowed," "All-Terrain Vehicles Allowed" or words substantially similar).
2. On publicly-owned land, including school, park property, playgrounds, recreation areas and golf courses, except where permitted by this section.
3. In a manner so as to create a loud, unnecessary or unusual noise which disturbs, annoys or interferes with the peace and quiet of other persons.
4. On a public sidewalk or walkway provided or used for pedestrian travel.
5. At a place while under the influence of intoxicating liquor or narcotics or habit-forming drugs.
6. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
7. At any place in a careless, reckless or negligent manner so as to endanger or be likely to endanger any person or property or to cause injury or damage thereto.

8. On any public street, highway or right-of-way unless licensed pursuant to Minnesota law.
9. To intentionally drive, chase, run over or kill any animal, wild or domestic.
10. By halting any recreational motor vehicle carelessly or heedlessly in disregard of the rights or the safety of others or in a manner so as to endanger or be likely to endanger any person or property or in excess of 25 miles per hour on publicly-owned lands; and/or
11. Within 150 yards of any public recreational area of gathering of people. This provision does not apply to the occasional use of recreational motor vehicles on private property for the purpose of loading, unloading it from a trailer or for mechanically checking it.

Section 4.4 - 4. Street Crossings

No person under 14 years of age operating the vehicles regulated herein shall make a direct crossing of any street, highway or public right-of-way.

Section 4.4 - 5. Hours of Operation

Hours for use are 8:00 a.m. to 10:00 p.m.

Section 4.4 - 6. Minimum Equipment Requirement

1. Standard mufflers shall be properly attached and in constant operation to reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass, straight pipe or similar device on a recreational motor vehicle motor. The exhaust system shall not emit or produce a sharp popping or crackling sound.
2. Brakes shall be adequate to control the movement of and to stop and hold under any conditions of operation.
3. At least one clear lamp shall be attached to the front with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. The head lamp shall be so that glaring rays are not projected into the eyes of an oncoming vehicle operator. It shall also be equipped with at least one red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during the hours of darkness under normal atmospheric conditions. This equipment shall be required and shall be in operating condition when the vehicle is operated between the hours of one-half hour after sunset and one-half hour before sunrise, or at times of reduced visibility.

Section 4.4 - 7. Designation of Public Areas for use

1. The Council may designate areas for use of recreational motor vehicles by approval of a majority of the members of the City Council. The areas designated may be changed from time to time by the City Council. Any area designated shall be published in the official newspaper of the city in a conspicuous place after the approval. If an area is changed, the change shall be published in like manner in the official newspaper of the city. An up-to-date map of any designated park areas open for recreational motor vehicle use shall be kept on file in the office of the City Clerk, who shall provide on request a copy of the map together with the applicable rules, regulations and this section to each person requesting the information from the city.
2. Unless designated by the City Council as an area for recreational motor vehicles, the use on city park property shall be unlawful. Further, the use of city parks designated by the City Council shall be in accordance with all of the applicable provisions of this section.

Section 4.4 - 8. Motorized Golf Carts

1. Motorized golf carts are permitted to operate only on city streets or trails designated for their use, not state or federal highways, except to cross at designated intersections.
2. Motorized golf carts may only be operated on designated roadways from sunrise to sunset. They shall be operated in inclement weather conditions or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet.
3. Motorized golf carts shall display the slow-moving vehicle emblem provide for in Minnesota Statutes 169.522 as it may amended from time to time, when operated on designated roadways.
4. Motorized golf carts shall be equipped with a wing-style rear view mirror to provide the driver with adequate vision from behind.
5. The operator of motorized golf cart may cross any street or highway intersecting a designated roadway.
6. The number of occupants in the golf cart may not exceed the design occupant load.
7. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - A. **Driver.** The person driving and having physical control over the motorized golf cart and being the license.
 - B. **Motorized Golf Cart.** Any passenger conveyance being driven with four wheels with four low pressure tires that is limited in

engine displacement of less than 800 cubic centimeters and total dry weight less than 800 pounds.

SECTION V - BICYCLES, ROLLER BLADES, ROLLER SKATES, ROLLER SKIS AND SKATEBOARDS

Section 4.5 - 1. Bicycles

1. Definitions. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.
 - A. **Bicycle.** Every device propelled solely by human power upon which any person may ride, having two tandem wheels, except scooters and similar devices, and including any device generally recognized as a **Bicycle** though equipped with two front or rear wheels.
2. Traffic Laws Apply. Every person riding a bicycle on a street or upon any path set aside for the exclusive use of bicycles shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except as to special regulations in this chapter and except as to those provisions of this chapter which by their nature can have no application.
3. Manner and Number Riding
 - A. It is unlawful for any person propelling a bicycle to ride other than upon or astride a permanent and regular seat attached thereto.
 - B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, except on a baby seat attached to the bicycle, provided that the seat is equipped with a harness to hold the child securely in the seat and that protection is provided against the child's feet hitting the spokes of the wheel, or in a seat attached to the bicycle operator.
4. Hitching Rides. It is unlawful for any person riding upon any bicycle, coaster, roller skates, roller blades, skate board, sled, or toy vehicle to attach the same or themselves to any vehicle upon a street.
5. Where to Ride
 - A. Every person operating a bicycle upon a street shall ride as near to the right side of the street as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
 - B. Persons riding bicycles upon a street shall not ride more than two abreast except on paths or parts of streets set aside for the exclusive use of bicycles.

6. Right-of-Way; Sidewalks. Whenever a person is riding a bicycle upon a sidewalk, the person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing the pedestrian.
7. Carrying Articles. It is unlawful for any person operating a bicycle to carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handlebars.
8. Lighting and Brake Equipment
 - A. Every bicycle, when in use at night time, shall be equipped with, or its operator shall carry a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front, and with a red reflector on the rear of a type approved by the Department of Public Safety which is visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector. No person may, at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead, operate a bicycle unless the bicycle or its operator is equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of headlamps on a motor vehicle. The reflective surfaces shall include reflective materials on each side of each pedal to indicate their presence from the front or the rear and with a minimum of 20 square inches on each side of the bicycle or its operator of white reflective material. All reflective materials used in compliance with this section shall meet the requirements as prescribed by the Commissioner of Public Safety.
 - B. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.
9. Sale with Reflectors. It is unlawful for any person to sell or offer for sale any new bicycle unless it is equipped with such reflectors as are prescribed in subdivision 8 of this section.

Section 4.5 - 2. Roller Blades, Roller Skates, Roller Skis and Skateboards

1. Definitions

For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- A. **Commercial District.** That part of the City so designated by City Council resolution and described in this Ordinance.
- B. **Operate.** To ride on or upon or control the operation of roller blades, roller skates, or a skateboard.
- C. **Operator.** Every person who operates or is in actual physical control of roller blades, roller skates, or a skateboard.
- D. **Roller Skis.** A pair of skis platformed with wheels attached which is intended to simulate skiing.
- E. **Skateboard.** A device for riding-upon, usually while standing, consisting of an oblong piece of wood, or of other composition, mounted on skate wheels.

2. Unlawful Acts

- A. It is unlawful for any person to operate roller blades, roller skates, roller skis or a skateboard under the circumstances set forth hereafter:
 - i. On any public sidewalk, street or public parking lot within the Commercial District.
 - ii. On private property of another without the express permission to do so by the owner or occupant of the property.
 - iii. In any careless, reckless, or negligent manner so as to endanger or be likely to endanger the safety of any person or property of any other person.
- B. It is unlawful for any person operating roller blades, roller skates, roller skis or a skateboard to attach the same, or the person of the operator, to any vehicle upon a street.
- C. Every person operating roller blades, roller skates, roller skis or a skateboard upon a street shall ride as close as possible to the right-hand curb of edge of the street.
- D. Every person operating roller blades, roller skates, roller skis or a skateboard upon a street shall observe the same rules of the road as required of bicycles.

- 3. **Right-of-Way.** The operator of roller blades, roller skates, roller skis or a skateboard emerging from any alley, driveway, or building, upon

approaching a sidewalk or the sidewalk area extending across any alleyway, shall yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area and upon entering the street shall yield the right-of-way to all vehicles approaching on the street.

4. House of Use. It is unlawful for any person to use roller blades, roller skates, roller skis or a skateboard upon a public street, sidewalk, or other roadway from 10:00 p.m. to 6:00 a.m., except on private property with express permission of owner, and except if the roller blades, roller skates, roller skis, skateboard or operator are equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of head lamps on a motor vehicle. The reflective material shall be a minimum of 40 square inches. All reflective materials used in compliance with this section shall meet the requirements as prescribed by the Commissioner of Public Safety.
5. Violations. A person apprehended by a peace office in violation of the provisions of this section, by his or he use of the public sidewalks, streets, and public parking lots, consent to the impoundment by a police officer of the roller blades, roller skates, roller skis or skateboard for a period of three days upon a first offense, a week upon the second offense and 30 days upon a third or additional offense. Any operator aggrieved by the impoundment by his or her roller blades, roller skates, roller skis or skateboard may petition the City Council for a hearing thereon at the next regular City Council meeting following the impoundment. This provision is in addition to the provisions for fines and penalties as set forth in this Ordinance.

TITLE V: GENERAL REGULATIONS

SECTION I - ABANDONED PROPERTY

Section 5.1 - 1. Disposition of Abandoned Property

1. Procedure. Except for abandoned and junked vehicles, all property lawfully coming into possession of the city shall be disposed of as provided in this section which is adopted pursuant to M.S. ' 471.195, as it may be amended from time to time. Abandoned and junked vehicles shall be disposed of according to the procedures of subsection 1 of Section 5.1-2.
2. Storage. The department of the city acquiring possession of the property shall arrange for its storage. If city facilities are unavailable or inadequate, the department may arrange for storage at a privately-owned facility.
3. Claim by Owner. The owner may claim the property by exhibiting satisfactory proof of ownership and paying the city any storage or maintenance costs incurred by it. A receipt for the property shall be obtained upon release to the owner.
4. Sale. If the property remains unclaimed in the possession of the city for 60 days, the property shall be sold to the highest bidder at a public auction conducted by the City Clerk or his or her designee after two weeks' published notice setting forth the time and place of the sale and the property to be sold.
5. Disposition of Proceeds. The proceeds of the sale shall be placed in the general fund of the city. If the former owner makes application and furnishes satisfactory proof of ownership within six months of the sale, the former owner shall be paid the proceeds of the sale of the property less the costs of storage and the proportionate part of the cost of published notice and other costs of the sale.

Section 5.1 - 2. Abandoned Vehicles

1. Findings and Purpose. M.S. Ch. 168B, and Minn. Rules Ch. 7035, as they may be amended from time to time, are hereby adopted by reference. Sections 5.1-2 through 5.1-12 of this code are adopted under the authority of M. S. § 168B.09, Subd. 2, as it may be amended from time to time. If any of these provisions are less stringent than the provisions of MS. § 168B or Minn. Rules Ch. 7035, as it may be amended from time to time, the statute or rule shall take precedence.

Section 5.1 - 3. Definitions

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. Abandoned Vehicle.

- A. A motor vehicle, as defined in MS. § 169.01 as it may be amended from time to time, that has remained illegally:
 - i. for a period of more than 48 hours on any property owned or controlled by a unit of government,
 - ii. or more than four hours on that property when it is properly posted.
- B. On private property for a period of time, as determined under Subdivision 2 of Section 5.1-5, without the consent of the person in control of the property; and
- C. Lacks vital component parts or is in an inoperable condition that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.
- D. A classic car or pioneer car, as defined in M.S. § 168.10 as it may be amended from time to time, is not considered an abandoned vehicle.
- E. Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with MS. § 161.242 as it may be amended from time to time, or that are licensed and maintained in accordance with local laws and zoning regulations, are not considered abandoned vehicles.
- F. A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ or court order is in effect.

2. **Department.** The Minnesota Department of Public Safety.

3. **Impound.** To take and hold a vehicle in legal custody. There are two types of impounds: public and nonpublic.

4. **Impound Lot Operator or Operator.** A person who engages in impounding or storing, usually temporarily, unauthorized or abandoned vehicles. **Operator** includes an operator of a public or nonpublic impound lot, regardless of whether tow truck service is provided.

5. **Junk Vehicle** A vehicle that:

- A. Is three years old or older;
- B. Is extensively damaged, with the damage including things as broken or missing wheels, motor, drive train or transmission;

- C. Is apparently inoperable;
 - D. Does not have a valid, current registration plate; and
 - E. Has an approximate fair market value equal only to the approximate value of the scrap in it.
6. **Motor Vehicle/ Vehicle.** Has the meaning given “motor vehicle” in M. S. § 169.01, as it may be amended from time to time.
 7. **Motor Vehicle Waste.** Solid waste and liquid wastes derived in the operation of or in the recycling of a motor vehicle, including such things as tires and used motor oil, but excluding scrap metal.
 8. **MPCA or Agency** The Minnesota Pollution Control Agency.
 9. **Nonpublic Impound Lot.** An impound lot that is not a public impound lot.
 10. **Public Impound Lot;** An impound lot owned by or contracting with a unit of government under Section 5.1-11.
 11. **Unauthorized Vehicle.** A vehicle that is subject to removal and impoundment pursuant to subsection 2 of Section 5.1-5. § 169.041 as it may be amended from time to time, but is not a junk vehicle or an abandoned vehicle.
 12. **Unit of Government.** Includes a state department or agency, a special purpose district, and a county, statutory or home rule charter city, or town.
 13. **Vital Component parts.** Those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including such things as the motor, drive train and wheels.

Section 5.1 - 4. Violation to Abandon Motor Vehicles.

Any person who abandons a motor vehicle on any public or private property, without the consent of the person in control of the property, is guilty of a misdemeanor.

Section 5.1 - 5. Authority to Impound Vehicles.

1. *Abandoned or junk vehicles.* The City Clerk or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle if the vehicle is on public property. If the abandoned or junk vehicle is located on private property, the vehicle shall not be removed or impounded until the provisions of subdivision 3 of section 5.1-5 are complied with.
2. *Unauthorized vehicles.* The City Clerk, or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any unauthorized vehicle under MS. § 169.041 as it may be amended from time to time. A vehicle may also be impounded

after it has been left unattended in one of the following public or private locations for the indicated period of time:

- A.** In a public location not governed by MS. § 169.041 as it may be amended from time to time:
 - i.** On a highway and properly tagged by a peace officer, four hours;
 - ii.** Located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately; or
 - iii.** That is a parking facility or other public property owned or controlled by a unit of government, properly posted, four hours; or
- B.** On private property, only with the express permission of the owner of the property, a resident or other person in control of the premises:
 - i.** That is single-family or duplex residential property, immediately;
 - ii.** That is private, nonresidential property, property posted, immediately;
 - iii.** That is private, nonresidential property, not posted, 24 hours; or
 - iv.** That is any residential property, properly posted, immediately.
- C.** If under subsection ii of subdivision B of this section, permission is not granted, then the city shall not remove and impound any vehicle until the procedure established in subsection ii of subdivision B of this section have been followed.

- 3.** If the vehicle is on private property, the City Clerk or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle on private property only with the permission of the owner of the property, a resident, or other person in control of the premises. If permission is denied, the city may declare the existence of the abandoned or junk vehicle to be a nuisance and proceed to abate the nuisance as provided for in Section 5.3-3 through 5.3-9. Once the abatement procedure has been completed, the city may apply for an order from a court of competent jurisdiction authorizing the removal and impoundment of the vehicle and, after the order has been granted, the city may then remove and impound the vehicle.

Section 5.1 - 6. Sale; Waiting Periods.

1. *Sale after 15 days.* An impounded vehicle is eligible for disposal or sale under Section 5.1-11 15 days after notice to the owner, if the vehicle is determined to be:
 - A. A junk vehicle, except that it may have a valid, current registration plate and still be eligible for disposal or sale under this subdivision; or
 - B. An abandoned vehicle.
2. *Sale after 45 days.* An impounded vehicle is eligible for disposal or sale under Section 5.1-11, 45 days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle.

Section 5.1 - 7. Notice of Taking and Sale.

1. *Contents; notice given within five days.* When an impounded vehicle is taken into custody, the city or impound lot operator taking it into custody shall give notice of the taking within five days. The notice shall:
 - A. Set forth the date and place of the taking; the year, make, model and serial number of the impounded motor vehicle if the information can be reasonably obtained; and the place where the vehicle is being held;
 - B. Inform the owner and any lienholders of their right to reclaim the vehicle under Section 5.1-8; and
 - C. State that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under Section 5.1-6 shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to Section 5.1-11.
2. *Notice by mail or publication.* The notice shall be sent by mail to the registered owner, if any, of an impounded vehicle and to all readily identifiable lienholders of record. The Department makes this information available to impound lot operators for notification purposes. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy.

3. *Unauthorized vehicles; notice.* If an unauthorized vehicle remains unclaimed after 30 days from the date the notice was sent, a second notice shall be sent by certified mail, return receipt requested, to the registered owner, if any, of the unauthorized vehicle and to all readily identifiable lienholders of record.

Section 5.1 - 8. Right to Reclaim.

1. *Payment of charges.* The owner or any lienholder of an impounded vehicle shall have a right to reclaim the vehicle from the city or impound lot operator taking it into custody upon payment of all towing and storage charges resulting from taking the vehicle into custody within 15 or 45 days, as applicable under section 5.1-6 after the date of the notice required by Section 5.1-7.
2. *Lienholders.* Nothing in this chapter shall be construed to impair any lien of a garagekeeper under the laws of this state, or the right of a lienholder to foreclose. For the purposes of this section, *GARAGEKEEPER* is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

Section 5.1 - 9. Operator's Deficiency Claim; Implied Consent to Sale.

1. *Deficiency claim.* The nonpublic impound lot operator has a deficiency claim against the registered owner of the vehicle for the reasonable costs of services provided in the towing, storage and inspection of the vehicle minus the proceeds of the sale or auction. The claim for storage costs may not exceed the costs of:
 - A. 15 days storage for a vehicle described in subsection 1 of Section 5.1-6; and
 - B. 45 days storage for a vehicle described in subsection 2 of Section 5.1-6.
2. *Implied consent to sale.* A registered owner who fails to claim the impounded vehicle within the applicable time period allowed under Section 5.1-6 is deemed to waive any right to reclaim the vehicle and consents to the disposal or sale of the vehicle and its contents and transfer of title.

Section 5.1 - 10. Disposition by Impound Lot.

1. *Auction or sale.*
 - A. If an abandoned or unauthorized vehicle and contents taken into custody by the city or any impound lot is not reclaimed under

Section 5.1-8, it may be disposed of or sold at auction or sale when eligible pursuant to Sections 5.1-6 and 5.1-7.

- B. The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.
2. *Unsold vehicles*, Abandoned or junk vehicles not sold by the city or public impound lots pursuant to subdivision 1 of this section shall be disposed of in accordance with Section 5.1-11.
 3. *Sale proceeds; public entities*. From the proceeds of a sale under this section by the city or public impound lot of an abandoned or unauthorized motor vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred in handling the vehicle pursuant to this chapter. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the treasury of the city.
 4. *Sale proceeds; nonpublic impound lots*. The operator of a nonpublic impound lot may retain any proceeds derived from a sale conducted under the authority of subdivision 1 of this section. The operator may retain all proceeds from sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owners agent before the sale, except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency.

Section 5.1 - 11. Disposal Authority.

The city may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal. The city may utilize its own equipment and personnel only for the collection and storage of not more than five abandoned or unauthorized vehicles without advertising for or receiving bids in any 120-day period.

Section 5.1 - 12. Contracts; Reimbursement by MPCA.

1. *MPCA review and approval*. If the city proposes to enter into a contract with a person licensed by the MPCA pursuant to this section or a contract pursuant

to Section 5.1-11, the MPCA may review the proposed contract before it is entered into by the city, to determine whether it conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules. A contract that does so conform may be approved by the MPCA and entered into by the city. Where a contract has been approved, the MPCA may reimburse the city for the costs incurred under the contract that have not been reimbursed under Section 5.1-10. Except as otherwise provided in Section 5.1-11, the MPCA shall not approve any contract that has been entered into without prior notice to and without a request for bids from all persons duly licensed by the MPCA to be a party to a disposal contract pursuant to M.S. § 116.07, as it may be amended from time to time; nor that does not provide for a full performance bond; or does not provide for total collection and transportation of abandoned motor vehicles, except that the MPCA may approve a contract covering solely collection or transportation of abandoned motor vehicles where the MPCA determines total collection and transportation to be impracticable and where all other requirements herein have been met and the unit of government, after proper notice and request for bids, has not received any bid for total collection and transportation of abandoned motor vehicles.

2. *The city may perform work.* If the city utilizes its own equipment and personnel pursuant to its authority under Section 5.1-11, and the use of the equipment and personnel conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules, the city may be reimbursed by the MPCA for reasonable costs incurred which are not reimbursed under Section 5.1-10.
3. *The city required to contract work.* The MPCA may demand that the city contract for the disposal of abandoned motor vehicles and other scrap metal pursuant to the MPCAS plan for solid waste disposal. If the city fails to contract within 180 days of the demand, the MPCA, through the Department of Administration and on behalf of the city, may contract with any person duly licensed by the MPCA for the disposal.

SECTION II - ANIMALS

Section 5.2 - 1. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. **Animal.** Any mammal, reptile, amphibian, fish, bird (including all fowl and poultry) or other member commonly accepted as a part of the animal kingdom. Animals shall be classified as follows:
2. **Domestic Animals.** Those animals commonly accepted as domesticated household pets. Unless otherwise defined, domestic animals shall include dogs, cats, caged birds, gerbils, hamsters, guinea pigs, domesticated rabbits, fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians, and other similar animals.
3. **Farm Animals.** Those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, farm animals shall include members of the equine family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stable.
4. **Non-Domestic Animals.** Those animals commonly considered to be naturally wild and not naturally trained or domesticated, or which are commonly considered to be inherently dangerous to the health, safety, and welfare of people. Unless otherwise defined, non-domestic animals shall include:
 - A. Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.
 - B. Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.
 - C. Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.
 - D. Any member or relative of the rodent family including any skunk (whether or not descended), raccoon, squirrel, or ferret, but excluding those members otherwise defined or commonly accepted as domesticated pets.
 - E. Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

- F. Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.
- 5. **At Large.** Off the premises of the owner and not under the custody and control of the owner or other person, either by leash, cord, chain, or otherwise restrained or confined.
- 6. **Cat.** Both the male and female of the felidae species commonly accepted as domesticated household pets.
- 7. **Dog.** Both the male and female of the canine species, commonly accepted as domesticated household pets, and other domesticated animals of a dog kind.
- 8. **Owner.** Any person or persons, firm, association or corporation owning, keeping, or harboring an animal.
- 9. **Release Permit.** A permit issued by the Animal Control Officer or other person in charge of the pound for the release of any animal that has been taken to the pound. A release permit may be obtained upon payment of a fee to the City Clerk in accordance with the regular license requirement if the animal is unlicensed, payment of a release fee, and any maintenance costs incurred in capturing and impounding the animal. The release fee shall be as established in the Ordinance Establishing Fees and Charges adopted pursuant to Section 2.1-11 as it may be amended from time to time.

Section 5.2 - 2. Dogs and Cats.

- 1. *Running at large prohibited.* It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading “Dogs or Cats Prohibited.”
- 2. *Vaccination.*
 - A. All dogs and cats kept harbored, maintained, or transported within the city shall be vaccinated at least once every three years by a licensed veterinarian for:
 - i. Rabies - with a live modified vaccine; and
 - ii. Distemper.
 - B. A certificate of vaccination must be kept on which is stated the date of vaccination, owner’s name and address, the animal’s name (if applicable), sex, description and weight, the type of vaccine, and the

veterinarian's signature. Upon demand made by the City Clerk, the Animal Control Officer or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the City Clerk or officer. Failure to do so shall be deemed a violation of this section.

Section 5.2 - 3. Non-Domestic Animals.

It shall be illegal for any person to own, possess, harbor, or offer for sale, any non-domestic animal within the city. Any owner of a non-domestic animal at the time of adoption of this code shall have 30 days in which to remove the animal from the city after which time the city may impound the animal as provided for in this section. An exception shall be made to this prohibition for animals specifically trained for and actually providing assistance to the handicapped or disabled, and for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Section 5.2 - 4. Farm Animals.

Farm animals shall only be kept in an agricultural district of the city, or on a residential lot of at least ten acres in size provided that no animal shelter shall be within 300 feet of an adjoining piece of property. An exception shall be made to this section for those animals brought into the city as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

Section 5.2 - 5. Impounding.

1. *Running at large.* Any animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The Animal Control Officer or police officer shall not enter the property of the owner of an animal found running at large or the owner of an animal unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal. In case the owner is unknown, the officer shall post notice at the city office that if the dog or other animal is not claimed within the time specified in subdivision 3 of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

2. *Biting animals.* Any animal that has not been inoculated by a live modified rabies vaccine and which has bitten any person, wherein the skin has been punctured or the services of a doctor are required, shall be confined in the city pound for a period of not less than ten days, at the expense of the owner. The animal may be released at the end of the time if healthy and free from symptoms of rabies, and by the payment of all costs by the owner. However, if the owner of the animal shall elect immediately upon receipt of notice of need for the confinement by the officer to voluntarily and immediately confine the animal for the required period of time in a veterinary hospital of the owner's choosing, not outside of the county in which this city is located, and provide immediate proof of confinement in the manner as may be required, the owner may do so. If, however, the animal has been inoculated with a live modified rabies vaccine and the owner has proof of the vaccination by a certificate from a licensed veterinarian, the owner may confine the dog or other animal to the owner's property.
3. *Reclaiming.* All animals conveyed to the pound shall be kept, with humane treatment and sufficient food and water for their comfort, at least five regular business days, unless the animal is a dangerous animal as defined under § 91 . 11 in which case it shall be kept for seven regular business days or the times specified in Section 5.2-12, and except if the animal is a cruelly-treated animal in which case it shall be kept for ten regular business days, unless sooner reclaimed by their owners or keepers as provided by this section. In case the owner or keeper shall desire to reclaim the animal from the pound, the following shall be required, unless otherwise provided for in this code or established from time to time by resolution of the City Council:
 - A. Payment of the release fee and receipt of a release permit as established by the Ordinance Establishing Fees and Charges adopted pursuant to Section 2.1-11 of this code, as that ordinance may be amended from time to time.
 - B. Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in the pound; and
 - C. And valid certificate of vaccination for rabies and distemper shots is required.
4. *Unclaimed animals.* At the expiration of the times established in subdivision 3 of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the animal by complying with all provisions in this section, or the officer may sell the animal to the University of Minnesota, or cause the animal to be destroyed in a proper and humane manner and

shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Clerk.

Section 5.2 - 6. Kennels.

1. *Definition of kennel.* The keeping of three or more dogs on the same premises, whether owned by the same person or not and for whatever purpose kept, shall constitute a “kennel;” except that a fresh litter of pups may be kept for a period of three months before that keeping shall be deemed to be a “kennel.”
2. *Kennel as a nuisance.* Because the keeping of three or more dogs on the same premises is subject to great abuse, causing discomfort to persons in the area by way of smell, noise, hazard, and general aesthetic depreciation, the keeping of three or more dogs on the premises is hereby declared to be a nuisance and no person shall keep or maintain a kennel within the city.

Section 5.2 - 7. Nuisances.

1. *Habitual barking.* It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. Habitual barking shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner’s or caretaker’s premises.
2. *Damage to property.* It shall be unlawful for any person’s dog or other animal to damage any lawn, garden, or other property, whether or not the owner has knowledge of the damage.
3. *Cleaning up litter.* The owner of any animal or person having the custody or control of any animal shall be responsible for cleaning up any feces of the animal and disposing of the feces in a sanitary manner whether on their own property, on the property of others or on public property.
4. *Warrant required.* The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal.
5. *Other.* Any animals kept contrary to this section are subject to impoundment as provided in Section 5.2-5.

Section 5.2 - 8. Seizure of Animals.

Any police officer or Animal Control Officer may enter upon private property and seize any animal with the permission of the owner of the property, if that person is also the owner of the animal, provided that the following exist:

1. There is an identified complainant other than the police officer or Animal Control Officer making a contemporaneous complaint about the animal;
2. The officer reasonably believes that the animal meets either the barking dog criteria set out in subsection 1 of Section 5.2-7; the criteria for cruelty set out in § 91. 13; or the criteria for an at large animal set out in subdivision 5 of Section 5.2-1;
3. The officer can demonstrate that there has been at least one previous complaint of a barking dog; inhumane treatment of the animal; or that the animal was at large at this address on a prior date;
4. The officer has made a reasonable attempt to contact the owner of the animal and the property to be entered and those attempts have either failed or have been ignored;
5. The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal. If the officer has the permission of the owner, a property manager, landlord, innkeeper, or other authorized person to enter the property or has obtained a pass key from a property manager, landlord, innkeeper, or other authorized person to have that key shall not be considered unauthorized entry, and a warrant to search for and seize the animal need not be obtained; and
6. Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

Section 5.2 - 9. Animals Presenting a Danger to the Health and Safety of the City.

If, in the reasonable belief of any person or the Animal Control Officer or police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner whether or not the animal is on the property of its owner. Otherwise, the person or officer may apprehend the animal and deliver it to the pound for confinement under Section 5.2-5. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is

found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with subdivision 3 of Section 5.2-5.

Section 5.2 - 10. Diseased Animals.

1. *Running at large.* No person shall keep or allow to be kept on his or her premises, or on premises occupied by them, nor permit to run at large in the city, any animal which is diseased so as to be a danger to the health and safety of the city, even though the animal be properly licensed under this section, and a warrant to search for and seize the animal is not required.
2. *Confinement.* Any animal reasonably suspected of being diseased and presenting a threat to the health and safety of the public, may be apprehended and confined in the pound by any person, the Animal Control Officer or a police officer, The officer shall have a qualified veterinarian examine the animal. If the animal is found to be diseased in a manner so as to be a danger to the health and safety of the city, the officer shall cause the animal to be painlessly killed and shall properly dispose of the remains. The owner or keeper of the animal killed under this section shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examinations.
3. *Release.* If the animal, upon examination, is not found to be diseased the animal shall be released to the owner or keeper free of charge.

Section 5.2 - 11. Dangerous Animals.

1. Dangerous animals shall be subject to provisions of Minnesota Statute. For dogs and cats, dangerous animals shall be handled in a manner consistent with Minnesota Statutes Chapter 347.50 through 347.565.

Section 5.2 - 12. Dangerous Animals Requirements.

1. *Requirements.* If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:
 - A. That the owner provide and maintain a proper enclosure for the dangerous animal as specified in subsection (C) of subdivision 3 of section 5.2-11;
 - B. Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that there is a dangerous animal on the property as specified in M,S. § 347.51 as may be amended from time to time;
 - C. Provide and show proof annually of public liability insurance in the minimum amount of \$300,000;

- D. If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;
 - E. If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. § 347.51 as it may be amended from time to time, and shall have a microchip implant as provided by M.S. § 347.151, as it may be amended from time to time;
 - F. All animals deemed dangerous by the Animal Control Officer shall be registered with the county in which this city is located within 14 days after the date the animal was so deemed and provide satisfactory proof thereof to the Animal Control Officer.
 - G. If the animal is a dog, the dog must be licensed and up to date on rabies vaccination. If the animal is a cat or ferret, it must be up to date with rabies vaccination.
2. *Seizure.* As authorized by MS. § 347.54, as it may be amended from time to time, the Animal Control Officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.
 3. *Reclaiming animals.* A dangerous animal seized under Section 5.2-12, may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to animal control that each of the requirements under subdivision 2 of Section 5.2-12, is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under subdivision 6 of Section 5.2-11, and the owner is liable to the city for costs incurred in confining and impounding the animal.
 4. *Subsequent offenses.* If an owner of an animal has subsequently violated the provisions under Section 5.2-11 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in subdivision 6 of Section 5.2-11. If the owner is found to have violated the provisions for which the animal was seized, the Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of subdivision 3 of Section 5.2-12.

If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under subdivision 6 of Section 5.2-11 and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

Section 5.2 - 13. Basic Care.

All animals shall receive from their owners or keepers kind treatment, housing in the winter, and sufficient food and water for their comfort. Any person not treating their pet in a humane manner will be subject to the penalties provided in this section.

Section 5.2 - 14. Breeding Moratorium.

Every female dog or female cat in heat shall be confined in a building or other enclosure in a manner that it cannot come in contact with another dog or cat except for planned breeding. Upon capture and failure to reclaim the animal, every dog or cat shall be neutered or spayed prior to being transferred to a new owner.

Section 5.2 - 15. Enforcing Officer.

The Council is hereby authorized to appoint an animal control officer(s) to enforce the provisions of this section. In the officers duty of enforcing the provisions of this section, he or she may from time to time, with the consent of the City Council, designate assistants.

Section 5.2 - 16. Pound.

Every year the Council shall designate an official pound to which animals found in violation of this chapter shall be taken for safe treatment, and if necessary, for destruction.

Section 5.2 - 17. Interference with Officers.

No person shall in any manner molest, hinder, or interfere with any person authorized by the City Council to capture dogs, cats or other animals and convey them to the pound while engaged in that operation. Nor shall any unauthorized person break open the pound, or attempt to do so, or take or attempt to take from any agent any animal taken up by him or her in compliance with this chapter, or in any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter.

Section 5.2 - 18. Penalty.

1. *Separate offenses.* Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable under this section.

2. *Misdemeanor.* Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in Section 1.1-19.
3. *Petty misdemeanor.* Violations of this chapter are petty misdemeanors punishable as provided in Section 1.1-19.

SECTION III - HEALTH AND SAFETY; NUISANCES

Section 5.3 - 1. General Provisions

1. Assessable Current Services

A. *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

i. ***Current Service.*** Shall mean one or more of the following: snow, ice, or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. § 463.15 through 463.26 as they may amended from time to time; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

ii. ***Snow, ice, dirt and rubbish***

a. ***Duty of owners and occupants.*** The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation.

b. ***Removal by city.*** The City Clerk or other person designated by the City Council may cause removal from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall. The City Clerk or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

iii. ***Public health and safety hazards.*** When the city removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the

administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the City Clerk.

iv. ***Installation and repair of water service lines.*** Whenever the city installs or repairs water service lines serving private property, the City Clerk shall keep a record of the total cost of the installation or repair against the property.

v. ***Repair of sidewalks and alleys***

a. ***Duty of owner.*** The owner of any property within the city abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the City Council and on file in the office of the City Clerk.

b. ***Inspections; notice.*** The City Council or its designee shall make inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles. If it is found that any sidewalk or alley abutting on private property is unsafe and in need of repairs, the City Council shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property, ordering the owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the city will do so and that the expense thereof must be paid by the owner, and if unpaid it will be made a special assessment against the property concerned.

c. ***Repair by city.*** If the sidewalk or alley is not repaired within 30 days after receipt of the notice, the City Clerk shall report the facts to the City Council and the City Council shall by resolution order the work done by contract in accordance with law. No person shall enter private property to repair a sidewalk, except with the permission of the owner or after obtaining an administrative warrant. The City Clerk shall keep a record of the total cost of the repair attributable to each lot or parcel of property.

- vi. ***Personal liability.*** The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service. As soon as the service has been completed and the cost determined, the City Clerk, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Clerk.
- vii. ***Damage to public property.*** Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object or contrivance, but is operating, driving or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. § 514.67, as it may be amended from time to time.
- viii. ***Assessment.*** On or before October 31 of each year, the City Clerk shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges against property benefited as a special assessment under the authority of M . S. § 429. 101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Section 5.3 - 2. Tree Diseases.

1. *Trees constituting nuisance declared.* The following are public nuisances whenever they may be found within the city:
 - A. Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus *Ceratocystis Ulmi (Buisman) Moreau* or which harbors any of the elm bark beetles *Scolytus Multistriatus (Eichh.)* or *Hylungopinus Rufipes (Marsh)*;
 - B. Any dead elm tree or part thereof, including branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;
 - C. Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt fungus *Ceratocystis fagacearum*;
 - D. Any dead oak tree or part thereof which in the opinion of the designated officer constitutes a hazard, including but not limited to logs, branches, stumps, roots, firewood or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide;
 - E. Any other shade tree with an epidemic disease.
2. *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance as defined in subdivision 1 of this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in Sections 5.3-10 and 5.3-11.
3. *Record of costs.* The City Clerk shall keep a record of the costs of abatement done under this section for all work done for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.
4. *Unpaid charges.* On or before September 1 of each year, the City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges or any portion thereof against the property involved as a special assessment as authorized by M.S. § 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.

Section 5.3 - 3. Public Nuisance.

Whoever by his or her act or failure to perform a legal duty intentionally does any of the following is guilty of maintaining a public nuisance, which is a misdemeanor:

1. Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;
2. Interferes with, obstructs or renders dangerous for passage any public highway or right-of-way, or waters used by the public; or
3. Is guilty of any other act or omission declared by law or Sections 5.3-4, 5.3-5 or 5.3-6, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.

Section 5.3 - 4. Public Nuisances Affecting Health.

The following are hereby declared to be nuisances affecting health:

1. Exposed accumulation of decayed or unwholesome food or vegetable matter;
2. All diseased animals running at large;
3. All ponds or pools of stagnant water;
4. Carcasses of animals not buried or destroyed within 24 hours after death;
5. Accumulations of manure, refuse or other debris;
6. Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
7. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;
8. All noxious weeds and other rank growths of vegetation upon public or private property;
9. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;
10. All public exposure of people having a contagious disease; and
11. Any offensive trade or business as defined by statute not operating under local license.

Section 5.3 - 5. Public Nuisances Affecting Morals and Decency.

The following are hereby declared to be nuisances affecting public morals and decency:

1. All gambling devices, slot machines and punch boards, except as otherwise authorized by federal, state or local law;
2. Betting, bookmaking and all apparatus used in those occupations;
3. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;

4. All places where intoxicating liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort for the purpose of drinking intoxicating liquor, or where intoxicating liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place;
5. Any vehicle used for the unlawful transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

Section 5.3 - 6. Public Nuisances Affecting Peace And Safety.

The following are declared to be nuisances affecting public peace and safety:

1. All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;
2. All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
3. All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
4. All obnoxious noises in violation of Minn. Rules Ch. 7030, as they may be amended from time to time which are hereby incorporated by reference into this code;
5. The discharging of the exhaust or permitting the discharging of the exhaust of any stationary internal combustion engine, motor boat, motor vehicle, motorcycle, all terrain vehicle, snowmobile or any recreational device except through a muffler or other device that effectively prevents loud or explosive noises there from and complies with all applicable state laws and regulations;
6. The using or operation or permitting the using or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to create a public nuisance, as described in Minnesota Statute 609.74. Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 am. in a manner so as to be plainly audible at the property line of the structure or building in which it is located, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of violation of this section;
7. No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to

- disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped;
8. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this code or other applicable law;
 9. Radio aerials or television antennae erected or maintained in a dangerous manner;
 10. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
 11. All hanging signs, awnings and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
 12. The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
 13. Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
 14. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
 15. Waste water cast upon or permitted to flow upon streets or other public properties;
 16. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats, mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation;
 17. Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;
 18. Obstruction to the free flow of water in a natural waterway or a public Street drain, gutter or ditch with trash of other materials;
 19. The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;
 20. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

21. All other conditions or things which are likely to cause injury to the person or property of anyone.

22. *Noises prohibited*

- A. *General prohibition.* No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of the public as described in Minnesota statute 609.74. This general prohibition is not limited by the specific restrictions of this section.
- B. *Defective vehicles or loads.* No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.
- C. *Loading, unloading, unpacking.* No person shall create loud or excessive noise in loading, unloading, or unpacking any vehicle.
- D. *Radios, phonographs, paging systems, and the like.* No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.
- E. *Schools, churches, hospitals, and the like.* No person shall create any excessive noise on a street, alley or public grounds adjacent to any school, institution of learning, church or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

23. *Hourly restriction of certain operations*

- A. *Domestic power equipment.* No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

- B. *Refuse hauling.* No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 10:00p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.
 - C. *Construction activities.* No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.
24. *Noise impact statements.* The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. It shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.
25. Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one footcandle when abutting any commercial or industrial parcel.
26. Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel and one footcandle when abutting any commercial or industrial parcel.

Section 5.3 - 7. Nuisance Parking and Storage.

1. *Declaration of nuisance.* The outside parking and storage on residentially-zoned property of large numbers of vehicles and vehicles, materials, supplies or equipment not customarily used for residential purposes in violation of the requirements set forth below is declared to be a public nuisance because it (a) obstructs views on streets and private property, (b) creates cluttered and otherwise unsightly areas, (c) prevents the full use of residential streets for residential parking, (d) introduces commercial advertising signs into areas where commercial advertising signs are otherwise prohibited, (e) decreases adjoining landowners' and occupants' enjoyment of their property and neighborhood, and (1) otherwise adversely affects property values and neighborhood patterns.
2. *Unlawful parking and storage.*

- A. A person must not place, store, or allow the placement or storage of ice fish houses, skateboard ramps, playhouses or other similar non-permanent structures outside continuously for longer than 24 hours in the front-yard area of residential property unless more than 100 feet back from the front property line.
- B. A person must not place, store, or allow the placement or storage of pipe, lumber, forms, steel, machinery, or similar materials, including all materials used in connection with a business, outside on residential property, unless shielded from public view by an opaque cover or fence.
- C. A person must not cause, undertake, permit or allow the outside parking and storage of vehicles on residential property unless it complies with the following requirements:
 - i. No more than four vehicles per lawful dwelling unit may be parked or stored anywhere outside on residential property, except as otherwise permitted or required by the city because of nonresidential characteristics of the property. This maximum number does not include vehicles of occasional guests who do not reside on the property.
 - ii. Vehicles that are parked or stored outside in the front-yard area must be on a paved or graveled parking or driveway area.
 - iii. Vehicles, watercraft and other articles stored outside on residential property must be owned by a person who resides on that property. Students who are away at school for periods of time but still claim the property as their legal residence will be considered residents on the property.

Section 5.3 - 8. Inoperable Motor Vehicles.

1. It shall be unlawful to keep, park, store or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling or salvage of any kind, or which is not properly licensed for operation with the state, pursuant to M . S. § 168B .011, Subd. 3, as it may be amended from time to time.
2. This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road or alley, and which does not foster complaint from a resident of the city. A privacy fence is permissible.
3. Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that such vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin and

present physical danger to the safety and well-being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.

Section 5.3 - 9. Building Maintenance and Appearance.

1. *Declaration of nuisance.* Buildings, fences and other structures that have been so poorly maintained that their physical condition and appearance detract from the surrounding neighborhood are declared to be public nuisances because they (a) are unsightly, (b) decrease adjoining landowners and occupants' enjoyment of their property and neighborhood, and (c) adversely affect property values and neighborhood patterns.
2. *Standards.* A building, fence or other structure is a public nuisance if it does not comply with the following requirements:
 - A. No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.
 - B. Every exterior surface that has had a surface finish such as paint applied must be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface may have peeling, cracked, chipped or otherwise deteriorated surface finish on more than 20% of:
 - i. Any one wall or other flat surface; or
 - ii. All door and window moldings, eaves, gutters, and similar projections on any one side or surface.
 - iii. No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.
 - iv. Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.
 - v. Cornices, moldings, lintels, sills, bay or dormer windows and similar projections must be kept in good repair and free from cracks and defects that make them hazardous or unsightly.
 - vi. Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.
 - vii. Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof,

- viii. Foundations must be structurally sound and in good repair.

Section 5.3 - 10. Duties of City Officers.

For purposes of Sections 5.3-10 and 5.3-11, the Police Department, or Sheriff or person designated by the City Council under § 10.20, if the city has at the time no Police Department, may enforce the provisions relating to nuisances. Any peace officer or designated person shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no police officer or designated person shall enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing the entry, as provided in § 10.20.

Section 5.3 - 11. Abatement.

1. *Notice.* Written notice of violation; notice of the time, date, place and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this section.
 - A. *Notice of violation.* Written notice of violation shall be served by a peace officer or designated person on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.
 - B. *Notice of City Council hearing.* Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.
 - C. *Notice of City Council order.* Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

D. *Notice of motion for summary enforcement.* Written notice of any motion for summary enforcement shall be made as provided for in MS. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

2. *Procedure.* Whenever a peace officer or designated person determines that a public nuisance is being maintained or exists on the premises in the city, the officer or person designated shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the officer or designated person shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.
3. *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in subdivisions 1 and 2 of this section will permit a continuing nuisance to unreasonably endanger public health safety or welfare, the City Council may order summary enforcement and abate the nuisance, To proceed with summary enforcement, the officer or designated person shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement of the nuisance will unreasonably endanger public health, safety or welfare. The officer or designated person shall notify in writing the occupant or owner of the premises of the nature of the nuisance and of the city's intention to seek summary enforcement and the time and place of the City Council meeting to consider the question of summary enforcement. The City Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subdivision 1 of this section, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

4. *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition which poses an imminent and serious hazard to human life or safety.

Section 5.3 - 12. Recovery of Cost.

1. *Personal liability.* The owner of premises on which a nuisance has been abated by the city shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk or other official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk.
2. *Assessment.* After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other charges as well as other charges for current services to be assessed under M.S. § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Section IV – Weeds

Section 5.4 - 1. Short Title.

This subchapter shall be cited as the “Weed Ordinance.”

Section 5.4 - 2. Jurisdiction.

This subchapter shall be in addition to any state statute or county ordinance presently in effect, subsequently added, amended or repealed.

Section 5.4 - 3. Definitions; Exclusions.

3. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - A. ***DESTRUCTION ORDER***. The notice served by the City Council or designated city official, in cases of appeal, on the property owner of the ordinance violation.
 - B. ***PROPERTY OWNER***. The person occupying the property, the holder of legal title or a person having control over the property of another, such as a right-of-way, easement, license or lease.
 - C. ***WEEDS, GRASSES and RANK VEGETATION***. Includes but is not limited to the following:
 - i. Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cressleaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horsenettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sowthistle, Poison Hemlock, Purple Loosestrife, Quackgrass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip;
 - ii. Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated, or otherwise maintained for two consecutive years;
 - iii. Bushes of the species of tall, common, or European barberry, further known as *berberis vulgaris* or its horticultural varieties;
 - iv. Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding 12 inches;

- v. Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants;
 - vi. The term **WEEDS** does not include shrubs, trees, cultivated plants or crops.
- D. In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

Section 5.4 - 4. Owners Responsible For Trimming, Removal And The Like.

All property owners shall be responsible for the removal, cutting, or disposal and elimination of weeds, grasses and rank vegetation or other uncontrolled plant growth on their property, which at the time of notice, is in excess of 12 inches in height.

Section 5.4 - 5. Filing Complaint.

Any person, including the city, who believes there is property located within the corporate limits of the city which has growing plant matter in violation of this subchapter shall make a written complaint signed, dated and filed with the City Clerk. If the city makes the complaint, an employee, officer or Council Member of the city shall file the complaint in all respects as set out above.

Section 5.4 - 6. Notice of Violations.

1. Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the City Administrator shall make an inspection and prepare a written report to the City Administrator regarding the condition. The City Administrator, upon concluding that there is a probable belief that this subchapter has been violated, shall forward written notification in the form of a "Destruction Order" to the property owner or the person occupying the property as that information is contained within the records of the City Clerk or any other city agency. The notice shall be served in writing by certified mail. The notice shall provide that within seven regular business days after the receipt of the notice that the designated violation shall be removed by the property owner or person occupying the property.
2. All notices are to be in writing and all filings are to be with the City Clerk.
3. Certified mailing to the City Clerk or others is deemed filed on the date of posting to the United States Postal Service.

Section 5.4 - 7. Appeals.

1. The property owner may appeal by filing written notice of objections with the City Administrator within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the City Administrator. It is the property owner's responsibility to demonstrate that the matter in question is shrubs, trees, cultivated plants or crops or is not otherwise in violation of this subchapter, and should not be subject to destruction under the subchapter.
2. An appeal by the property owner shall be brought before the City Council and shall be decided by a majority vote of the Council Members in attendance and being at a regularly scheduled or special meeting of the City Council.

Section 5.4 - 8. Abatement by City.

In the event that the property owner shall fail to comply with the "Destruction Order" within seven regular business days and has not filed a notice within 48 hours to the City Clerk of an intent to appeal, the City Council may employ the services of city employees or outside contractors and remove the weeds to conform to this subchapter by all lawful means. No person shall enter the property to abate the nuisance, except with the permission of the owner, resident or other person in control of the property.

Section 5.4 - 9. Liability.

1. The property owner is liable for all costs of removal, cutting or destruction of weeds as defined by this subsection.
2. The property owner is responsible for all collection costs associated with weed destruction, including but not limited to court costs, attorney's fees and interest on any unpaid amounts incurred by the city. If the city uses municipal employees, it shall set and assign an appropriate per hour rate for employees, equipment, supplies and chemicals which may be used.
3. All sums payable by the property owner are to be paid to the City Clerk and to be deposited in a general fund as compensation for expenses and costs incurred by the city.
4. All sums payable by the property owner may be collected as a special assessment as provided by M.S. § 429. 101, as it may be amended from time to time.

Section V – Open Burning

Section 5.5 - 1. Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. ***FIRE CHIEF, FIRE MARSHAL, and ASSISTANT FIRE MARSHALS.***
The Fire Chief, Fire Marshal, and Assistant Fire Marshals of the Fire Department which provides fire protection services to the city.
2. ***OPEN BURNING.*** The burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct or chimney, except a “recreational fire” as defined herein. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers, and propane or natural gas devices are not defined as “open burning.”
3. ***RECREATIONAL FIRE.*** A fire set with approved starter fuel no more than three feet in height, contained within the border of a “recreational fire site” using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; for recreational, ceremonial, food preparation for social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards will not be created. No more than one recreational fire is allowed on any property at one time.
4. ***RECREATIONAL FIRE SITE.*** An area of no more than a three foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or blocks or ferrous metal only an which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fireplaces. Burning barrels are not a “recreation fire site” as defined herein. Recreational fire sites shall not be located closer than 25 feet to any structure.
5. ***STARTER FUELS.*** Dry, untreated, unpainted, kindling, branches, cardboard or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start an open burn.
6. ***WOOD.*** Dry, clean fuel only such as twigs, branches, limbs, “presto logs,” charcoal, cord wood or untreated dimensional lumber. The term does not include wood that is green with leaves or needles, rotten, wet, oil soaked,

or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three foot lengths.

Section 5.5 - 2. Prohibited Materials.

1. No person shall conduct, cause or permit open burning oils, petro fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood composite shingles, tar paper, insulation, composition board, sheet rock, wiring, paint or paint fillers.
2. No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures.
3. No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.
4. No person shall conduct, cause or permit open burning of any leaves or grass clippings.

Section 5.5 - 3. Permit Required For Open Burning.

No person shall start or allow any open burning on any property in the city without first having obtained an open burn permit, except that a permit is not required for any fire which is a recreational fire.

Section 5.5 - 4. Purposes Allowed For Open Burning.

1. Open burn permits may be issued only for the following purposes:
 - A. Elimination of fire of health hazard that cannot be abated by other practical means.
 - B. Ground thawing for utility repair and construction.
 - C. Disposal of vegetative matter for managing forest, prairie or wildlife habitat, and in the development and maintenance of land and rights-of-way where chipping, composting, landspreading or other alternative methods are not practical.
 - D. Disposal of diseased trees generated on-site, diseased or infected nursery stock, diseased bee hives.
 - E. Disposal of unpainted, untreated, non-glued lumber and wood shakes generated from construction, where recycling, reuse, removal or other alternative disposal methods are not practical.

2. Fire training permits can only issued by the Minnesota Department of Natural Resources.

Section 5.5 - 5. Permit Application For Open Burning; Permit Fees.

1. Open burning permits shall be obtained from the Department of Natural Resources (DNR).

Section 5.5 - 6. Burning Ban or Air Quality Alert.

No recreational fire or open burn will be permitted when the city or DNR has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert.

Section 5.5 - 7. Rules and Laws Adopted by Reference.

The provisions of M.S. § 88.16 to 88.22, as these statutes may be amended from time to time, are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

Section 5.5 - 8. Penalty.

Violation of any provision of this chapter, including maintaining a nuisance after being notified in writing by first class mail of a violation of any provision of this chapter, shall be a misdemeanor and punished as provided in § 10.99

SECTION VI - STREETS AND SIDEWALKS

Section 5.6- 1. General Provisions

1. Unloading on Street or Sidewalk. No person shall unload any heavy material in the streets of the city by throwing or letting the material fall upon the pavement of any Street, alley, sidewalk, or other public way, without first placing some sufficient protection over the pavement.
2. Street and Sidewalk Obstruction. No person shall obstruct any street, alley, sidewalk, or other public way within the city by erecting thereon any fence or building, or permitting any fence or building to remain thereon. Each day that any fence or building is permitted to remain upon the public way shall constitute a separate offense.
3. Materials on Street or Sidewalk. No person shall encumber any street or sidewalk. No owner, occupant, or person having the care of any building or lot of land, bordering on any street or sidewalk, shall permit it to be encumbered with barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof.

Section 5.6- 2. Right-of-way Construction Regulations

1. Election to Manage the Public Right-of-Way. In accordance with the authority granted to the city under state and federal statutory, administrative, and common law, the city hereby elects pursuant to this chapter to manage rights-of-ways within its jurisdiction.
2. Definitions and Adoption of Rules by Reference. Minn. Rules Ch. 7819, as it may be amended from time to time, is hereby adopted by reference and is incorporated into this code as if set out in full. The definitions included in Minn. Rules part 7819.0100 subps. 1 through 23, as it may be amended from time to time, are the definitions of the terms used in the following provisions of this subchapter.
3. Permit Requirements.
 - A. *Permit required*. Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate permit from the city.
 - i. *Excavation permit*. An excavation permit is required to excavate that part of the right-of- way described in the permit and to hinder free and open passage over the specified portion of the right- of-way by placing facilities described therein, to the extent and for the duration specified therein.

- ii. *Obstruction permit.* An obstruction permit is required to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.
 - B. *Permit extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless the person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and a new permit or permit extension is granted.
 - C. *Delay penalty.* In accordance with Minn. Rules part 7819.1000 subp. 3, as it may be amended from time to time and notwithstanding subdivision 2 of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by the Ordinance Establishing Fees and Charges, adopted pursuant to section 2.1-11 of this code, as it may be amended from time to time.
 - D. *Permit display.* Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Clerk, Utilities Superintendent or other person designated by the Council.
- 4. Permit Applications. Application for a permit shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:
 - A. Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following information:
 - i. Each permittee's name, gopher one-call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.
 - ii. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an

emergency shall be provided at the time of registration.

iii. A certificate of insurance or self-insurance:

- a. Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state, or a form of self-insurance acceptable to the Clerk, Utilities Superintendent or other person designated by the Council;
- b. Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the registrant, its officers, agents, employees, and permittees, and placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property;
- c. Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all coverages;
- d. Requiring that the Clerk, Utilities Superintendent or other person designated by the Council be notified 30 days in advance of cancellation of the policy or material modification of a coverage term;
- e. Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the Clerk, Utilities Superintendent or other person designated by the Council in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.

- B. The city may require a copy of the actual insurance policies.
- C. If the person is a corporation, a copy of the certificate required to be filed under M.S. § 300.06, as it may be amended from time to time as recorded and certified to by the Secretary of State.
- D. A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have the certificate from the Commission or other state or federal agency.
- E. Payment of money due the city for:
 - i. Permit fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to Section 2.1-11 of this code, as that ordinance may be amended from time to time, estimated restoration costs and other management costs;
 - ii. Prior obstructions or excavations;
 - iii. Any undisputed loss, damage, or expense suffered by the city because of the applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city; or
 - iv. Franchise fees or other charges as established by the Ordinance Establishing Fees and Charges adopted pursuant to Section 2.1-11 of this code, as that ordinance may be amended from time to time, if applicable.

5. Issuance of Permit; Conditions.

- A. *Permit issuance.* If the applicant has satisfied the requirements of this chapter, the Clerk, Utilities Superintendent or other person designated by the Council shall issue a permit.
- B. *Conditions.* The Clerk, Utilities Superintendent or other person designated by the Council may impose reasonable conditions upon the issuance of the permit and the performance of the applicant there under to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

6. Permit Fees. Permit fees shall be in an amount established in the Ordinance Establishing Fees and Charges, adopted pursuant to Section 2.1-11 as it may be amended from time to time.

- A. *Excavation permit fee.* The city shall establish an excavation permit fee as established by the Ordinance Establishing Fees and Charges

adopted pursuant to Section 2.1-11 of this code, as that ordinance may be amended from time to time, in an amount sufficient to recover the following costs:

- i. The city management costs; and
 - ii. Degradation costs, if applicable.
- B. *Obstruction Permit Fee.* The city shall establish the obstruction permit fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to Section 2.1-11 of this code, as that ordinance may be amended from time to time, and shall be in an amount sufficient to recover the city management costs.
- C. *Payment of permit fees.* No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay those fees within 30 days of billing.
- D. *Non-refundable.* Permit fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to Section 2.1-11 of this code, as that ordinance may be amended from time to time, that were paid for a permit that the Clerk, Utilities Superintendent or other person designated by the Council has revoked, are not refundable.
- E. *Application to franchises.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.
- F. All permit fees shall be established consistent with the provisions of Minn. Rules part 7819.100, as it may be amended from time to time.

7. Right-of-Way Patching and Restoration.

- A. *Timing.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under this subchapter.
- B. *Patch and restoration.* The permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.
- i. *City restoration.* If the city restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If following the restoration, the

pavement settles due to the permittee 's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with having to correct the defective work.

- ii. *Permittee restoration.* If the permittee restores the right-of-way itself, it may be required at the time of application for an excavation permit to post a construction performance bond or a deposit in accordance with the provisions of Minn. Rules part 7819.3000, as it may be amended from time to time.

C. *Standards.* The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rules part 7819.1100, as it may be amended from time to time. The Clerk, Utilities Superintendent or other person designated by the Council shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis.

D. *Duty to correct defects.* The permittee shall correct defects in patching, or restoration performed by the permittee or its agents. The permittee upon notification from the Clerk, Utilities Superintendent or other person designated by the Council, shall correct all restoration work to the extent necessary, using the method required by the Clerk, Utilities Superintendent or other person designated by the Council. The work shall be completed within five calendar days of the receipt of the notice from the Clerk, Utilities Superintendent or other person designated by the Council, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under this subchapter.

E. *Failure to restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the Clerk, Utilities Superintendent or other person designated by the Council, or fails to satisfactorily and timely complete all restoration required by the Clerk, Utilities Superintendent or other person designated by the Council, the Clerk, Utilities Superintendent or other person designated by the Council at his or her option may do the work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If the permittee fails

to pay as required, the city may exercise its rights under the construction performance bond.

- F. *Degradation fee in lieu of restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to Section 2.1-11 of this code, as that ordinance may be amended from time to time. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

8. Supplementary Applications.

- A. *Limitation on area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.
- B. *Limitation on dates.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

9. Denial of Permit. The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

10. Installation Requirements. The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules part 7819. 1100, as it may be amended from time to time and other applicable local requirements, in so far as they are not inconsistent with MS. § 237.162 and 237.163, as they may be amended from time to time.

11. Inspection.

- A. *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rules part 7819.1300, as it may be amended from time to time.
- B. *Site inspection.* The permittee shall make the work-site available to city personnel and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.
- C. *Authority of Clerk, Utilities Superintendent or other person designated by the Council.*
 - i. At the time of inspection, the Clerk, Utilities Superintendent or other person designated by the Council may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.
 - ii. The Clerk, Utilities Superintendent or other person designated by the Council may issue an order to the permittee 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 will be cause for revocation of the permit. Within ten days after issuance of the order, the permittee shall present proof to the Clerk, Utilities Superintendent or other person designated by the Council that the violation has been corrected. If proof has not been presented within the required time, the Clerk, Utilities Superintendent or other person designated by the Council may revoke the permit.

12. Work Done with out a Permit.

- A. *Emergency situations.*
 - i. Each person with facilities in the right-of-way shall immediately notify the city of any event regarding its facilities which it considers to be an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the owner shall apply for the necessary permits, pay the fees associated therewith and fulfill

the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

- ii. If the city becomes aware of an emergency regarding facilities, the city will attempt to contact the local representative of each facility owner affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the person whose facilities occasioned the emergency.

B. *Non-emergency situations.* Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for the permit, pay double all the other fees required by this code, deposit with the city the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.

13. Supplementary Notification. If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the Clerk, Utilities Superintendent or other person designated by the Council of the accurate information as soon as this information is known.

14. Revocation of Permits.

A. *Substantial breach.* The city reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by the permittee shall include, but shall not be limited, to the following:

- i. The violation of any material provision of the right-of-way permit;
- ii. An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- iii. Any material misrepresentation of fact in the application for a right-of-way permit;

- iv. The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittees control; or
- v. The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued.

- B. *Written notice of breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the city shall make a written demand upon the permittee to remedy that violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.
- C. *Response to notice of breach.* Within 24 hours of receiving notification of the breach, the permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. The permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.
- D. *Reimbursement of city costs.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with the revocation.

15. Mapping Data; Information Required. Each permittee shall provide mapping information required by the city in accordance with Minn. Rules parts 7819.4000 and 7819.4100, as it may be amended from time to time.

16. Location of Facilities.

- A. *Compliance required.* Placement, location, and relocation of facilities must comply with applicable laws, and with Minn. Rules parts 7819.3100, 7819.5000 and 7819.5100, as they may be amended from time to time, to the extent the rules do not limit authority otherwise available to cities.
- B. *Corridors.* The city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city

expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

C. *Limitation of space.* To protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use, the Clerk, Utilities Superintendent or other person designated by the Council shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making those decisions, the Clerk, Utilities Superintendent or other person designated by the Council shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

17. Damage to other Facilities. When the city does work in the right-of-way and finds it necessary to maintain, support, or move facilities to protect it, the Clerk, Utilities Superintendent or other person designated by the Council shall notify the local representative as early as is reasonably possible and placed as required. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each facility owner 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 owner's facilities.
18. Right-of-way Vacation. If the city vacates a right-of-way which contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules part 7819.3200, as it may be amended from time to time.
19. Indemnification and Liability. By applying for and accepting a permit under this chapter, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rules 7819.1250, as it may be amended from time to time.
20. Abandoned Facilities; Removal of Abandoned Facilities. Any person who has abandoned facilities in any right-of-way shall remove them from that

right-of- way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the Clerk, Utilities Superintendent or other person designated by the Council.

21. Appeal. A right-of-way user that has been denied registration; has been denied a permit; has had permit revoked; or believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee as imposition will be in writing and supported by written findings establishing the reasonableness of the decision.
22. Reservation of Regulatory and Police Powers. A permittees or registrants rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

TITLE VI: BUSINESS REGULATIONS

SECTION I - GENERAL LICENSING PROVISIONS

Section 6.1- 1. Licenses Required to Engage in Certain Businesses

No person shall engage in any of the trades, businesses, or professions for which licenses are required by this code or by any other ordinance of the city or provision of this code without first applying for and obtaining a license from the City Clerk or other duly authorized issuing authority.

Section 6.1- 2. Application for License

1. All original applications for licenses, unless otherwise specifically provided, shall be made to the City Clerk or other authorized official in writing upon forms to be furnished by him or her and shall contain:
 - A. The applicant's full name, address, and telephone number, and the full name of each officer, partner or business associate, if applicable.
 - B. His or her present occupation and principal place of business.
 - C. His or her place of residence for the preceding five years.
 - D. The nature and location of the intended business or enterprise.
 - E. The period of time for which the license is desired.
 - F. A description of the merchandise, goods or services to be sold.
 - G. If a motor vehicle is to be used, a full description of the motor vehicle, including the make, model, year, color, license number, and vehicle registration (VIN) number of the vehicle.
 - H. Other information concerning the applicant and his or her business as may be reasonable and proper, having regard to the nature of the license desired.
2. Any change in the information required by division (1) of this Section must be reported to the City Clerk or other authorized official within 14 days of that change.
3. Renewal of an annual license may be granted to a licensee in good standing on the basis of the original application, unless otherwise provided. However, if a request for renewal is not submitted to the City Clerk or other authorized official within 21 days after the date of expiration for the preceding license, the applicant must fill out an original application.
4. With each original or renewal application, the applicant shall deposit the fee required for the license requested.

5. It shall be unlawful to knowingly make any false statement or representation in the license application.

Section 6.1- 3. Issuance of License

Upon receipt of an application for a license, accompanied by the proper fee if approval by another officer or department is not required, the City Clerk shall deposit the fee in the general fund of the city and issue to the applicant a proper license certificate signed by the City Clerk.

Section 6.1- 4. Date and Duration of License

A license shall not be valid beyond the expiration date therein specified and, unless otherwise provided, shall not extend beyond December 31 of the year issued. However, at any time after December 1, licenses may be issued for the next calendar year. Unless otherwise specified, the full annual fee will be required of licensees irrespective of the date of issuance of the license.

Section 6.1- 5. License Not Transferable

Every license shall be issued to a real party in interest in the enterprise or business, and unless otherwise provided, no license shall be assigned or transferred.

Section 6.1- 6. License Certificate to Be Displayed

Every licensee carrying on business at a fixed location shall keep posted in a prominent place upon the premises the license certificate. Other licensees shall carry their licenses at all times, and whenever requested by any officer or citizen, shall exhibit the license.

Section 6.1- 7. Revocation or Suspension

1. Any license may be suspended or revoked by the City Clerk or City Council at any time for the following reasons:
 - A. For conditions or considerations which, had they existed at the time of issuance, would have been valid grounds for its denial;
 - B. For any misrepresentation of a material fact in the application discovered after issuance of the license;
 - C. For any misrepresentation or materially false statement made in the course of carrying on the trade, business or profession;
 - D. For violation of any provision of this Section or other federal, state or municipal law or ordinance relating to the operation of the business or enterprise for which the license has been issued; or
 - E. Upon conviction of a licensee for any federal, state or municipal law or ordinance involving the creation of a nuisance, a breach of the peace, interference with the rights of property owners, or any other

offense constituting a threat to the public health, safety, morals or
general welfare of the public.

2. The suspension or revocation shall become effective upon notice served upon the licensee. The notice shall contain a written summary of the reasons for the suspension or revocation and a statement concerning the right to appeal the decision. The notice shall be delivered by certified mail, return receipt requested, to the address given on the licensee's application.

Section 6.1- 8. Appeal and Review

In case any applicant has been denied a license by the City Clerk, or if his or her license has been suspended or revoked by the City Clerk, the applicant or licensee shall within ten business days have the right to appeal to the City Council from the denial, suspension or revocation. Notice of appeal shall be filed in writing with the City Clerk or other authorized official. Notice of appeal shall be filed in writing with the City Clerk. Unless a regular meeting of the City Council at which the appeal can be heard is scheduled within 21 days after receiving the notice of appeal, the Mayor shall schedule a special meeting of the City Council for the hearing within the 21-day period. Three members of the City Council shall constitute a quorum to hear the appeal. The appellant may appear and be heard in person or by counsel. If, after hearing, a majority of the members of the City Council present at the meeting declare in favor of the applicant, the license shall be issued or fully reinstated as the case may be; otherwise the suspension or revocation shall become final.

SECTION II - COMMERCIAL AMUSEMENTS

Section 6.2- 1. Circuses, Carnivals, Shows and Other Entertainment

1. General
 - A. Each person, desiring to conduct, stage or give a circus, carnival, theatrical exhibition, public show, athletic game or other entertainment, for which there is a charge for admission, shall first obtain a license and pay the license fee or fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to Section 2.1-11 of this code, as that ordinance may be amended from time to time.
 - B. Local school entertainment, charitable organizations, lecture courses, and lectures on historic, literary or scientific subjects are not subject to the provisions of this Section; provided that the entertainment is not for profit.
2. In addition to any other requirements, the applicant for a license shall give at least one week's notice in writing to the City Clerk or other authorized official, stating the dates of the performances and the location at which the performances are to be presented. The City Clerk shall give his or her consent to the issuance of the license if he or she deems that the location is suitable for the purpose; that it will properly accommodate the patrons; that the nature of the performance or exhibition does not pose a threat to the health, safety or general welfare of the public; and that the use of the location will not create too great a burden upon the Police Department or the Fire Department.
3. No circus, carnival, theatrical exhibition, public show, athletic game or other entertainment shall be given for more than two consecutive days, except in cases where the City Council by resolution allows a longer period, or where the exhibition is to be conducted on municipal property and the use thereof for a longer period shall have been approved by the City Council.

SECTION III - LIQUOR REGULATIONS

Section 6.3- 1. General Provisions

1. Adoption of State Law by Reference
 - A. The provisions of MS. Ch. 340A, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales,

hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of this Chapter as if set out in full. It is the intention of the City Council that all future amendments to M.S. Ch. 340A are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter is adopted.

2. City May Be More Restrictive Than State Law

The Council is authorized by the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose, and has imposed in this Section, additional restrictions on the sale and possession of alcoholic beverages within its limits beyond those contained in M.S. Ch. 340A, as it may be amended from time to time.

3. Definitions. In addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time, the following terms are defined for purposes of this Section.

A. **Liquor.** As used in this Section, without modification by the words “intoxicating” or “3.2 percent malt,” includes both intoxicating liquor and 3.2 percent malt liquor.

B. **Restaurant.** An eating facility, other than a hotel, under the control of a single proprietor or manager, where meals are regularly prepared on the premises, where full waitress/waiter table service is provided, where a customer orders food from printed menus and where the main food course is served and consumed while seated at a single location, To be a “restaurant” as defined by this Section, an establishment shall have a license from the state as required by MS. § 157.16, as it may be amended from time to time, and meet the definition of either a “small establishment,” “medium establishment” or “large establishment” as defined in MS. § 157.16, Subd. 3d, as it may be amended from time to time. An establishment which serves prepackaged food that receives heat treatment and is served in the package or frozen pizza that is heated and served, shall not be considered to be a restaurant for purposes of this Section unless it meets the definitions of “small establishment”, “medium establishment” or “large establishment.”

4. Nudity on the Premises of Licensed Establishments Prohibited

A. The City Council finds that it is in the best interests of the public health, safety, and general welfare of the people of the city that

nudity is prohibited as provided in this Section on the premises of any establishment licensed under this Section. This is to protect and assist the owners, operators, and employees of the establishment, as well as patrons and the public in general, from harm stemming from the physical immediacy and combination of alcohol, nudity, and sex. The Council especially intends to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct, including prostitution, sexual assault, and disorderly conduct. The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this Section, as set forth in this Section, reflects the prevailing community standards of the city.

- B. It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a nontransparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.
- C. A violation of this Section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or the imposition of a civil penalty under the provisions of Section 6.3-4.

5. Consumption in Public Places

- A. No person shall consume intoxicating liquor or 3.2 percent malt liquor in a public park, on any public street, sidewalk, parking lot or alley, or in any public place other than on the premises of an establishment licensed under this Section, in a municipal liquor dispensary if one exists in the city, or where the consumption and display of liquor is lawfully permitted.

Section 6.3- 2. Licensing

- 1. **Number of Licenses Which May Be Issued.** State law establishes the number of liquor licenses that a city may issue. However, the number of licenses which may be granted under this Section is limited to the number of license which were issued as of the effective date of this Section, even if a larger number of licenses are authorized by law or election. The Council in its sound discretion may provide by ordinance that a larger number of licenses may be issued up to the number of licenses authorized by MS. Ch.

340A, as it may be amended from time to time. If a larger number of licenses in a particular category has been authorized by a referendum held under the provisions of MS. § 340A.413, Subd. 3, as it may be amended from time to time, but not all of them have been issued, the larger number of licenses is no longer in effect until the Council by ordinance determines that any or all of the licenses may be issued. The Council is not required to issue the full number of licenses that it has available.

2. **Term and Expiration of Licenses.** Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on June 30 of each year unless another date is provided by ordinance. All licenses shall expire on the same date. Temporary licenses expire according to their terms. Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.
3. **Kinds of Liquor Licenses.** The Council of a city that does not have a municipal liquor store is authorized to issue the following licenses and permits, up to the number specified in subdivision 1 of Section 6.3-2 The Council of a city which has a municipal liquor store is authorized to issue only those licenses specified in Subdivision 6 of Section 6.3-3
 - A. 3.2 percent malt liquor on-sale licenses, which may be issued only to golf courses, restaurants, hotels, clubs, bowling centers, and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.
 - B. 3.2 percent malt liquor off-sale license.
 - C. Temporary 3.2 percent malt liquor licenses which may be issued only to a club, charitable, religious, or nonprofit organization.
 - D. Off-sale intoxicating liquor licenses, which may be issued only to exclusive liquor stores or drug stores that have an off-sale license which was first issued on or before May 1, 1994. The fee for an off-sale intoxicating liquor license established by the Council under Subdivision 4 of this Section not exceed \$100 or a greater amount which may be permitted by M.S. § 340A.408, Subd. 3, as it may be amended from time to time.
 - E. On-sale intoxicating liquor licenses, which may be issued to the following establishments as defined by M.S. § 340A. 101, as it may be amended from time to time, and this Section: hotels, restaurants, bowling centers, theaters, clubs or congressionally chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under

Subdivision 4 shall not exceed the amounts provided for in M.S. § 340A.408, Subd. 2b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at a community festival held within the city under the provisions of MS. § 340A.404, Subd, 4b, as it may be amended from time to time. The Council may in its sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting, or social affair conducted on the premises of a sports, convention, or cultural facility owned by the city, under the provisions of M.S. § 340A.404, Subd. 4a, as it may be amended from time to time; however, the licensee is prohibited from dispensing intoxicating liquor to any person attending or participating in an amateur athletic event being held on the premises.

- F. Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by MS. § 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in Subdivision 3 of Section 6.3-1, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of Subdivision 4 of this Section, shall not exceed \$200, or the maximum amount provided by M.S. § 340A.504, Subd. 3c, as it may be amended from time to time.
- G. Combination on-sale/off-sale intoxicating liquor licenses if the city has a population less than
- H. Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year.
- I. On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, Subd. 5, as it may be amended from time to time, and

which meet the definition of restaurant in Subdivision 3 of Section 6.3-1; and to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, Subd. 1, as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of Subdivision 4 of this section shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

- J. One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.
- K. Approval of the issuance of a consumption and display permit by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of subdivision 4 of this Section shall not exceed \$300, or the maximum amount permitted by M.S. § 340A. 14, Subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

4. License Fees; Pro Rata

- A. No license or other fee established by the city shall exceed any limit established by MS. Ch. 340A, as it may be amended from time to time, *for* a liquor license.
- B. The Council may establish from time to time in the Ordinance Establishing Fees and Charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this Section. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.
- C. The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

- D. All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.
 - E. A refund of a pro rata share of an annual license fee may occur only if authorized by MS. § 340A.408, Subd. 5, as it may be amended from time to time.
5. Council Discretion to Grant or Deny License. The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this Section.
6. Application for License
- A. *Form.* Every application for a license issued under this Section shall be on a form provided by the city. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for an on-sale intoxicating liquor license shall be in the form prescribed by the Commissioner of Public Safety and shall also contain the information required in this Section. The form shall be verified and filed with the city, No person shall make a false statement in an application.
 - B. *Financial responsibility.* Prior to the issuance of any license under this Section, the applicant shall demonstrate proof of financial responsibility as defined in M.S. § 340A.409, as it may be amended from time to time, with regard to liability under MS. § 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this Section shall conform to M.S. § 340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this Section without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

7. Description of Premises. The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.
8. Applications for Renewal. At least 90 days before a license issued under this Section is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.
9. Transfer of License. No license issued under this Section may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

10. Investigation

- A. *Preliminary background and financial investigation.* On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of \$500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than \$500, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.
- B. *Comprehensive background and financial investigation.* If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant

whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

11. Hearing and Issuance. The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

12. Restrictions on Issuance

- A. Each license shall be issued only to the applicant for the premises described in the application.
- B. Not more than one license shall be directly or indirectly issued within the city to any one person.
- C. No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.
- D. No license shall be issued for any place or any business ineligible for a license under state law.
- E. No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this division (E) shall not apply to any license existing on the effective date of this Section or to the renewal of an existing license.
- F. No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure on the premises within which liquor is to be sold.

13. Conditions of License. The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

- A. Within 90 days after employment, every person selling or serving liquor in an establishment which has an “on-sale” license shall receive

training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.

- B. Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this Section and the law equally with the employee.
- C. Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.
- D. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
- E. Compliance with financial responsibility requirements of state law and of this Section is a continuing condition of any license.

14. Hours and Day of Sale

- A. The hours of operation and days of sale shall be those set by M. S. § 340A.504, as it may be amended from time to time, except that the City Council may, by resolution or ordinance, provide for more restrictive hours than state law allows.
- B. No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- C. No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool, or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.
- D. No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
- E. Any violation of any condition of this Section may be grounds for revocation or suspension of the license.

15. Minors on Premises

- A. No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.
 - B. No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.
16. Restrictions on Purchase and Consumption. No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.
17. Suspension and Revocation
- A. The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this Section relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M. S. § 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.
 - B. The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this Section or M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that Section as they may be amended from time to time.
 - i. For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of Subdivision 4 of Section 6.3-1, the license shall be revoked.

- ii. The license shall be suspended by the Council after a finding under division (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this Section for at least the minimum periods as follows:
 - a. For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.
 - b. For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
 - c. For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
 - d. For a fourth violation within any three-year period, the license shall be revoked.
 - iii. The Council shall select the day or days during which the license will be suspended.
- C. Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this Section or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten days. Any suspension under this division (B) shall continue until the Council determines that the financial responsibility requirements of state law and this Section have again been met.
- D. The provisions of Section 6.3-4 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this Section.

Section 6.3- 3. Municipal Liquor Stores

- 1. Applications of this SubSection. This Section, consisting of divisions 1 through 6, applies only to a city that has in existence on the effective date of this Section a municipal liquor store.

2. Existing Municipal Stores Continued. If the city has in existence on the effective date of this Section a municipal liquor store for the sale of intoxicating liquor, the store is continued. Except as provided in division 6 of this Section, no intoxicating liquor may be sold at retail elsewhere in the city.
3. Location. The municipal liquor store shall be located at a suitable place in the city as the Council determines by motion. However, no premises upon which taxes, assessments, or other public charges are delinquent shall be leased for municipal liquor store purposes. The Council shall have the right to establish additional off-sale and on-sale stores at other locations as it may, from time to time, by motion, determine.
4. Operation
 - A. *Manager.* The municipal liquor store shall be in the immediate charge of a Liquor Store Manager selected by the Council and paid compensation as is fixed by the Council. The Manager shall not be a person who would be prohibited by law or any provision of this Section from being eligible for an intoxicating liquor license. The Manager shall furnish a surety bond to the city, conditioned upon the faithful discharge of the duties of the office, in a sum as specified by the Council. The bond premium may be paid by the city or the Manager, in the discretion of the Council. The Manager shall operate the municipal liquor store under the Council's direction and shall perform those duties in connection with the store as may be established by the Council. The Manager shall be responsible to the Council for the conduct of the store in full compliance with this Section and with the laws relating to the sale of intoxicating liquor and 3.2 percent malt liquor.
 - B. *Other employees.* The Council may also appoint additional employees as may be required and shall fix their compensation. All employees, including the Manager, shall hold their positions at the pleasure of the Council. No person under the age of 18 shall be employed in the store. The Council may require the employees to furnish surety bonds conditioned for the faithful discharge of their duties in a sum as specified by the Council. The premium on the bond may be paid by the city or the employees, as the Council determines.
 - C. *Municipal liquor store fund.* All of the revenues received from the operation of a municipal liquor store shall be deposited in a municipal liquor store fund from which all ordinary operating expenses, including compensation of the Manager and employees, shall be paid. Surpluses accumulating in the fund may be transferred

to the general fund of the city or to any other appropriate fund of the city by resolution of the Council, and may be expended for any municipal purpose. The handling of municipal liquor store receipts and disbursements shall comply with the procedure prescribed by law and charter for the receipts and disbursements of city funds generally.

D. *Financial statement.* The Council shall provide within 90 days following the end of the calendar year for publication a balance sheet using generally accepted accounting procedures and a statement of operations of the municipal liquor store for that year. The balance sheet and statement shall be published in accordance with the provisions of M.S. § 471.6985, and may be amended from time to time.

E. *Hours of operation.* The hours during which the sale of intoxicating liquor may be sold shall be as subsection 14 of Section 6.3-2. No person, other than the Manager or a store employee, may remain in the municipal liquor store longer than one-half hour after the time when the sale of intoxicating liquor must cease.

5. *Proof of Financial Responsibility.* The city shall demonstrate proof of financial responsibility required by licensees of retail intoxicating liquor establishments under the provisions of M.S. § 340A.409, as it may be amended from time to time.

6. *Issuance of Other Licenses*

A. *On-sale licenses for the sale of intoxicating liquor.* The Council may issue in its sound discretion on-sale licenses to a club under M.S. § 340A.404, Subd. 1(4), as it may be amended from time to time. If the voters have authorized their issuance at a special election called for that purpose, the Council may issue on its sound discretion on-sale liquor licenses to hotels and restaurants. The number of on-sale licenses issued under this Section is governed by M.S. § 340A.413, as it may be amended from time to time, as limited by the provisions of this Section. The issuance of these licenses is governed by the provisions of this Section.

B. *Off-sale licenses for the sale of intoxicating liquor.* State law does not authorize the issuance of off-sale licenses for the sale of intoxicating liquor by cities which operate a municipal liquor dispensary.

C. *On- and off-sale 3.2 percent malt liquor licenses.* The Council may issue 3.2 percent malt liquor licenses in its sound discretion as provided in this Section.

Section 6.3- 4. Penalties

1. Any person violating the provisions of this Section or M.S. Ch. 340A as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time is guilty of a misdemeanor and upon conviction shall be punished as provided by law.
2. The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. Ch. 340A, as it may be amended from time to time, and of this chapter. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, M.S. § 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties which must be imposed in addition to any suspension unless the licenses is revoked:
 - i. For the first violation within any three-year period, \$500.
 - ii. For the second violation within any three-year period, \$1,000.
 - iii. For the third and subsequent violations within any three-year period, \$2,000.
3. The term “violation” as used in this Section includes any and all violations of the provisions of this Section, or of M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

SECTION IV - PEDDLERS AND SOLICITORS

Section 6.4- 1. Definitions

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. **Peddler.** A person who goes from house-to-house, door-to-door, business-to-business, street-to- street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise or other personal property that the person is carrying or otherwise transporting. The term Peddler shall mean the same as the term “hawker.”
2. **Person.** Any natural individual, group, organization, corporation, partnership or association. As applied to groups, organizations, corporations, partnerships and associations, the term shall include each member, officer, partner, associate, agent or employee.
3. **Regular Business Day.** Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be counted as regular business days.
4. **Solicitor.** A person who goes from house-to-house, door-to-door, business-to-business, street- to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person’s activity is to obtain or attempt to obtain orders as discussed above. The term shall mean the same as the term “canvasser.”
5. **Transient Merchant.** A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.

Section 6.4- 2. Exceptions to Definitions

1. For the purpose of the requirements of this Section, the terms Peddler, Solicitor, and Transient Merchant shall not apply to any person selling or attempting to sell at wholesale any goods, waxes, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.
2. In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of Peddlers, Solicitors, and Transient Merchants, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this Section shall not excuse any person from complying with any other applicable statutory provision or local ordinance.
3. Nothing in this Section shall be interpreted to prohibit or restrict door-to-door advocacy. Persons engaging in door-to-door advocacy shall not be required to register as solicitors under Section 6.4-7. The term Door-to-Door Advocacy includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas.

Section 6.4- 3. Licensing; Exemptions

1. *County license required.* No person shall conduct business as a peddler, solicitor or transient merchant within the city limits without first having obtained the appropriate license from the county as required by M.S. Ch. 329 as it may be amended from time to time, if the county issues a license for the activity.
2. *City license required.* Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the city. Solicitors need not be licensed, but are still required to register pursuant to Section 6.4-7.
3. *Application.* Application for a city license to conduct business as a peddler or transient merchant shall be made at least 14 regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the

office of the City Clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- A. Applicant's full legal name.
- B. All other names under which the applicant conducts business or to which applicant officially answers.
- C. A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like).
- D. Full address of applicant's permanent residence.
- E. Telephone number of applicant's permanent residence.
- F. Full legal name of any and all business operations owned, managed or operated by applicant, or for which the applicant is an employee or agent.
- G. Full address of applicant's regular place of business (if any).
- H. Any and all business related telephone numbers of the applicant.
- I. The type of business for which the applicant is applying for a license.
- J. Whether the applicant is applying for an annual or daily license.
- K. The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days).
- L. Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up business.
- M. A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses.
- N. A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.
- O. Proof of any requested county license.
- P. Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.
- Q. A general description of the items to be sold or services to be provided.
- R. All additional information deemed necessary by the City Council.
- S. The applicant's driver's license number or other acceptable form of identification.
- T. The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

4. *Fee.* All applications for a license under this chapter shall be accompanied by the fee established in the Ordinance Establishing Fees and Charges, adopted pursuant to Section 2.1-11, as it may be amended from time to time.
5. *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Clerk, within two regular business days, must determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Clerk determines that the application is incomplete, the City Clerk must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten regular business days of receiving a complete application the City Clerk must issue the license unless there exist grounds for denying the license under Section 6.4-4, in which case the Clerk must deny the license. If the City Clerk denies the license, the applicant must be notified in writing of the decision, the reason for denial, and of the applicant's right to appeal the denial by requesting, within 20 days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal within 20 days of the date of the request. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.
6. *Duration.* An annual license granted under this chapter shall be valid for one calendar year from the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.
7. *License exemptions*
 - A. No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.
 - B. No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's State or Federal Constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.
 - C. Fundraisers working on behalf of an otherwise exempt person or group, such as a school or service club, except that individuals who

are professional fundraisers shall not be exempt from the licensing requirements of this Section.

Section 6.4- 4. License Ineligibility

The following shall be grounds for denying a license under this Section:

1. The failure of the applicant to obtain and show proof of having obtained any required county license.
2. The failure of the applicant to truthfully provide any of the information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.
3. The conviction of the applicant within the past five years from the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner. Those violations shall include but not be limited to burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
4. The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant.
5. The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three complaints against the applicant with the Better Business Bureau, the Attorney Generals Office, or other similar business or consumer rights office or agency, within the preceding 12 months, or three complaints filed against the applicant within the preceding five years.

Section 6.4- 5. License Suspension And Revocation

1. *Generally.* Any license issued under this Section may be suspended or revoked at the discretion of the City Council for violation of any of the following:
 - A. Fraud, misrepresentation or incorrect statements on the application form.
 - B. Fraud, misrepresentation or false statements made during the course of the licensed activity.
 - C. Conviction of any offense for which granting of a license could have been denied under Section 6.4-4.
 - D. Violation of any provision of this Section.

2. *Multiple persons under one license.* The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.
3. *Notice.* Prior to revoking or suspending any license issued under this Section, the city shall provide the license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.
4. *Public hearing.* Upon receiving the notice provided in subsection 3 of this Section, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Clerk within ten regular business days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within 20 days from the date of the request. Within three regular business days of the hearing, the City Council shall notify the licensee of its decision.
5. *Emergency.* If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in subsection 3 of this Section.
6. *Appeals.* Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

Section 6.4- 6. License Transferability

No license issued under this chapter shall be transferred to any person other than the person to whom the license was issued.

Section 6.4- 7. Registration

All solicitors, and any person exempt from the licensing requirements of this Section under Section 6.4-4, shall be required to register with the city. Persons engaging in

door-to-door advocacy shall not be required to register. The term **Door-to-Door Advocacy** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be non-transferable.

Section 6.4- 8. Prohibited Activities

No peddler, solicitor or transient merchant shall conduct business in any of the following manners.

1. Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
2. Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right-of-way.
3. Conducting business in a way as to create a threat to the health, safety and welfare of any individual or the general public.
4. Conducting business before 7:00 a.m. or after 9:00 p.m.
5. Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person.
6. Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.
7. Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive.

Section 6.4- 9. Exclusion by Placard

No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating “No Peddlers, Solicitors or Transient Merchants,” or “Peddlers, Solicitors, and Transient Merchants Prohibited,” or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.

SECTION V - TATTOO AND BODY PIERCING SERVICES

Section 6.5- 1. Definitions

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. **Board of Health.** A Board of Health established under the provisions of M.S. § 145A.03, as it may be amended from time to time. If the city does not have a Board of Health, then this term means the authority having the duties of a Board of Health in the city, including but not limited to the County Board of Health.
2. **Body Piercing.** Includes ear piercing except when the ear piercing procedure is performed with an ear piercing gun.
3. **Business.** Any entity that provides services for compensation.
4. **Ear Piercing Gun.** A mechanical device that pierces the ear by forcing a disposable single-use stud or solid needle through the ear.
5. **Parent or Guardian.** Parent, guardian or other adult person having the primary care or custody of the minor.
6. **Tattoo.** Has the same meaning given in M.S. § 609.2246, Subd. 2, as it may be amended from time to time.

Section 6.5- 2. Prohibitions

No person shall do any of the following:

1. Operate a business that offers tattooing or body piercing services unless the City Council issues it a license to do so.
2. Perform a tattooing or body piercing procedure in a manner that does not meet the safety and sanitation standards established by this chapter and any federal, state or local laws, rules or regulations.
3. Perform a tattooing procedure, body piercing procedure, or ear piercing procedure with an ear piercing gun in a manner that does not meet the standards for appropriate disinfection and sterilization of invasive equipment or parts of equipment used in performing the procedures established by this Section and any federal, state or local laws, rules or regulations.

Section 6.5- 3. Application for License; Fees; Issuance

1. A person seeking approval to operate a business that offers tattooing or body piercing services shall apply to the city on forms the city or the Board of Health shall prescribe and provide. The applicant shall submit all information the city and the Board of Health determines is necessary to process the application. The applicant shall include the fee established under

the city's Ordinance Establishing Fees and Charges authorized by Section 2.1-11 as it may be amended from time to time, or as established by the Board of Health.

2. To receive approval to offer tattooing or body piercing services, a business must demonstrate to the Board of Health the ability to meet the requirements established by this chapter and any federal, state or local laws, rules or regulations for safe performance of the tattooing or body piercing procedures, training of the individuals who perform the procedures, and maintenance of records.
3. If the Board of Health determines, following an inspection conducted under Section 6.5-4, that a business meets the requirements for approval, it shall so advise the city. The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision. Approval remains valid for one year unless earlier suspended or revoked under Section 6.5-5. A business's approval may be renewed. Approval is not transferable.

Section 6.5- 4. Inspection of Facilities

The Board of Health, or a person or another body designed by the city, shall conduct at least one inspection of a business prior to approving the business under Section 6.5-3 to offer tattooing or body piercing services. The Board may conduct additional inspections as necessary for the approval process. The Board of Health may inspect an approved business at any time the Board considers necessary. In an inspection, the Board of Health shall be given access to the business's premises and to all records relevant to the inspection.

Section 6.5- 5. Suspension of Revocation of License

The City Council may suspend or revoke the approval of a business to offer tattooing or body piercing services at any time it determines that the business is being operated in violation of this chapter or any federal, state or local laws, rules or regulations. Proceedings for suspensions and revocations shall be conducted in accordance with rules adopted in Section 6.5-5 for the suspension or revocation of business licenses.

Section 6.5- 6. Consent for Performing Procedures on Persons Under 18

1. No person shall perform a tattooing procedure, body piercing procedure, or ear piercing procedure with an ear piercing gun on an individual who is under 18 years of age unless consent has been given by the individual's parent, guardian, or custodian in accordance with division 2 of this section. The consent must include both the custodial and non-custodial parents, where applicable.
2. A parent, guardian or custodian of an individual under age 18 who desires to give consent to a business to perform on the individual under age 18 a tattooing procedure, body piercing procedure, or ear piercing procedure performed with an ear piercing gun shall do both of the following:
 - A. Appear in person at the business at the time the procedure is performed;
 - B. Sign a document provided by the business that explains the manner in which the procedure will be performed and methods for proper care of the affected body area following performance of the procedure.
3. Prohibitions Relating to Person Under 18
 - A. Unless consent has been given in accordance with section 6.5-6, no individual who is under age 18 shall obtain or attempt to obtain a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.
 - B. No individual who is under age 18 shall knowingly show or give false information concerning the individual's name, age, or other identification for the purpose of obtaining a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.
 - C. No individual shall knowingly show or give any false information as to the name, age, or other identification of an individual who is under age 18 for the purpose of obtaining for the individual under age 18 a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.
 - D. No individual shall impersonate the parent, guardian or custodian of an individual who is under age 18 for the purpose of obtaining for the individual under age 18 a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.

Section 6.5- 7. Defenses to Violations

1. An operator or employee of a business that performs tattooing services, body piercing services, or ear piercing services performed with an ear piercing gun may not be found guilty of a violation of section 6.5-6(1) or any federal, state or local laws, rules or regulations in which age is an element of the provisions if:
 - A. The individual obtaining a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun, at the time of so doing, exhibited to the operator or employee of the tattooing, body piercing, or ear piercing business a driver's or commercial driver's license or an identification card issued under state law showing that the individual was then at least age 18.
 - B. The operator or employee made a bona fide effort to ascertain the true age of the individual obtaining a tattooing, body piercing, or ear piercing service by checking the identification presented, at the time of the service, to ascertain that the description on the identification compared with the appearance of the individual and that the identification had not been altered in any way; and
 - C. The operator or employee had reason to believe that the individual obtaining a tattooing, body piercing, or ear piercing service was at least age 18.
2. In any action or proceeding before a court of record in which a defense is raised under this section, the Registrar of Motor Vehicles or the Registrar's Deputy who issued a driver's or commercial driver's license or an identification card shall be permitted to submit certified copies of the records, in the Registrar's or Deputy's possession, of the issuance in lieu of the testimony of the personnel of the Bureau of Motor Vehicles at the hearing, action or proceeding.

Section 6.5- 8. Training Standards; Records; Safety and Sanitation; Equipment

1. Each operator of a business that offers tattooing or body piercing services shall do all of the following
 - A. Maintain procedures for ensuring that the individuals who perform tattooing or body piercing procedures are adequately trained to perform the procedures properly;
 - B. With respect to tattooing services, maintain written records that include the color, manufacturer and lot number of each pigment used for each tattoo performed;

- C. Comply with the safety and sanitation requirements for preventing transmission of infectious diseases, as established in any federal, state or local laws, rules or regulations;
 - D. Require the individuals who perform tattooing and body piercing procedures to disinfect and sterilize all invasive equipment or parts of equipment used in performing the procedures by using methods that meet the disinfection and sterilization requirements established in any federal, state or local laws, rules or regulations;
 - E. Ensure that weekly tests of the business's heat sterilization devices are performed to determine whether the devices are functioning properly. In *having* the *devices* tested, the operator of the business shall use a biological monitoring system that indicates whether the devices are killing microorganisms. If a test indicates that a device is not functioning properly, the operator shall take immediate remedial action to ensure that heat sterilization is being accomplished. The operator shall maintain documentation that the weekly tests are being performed. To comply with the documentation requirement, the documents must consist of a log that indicates the date on which each test is performed and the name of the person who performed the test or, if a test was conducted by an independent testing entity, a copy of the entity's testing report. The operator shall maintain records of each test performed for at least two years.
2. Each operator of a business that offers ear piercing services performed with an ear piercing gun shall require the individuals who perform the ear piercing services to disinfect and sterilize the ear piercing gun by using chemical solutions that meet the disinfection and sterilization requirements established in any federal, state or local laws, rules or regulations.

SECTION VI - TOBACCO REGULATIONS

RESERVED

SECTION VII - REGULATING LAWFUL GAMBLING

Section 6.7- 1. Adoption of State Law By Reference

The provisions of M.S. Ch. 349, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, provisions relating to sales, and all other matters pertaining to lawful gambling, are hereby adopted by reference and are made a part of this chapter as if set out in full. It is the intention of the Council that all future amendments of M.S. Ch. 349 are hereby adopted by reference or referenced as if they had been in existence at the time this chapter was adopted.

Section 6.7- 2. City May Be More Restrictive Than State Law

The Council is authorized by the provisions of M.S. § 349.213, as it may be amended from time to time, to impose, and has imposed in this chapter, additional restrictions on gambling within its limits beyond those contained in M.S. Ch. 349, as it may be amended from time to time.

Section 6.7- 3. Purpose

The purpose of this chapter is to regulate lawful gambling within the city, to prevent its commercialization, to ensure the integrity of operations, and to provide for the use of net profits only for lawful purposes.

Section 6.7- 4. Definitions

In addition to the definitions contained in M.S. § 349.12, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

1. **Board.** The State of Minnesota Gambling Control Board.
2. **Licensed Organization.** An organization licensed by the Board.
3. **Local Permit.** A permit issued by the city.
4. **Trade Area.** This city and each city and township contiguous to this city.

Section 6.7- 5. Applicability

This chapter shall be construed to regulate all forms of lawful gambling within the city except:

1. Bingo conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if: the prizes for a single bingo game do not exceed \$10; total prizes awarded at a single bingo occasion do not exceed \$200; no more than two bingo occasions are held by the organization or at the facility each week; only members of the organization or residents of the nursing home or housing project are allowed to play in a bingo game;

no compensation is paid for any persons who conduct the bingo; and a manager is appointed to supervise the bingo.

2. Raffles, if the value of all prizes awarded by the organization in a calendar year does not exceed \$750.

Section 6.7- 6. Lawful Gambling Permitted

Lawful gambling is permitted within the city if the Council, by resolution adopted by a majority of its members authorizes lawful gambling to occur, provided it is conducted in accordance with M.S. § 609.75 to 609.763, inclusive, as they may be amended from time to time; M.S. § 349.11 to 349.23, inclusive, as they may be amended from time to time, and this chapter.

Section 6.7- 7. Council Approval

Lawful gambling authorized by M.S. § 349.11 to 349.23, inclusive, as they may be amended from time to time, shall not be conducted unless approved by the Council, subject to the provisions of this chapter and state law.

Section 6.7- 8. Application and Local Approval of Premises Permits

1. Any organization seeking to obtain a premises permit or bingo hall license or renewal of a premises permit or bingo hall license from the Board shall file with the City Clerk an executed, complete duplicate application together with all exhibits and documents accompanying the application as filed with the Board. The application and accompanying exhibits and documents shall be filed not later than three days after they have been filed with the Board.
2. Upon receipt of an application for issuance or renewal of a premises permit or bingo hall license, the City Clerk shall transmit the application to the Chief of Police, or the Sheriff of the county in which this city is located, for review and recommendation.
3. The Chief of Police or Sheriff shall investigate the matter and make a review and recommendation to the City Council as soon as possible, but in no event later than 45 days following receipt of the notification by the city.
4. Organizations or bingo halls applying for a state-issued premises permit or bingo hall license shall pay the city a \$100 investigation fee. This fee shall be refunded if the application is withdrawn before the investigation is commenced.
5. The applicant shall be notified in writing of the date on which the Council will consider the recommendation.

6. The Council shall receive the Police Chief's or Sheriff's report and consider the application within 45 days of the date the application was submitted to the City Clerk.
7. The Council shall, by resolution, approve or disapprove the application within 60 days of receipt of the application.
8. The Council shall disapprove an application for issuance or renewal of a premises permit for any of the following reasons:
 - A. Violation by the gambling organization of any state statute, state rule or city ordinance relating to gambling within the last three years.
 - B. Violation by the on-sale establishment or organization leasing its premises for gambling of any state statute, state rule or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice, and protection of public safety within the last three years.
 - C. Lawful gambling would be conducted at premises other than those for which an on-sale liquor license has been issued.
 - D. Lawful gambling would be conducted at more than one premises within the city. The city may limit the number of premises where lawful gambling may be conducted.
 - E. An organization would be permitted to conduct lawful gambling activities at more than one premises in the city.
 - F. More than one licensed organization would be permitted to conduct lawful gambling activities at one premises.
 - G. Failure of the applicant to pay any investigation fee provided by subsection (4) of this section within the prescribed time limit.
 - H. Operation of gambling at the site would be detrimental to health, safety, and welfare of the community. Otherwise the Council shall pass a resolution approving the application.

Section 6.7- 9. Local Permits

1. No organization shall conduct lawful gambling excluded or exempted from state licensure requirements by M.S. § 349.166, as it may be amended from time to time, without a valid local permit. This section shall not apply to lawful gambling exempted from local regulation by Section 6.7-6.
2. Applications for issuance or renewal of a local permit shall be on a form prescribed by the city. The application shall contain the following information:
 - A. Name and address of the organization requesting the permit.

- B. Name and address of the officers and person accounting for receipts, expenses, and profits for the event.
 - C. Dates of gambling occasion for which permit is requested.
 - D. Address of premises where event will occur.
 - E. Copy of rental or leasing arrangement, if any, connected with the event, including rental to be charged to organization.
 - F. Estimated value of prizes to be awarded.
3. The fee for a local permit shall be established by the City Council on a regular schedule of fees. The fee shall be submitted with the application for a local permit. This fee shall be refunded if the application is withdrawn before the investigation is commenced.
 4. Upon receipt of an application for issuance or renewal of a local permit, the City Clerk shall transmit the notification to the Chief of Police or Sheriff for review and recommendation.
 5. The Chief of Police or Sheriff shall investigate the matter and make review and recommendation to the City Council as soon as possible, but in no event later than 45 days following receipt of the notification by the city.
 6. The applicant shall be notified in writing of the date on which the Council will consider the recommendation.
 7. The Council shall receive the Police Chief's or Sheriff's report and consider the application within 45 days of the date the application was submitted to the City Clerk.
 8. The Council shall disapprove an application for issuance or renewal of a premises permit for any of the following reasons:
 - A. Violation by the gambling organization of any state statute, state rule or city ordinance relating to gambling within the last three year.
 - B. Violation by the on-sale establishment or organization leasing its premises for gambling of any state statute, state rule or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to the operation of the establishment, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice, and protection of public safety within the last three years.
 - C. The organization has not been in existence in the city for at least three consecutive years prior to the date of application.
 - D. The organization does not have at least 30 active members.
 - E. Exempted or excluded lawful gambling will not take place at a premises the organization owns or rents.

- F. Exempted or excluded lawful gambling will not be limited to a premises for which an on- sale liquor license has been issued.
 - G. An organization will have a permit to conduct exempted or excluded lawful gambling activities on more than one premises in the city.
 - H. More than one licensed, qualified organization will be conducting exempted or excluded lawful gambling activities at any one premises.
 - I. Failure of the applicant to pay permit fee provided by subdivision 3 of this section within the prescribed time limit.
 - J. Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.
- Otherwise the council shall approve the application.
9. Local permits shall be valid for one year after the date of issuance unless suspended or revoked.

Section 6.7- 10. Revocation and Suspension of Local Permit

- 1. A local permit may be revoked or temporarily suspended for a violation by the gambling organization of any state statute, state rule or city ordinance relating to gambling.
- 2. A license shall not be revoked or suspended until notice and an opportunity for a hearing have first been given to the permitted person. The notice shall be personally served and shall state the provision reasonably believed to be violated. The notice shall also state that the permitted person may demand a hearing on the matter, in which case the permit will not be suspended until after the hearing is held. If the permitted person requests a hearing, the Council shall hold a hearing on the matter at least one week after the date on which the request is made. If, as a result of the hearing, the Council finds that an ordinance violation exists, then the Council may suspend or revoke the permit.

Section 6.7- 11. License and Permit Display

All permits issued under state law or this chapter shall be prominently displayed during the permit year at the premises where gambling is conducted.

Section 6.7- 12. Notification of Material Changes to Application

An organization holding a state-issued premises permit or a local permit shall notify the city in writing whenever any material change in the information submitted in the application occurs within ten days of the change.

Section 6.7- 13. Contribution of Net Profits to Fund Administered by City

1. Each organization licensed to conduct lawful gambling within the city pursuant to M.S. § 349. 16, as it may be amended from time to time, shall contribute 10% of its net profits derived from lawful gambling in the city to a fund administered and regulated by the city without cost to the fund. The city shall disburse the funds for lawful purposes as defined by M.S. § 349.12, Subd. 25, as it may be amended from time to time.
2. Payment under this section shall be made on the last day of each month.
3. The city’s use of these funds shall be determined at the time of adoption of the city’s annual budget or when the budget is amended.

Section 6.7- 14. Designated Trade Area

1. Each organization licensed to conduct gambling within the city shall expend 100% of its lawful purpose expenditures on lawful purposes conducted within the city s trade area.
2. This section applies only to lawful purpose expenditures of gross profits derived from gambling conducted at a premises within the city’s jurisdiction.

Section 6.7- 15. Records and Reporting

1. Organizations conducting lawful gambling shall file with the City Clerk one copy of all records and reports required to be filed with the Board, pursuant to M.S. Ch. 349, as it may be amended from time to time, and rules adopted pursuant thereto, as they may be amended from time to time. The records and reports shall be filed on or before the day they are required to be filed with the Board.
2. Organizations licensed by the Board shall file a report with the city proving compliance with the trade area spending requirements imposed by Section 6.7-14. Such report shall be made on a form prescribed by the city and shall be submitted annually and in advance of application for renewal.

Section 6.7- 16. Hours of Operation

Lawful gambling shall not be conducted between 1:00 a.m. and 8:00 a.m. on any day of the week.

Section 6.7- 17. Severability

If any provision of this chapter is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

Section 6.7- 18. Penalty

Any person who violates:

1. Any provision of this chapter.
2. M.S. § 609.75 to 609.763, inclusive, as they may be amended from time to time.
3. M.S. § 349.11 to 349.21, as they may be amended from time to time, or any rules promulgated under those sections, as they may be amended from time to time shall be guilty of a misdemeanor and shall be punished as provided in Section 1.1-19.

SECTION VIII - GARAGE AND RUMMAGE SALES

Section 6.8- 1. Definition

The following term, as used in this chapter, shall have the meaning stated:

1. **Garage or Rummage Sale.** Any display and sale of personal property, conducted on premises located in any Residentially-Zoned District by the occupant and which garage or rummage sale does not require a business license or make taxable sales, leases or services.

Section 6.8- 2. Restrictions and Prohibitions

1. None of the items offered for sale shall have been obtained for resale or received on consignment for sale.
2. Any garage or rummage sale (community or neighborhood sale) shall be conducted solely within the boundaries of the property owned or occupied by the occupant who is conducting the sale.
3. There shall be no more than four garage or rummage sales conducted at any one premises during any period of 12 calendar months.
4. No garage or rummage sale shall be conducted during any part of more than three consecutive days.
5. No garage or rummage sale may be conducted before 7:00 a.m. or after 8:00 p.m.
6. Any related signage shall be limited to the premises and to other residential property, provided permission from the property owner is obtained, and shall be removed at the termination of the sale. Signs shall be limited to four square feet.
7. There shall be no more than two consecutive sales with 30-day separation between all others.

Section 6.8- 3. Exceptions

This chapter shall not apply to any sale under court order, nor to any bona tide auction sale, nor to a sale of farm or garden products by the person producing same.

Section 6.8- 4. Penalty

It is unlawful for any person to conduct a garage or rummage sale in violation of any of the provisions of this chapter. A violation of this chapter is a misdemeanor, to be punished as provided in Section 1.1-19.

SECTION IX - REGULATION OF PUBLIC DANCES AND SPECIAL EVENTS

Section 6.9- 1. Public Dances

1. Regulation of Public Dances. All public dances held in this city shall be conducted in accordance with the provisions of this chapter.
2. Definitions. The terms stated below shall have the following meanings:
 - A. **Public Dance.** Any dance where the general public may participate, whether or not a charge for admission for dancing is made.
 - B. **Public Dancing Place.** Any room or space or other area, whether indoors or outside, which is open to the general public for the purpose of participating in public dancing.
3. Permit Required. No person shall conduct a public dance in this city unless a permit has been obtained from the City Clerk prior to the holding of the dance. The fees for a permit shall be as established by the Ordinance Establishing Fees and Charges, adopted pursuant to Section 2.1-11 of this code, as that ordinance may be amended from time to time. In addition to this fee, the applicant shall pay the cost to the city of providing a licensed peace officer or officers to be present at the dance. The City Council shall establish criteria for determining the number of licensed peace officers required to be present at any dance. No permit shall be issued until the fee and the cost for providing the peace officer or officers has been paid.
4. Application for Permit. Any person desiring a permit to hold a public dance in this city shall submit an application for a permit on the form provided by the City Clerk, submitted to the City Clerk at least ten days before the date of the proposed dance. The application shall set forth the name and address of the applicant, who shall be the person responsible for conducting the public dance, and any business, committee or organization sponsoring the dance, the place where the dance is to be held, the date of the dance and the time of its beginning and end. Proof of all insurance required by this chapter shall be submitted with the application and no permit shall be issued until proof of insurance has been received. A request for any use of a city building or other city property shall be included with the permit application, and no permit shall be issued until the fees for the use of the city building or other city property have also been paid.
5. Insurance. All insurance policies required for the event, including any insurance required by law for the sale of alcoholic beverages shall list the city as a named insured and provide a provision to defend, indemnify and

hold harmless the city and any of its employees from any claims arising from the event.

6. Location. The applicant shall make sure that adequate parking is available for the persons wishing to attend the dance and make sure that the location is safe and accessible. This information shall also be provided to the City Clerk before a permit shall be issued.
7. Permit to be Posted. When a permit is issued, the holder of the permit shall post the permit in a prominent location on the premises on which the dance is to be held during the time the dance is occurring. The applicant shall be present at all times while the dance is occurring.
8. Liquor License Required. No person shall give, hold, conduct or permit any public dance where liquor will be served, as defined in M.S. Ch. 340A, without obtaining a license from the city.
9. Licensed Peace Officer Presence. No public dance shall occur without at least one licensed peace officer or more, if more are required under the criteria established by the City Council, who shall be present at the public dancing place during the duration of the dance and after the dance, until all of the participants have left the public dancing place.
10. Hours. No public dance shall occur between the hours of 1:00 am, and 12:00 noon.
11. Minors Prohibited. No person under the age of 21 shall be allowed to be present by the permit holder or any peace officer at a public dance where alcohol is sold or consumed, unless accompanied by a parent or guardian.
12. Certain Behavior Prohibited. No person present at any public dance shall engage in any disorderly conduct, as defined by M.S. § 609.72, as it may be amended from time to time, and any disorderly person shall be immediately removed from the dance by the peace officer present at the public dancing place. Should a substantial number of persons at the public dance engage in disorderly conduct, the peace officer present shall terminate the dance and remove all persons from the public dancing place.
13. Lighting. In order to protect the safety of persons attending a public dance, public dancing places shall be adequately illuminated and dancing therein while lights are extinguished, dimmed or turned low so as to give inadequate or imperfect illumination is hereby prohibited. All exit areas shall be illuminated at all times during the public dance with light having intensity of not less than one footcandle at floor level. Illumination of less than 0.5 foot-candles in any area where dancing is occurring, permitted or encouraged is prohibited.
14. Noise. All public dances shall be subject to the provisions of this code regulating noise.

Section 6.9- 2. Special Events

1. Purpose and Findings. The purpose of this chapter is to protect the health, safety and welfare of the citizens of this city by regulating the time, place and manner of conduct of special events and by establishing permit requirements for conducting special events as such are herein defined. The City Council finds that special events often exceed the city's capacity to provide usual city services. These city services include, but are not limited to sanitary, fire, police and utility services. The City Council also finds these regulations necessary to ensure that such events are conducted with sufficient consideration given to public safety issues, including, among other things, the impact of these events on parking and vehicular traffic within the city.
2. Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - A. **Person.** A natural person, association, organization, club, group formed for a common purpose, partnership of any kind, limited liability company, corporation or any other legal entity.
 - B. **Special Events.** 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. Special events include, but are not limited to concerts, fairs, carnivals, circuses, parades, flea markets, marathons, walkathons, festivals, races, bicycle events, celebrations or any other gathering or events of similar nature. Special events do not include noncommercial events held on private property, such as graduation parties or social parties.
3. Permit Required. No person 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.
4. Application For Permit. Written application for special event permits must be made at least 30 days in advance of the event's proposed date in a form prescribed by the City Council. This application period shall not begin to run until a complete application has been filed with the city. Application forms shall be made available in the office of the City Administrator, A fee, in the amount specified in the Ordinance Establishing Fees and Charges, 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.

5. Issuance of Permit, Conditions and Posting
 - A. 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. Such conditions may pertain to any of the following:
 - i. Location and hours during which the event may be held.
 - ii. Sanitation/availability of potable water.
 - iii. Security/crowd management.
 - iv. Parking and traffic issues.
 - v. Emergency and medical services.
 - vi. Clean-up of premises and surrounding area/trash disposal.
 - vii. Insurance.
 - viii. Lighting.
 - ix. Fire service/safety.
 - x. Temporary construction, barricades/fencing.
 - xi. Removal of advertising/promotional materials.
 - xii. Noise levels.
 - xiii. Alcohol consumption.
 - xiv. Any other conditions which the Council deems necessary.
 - B. Upon Council approval, the City Clerk shall issue a permit to the person(s) named in the permit application. The permit shall clearly state the conditions, if any, imposed by the Council. Copies of the permit shall be posted in three prominent locations during the special event.
6. Exceptions to the Permit The permit requirement contained in this chapter does not apply to the following:
 - A. Special events sponsored and managed by the city.
 - B. Funerals and funeral processions.
 - C. The grounds of any school, playground, place of worship, hotel conference center, stadium, athletic field, arena, auditorium or similar permanent place of assembly when used for regularly established assembly purposes.
7. Penalty
 - A. Any permit holder violating any of the provisions of this chapter relating to public dances shall be guilty of a misdemeanor and punished as provided in Section 1.1-19, and their public dance

permit is suspended immediately at the time of any arrest or citation for violating this chapter.

- B. 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 Section 1.1-19.
- C. Enforcement of this division may, at the Councils discretion, take any of the following forms:
 - i. Citation/criminal prosecution;
 - ii. Injunctions, declaratory judgements or other civil remedies;
 - iii. Permit revocation;
 - iv. Disbursement of persons gathered.

SECTION X - SEXUALLY ORIENTED BUSINESS

Section 6.10- 1. Purpose

The purpose of this chapter is to prescribe licensing requirements for sexually oriented businesses to protect the public health, safety, and welfare and to prevent criminal activity and the spread of sexually-transmitted diseases.

Section 6.10- 2. Findings

The City Council makes the following findings regarding the effect sexually oriented businesses have on the character of the city's neighborhoods. In making these findings, the City Council accepts the recommendations and conclusions of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses* dated June 6, 1989.

1. Sexually oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, increasing the demands on city crime-prevention programs and law enforcement services.
2. Sexually oriented businesses can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that proper management and operation of such businesses can minimize this risk.
3. Sexually oriented businesses can increase the risk of exposure to communicable diseases, including Acquired Immune Deficiency Syndrome (AIDS), for which there is currently no cure. Experiences of other cities indicate that such businesses can facilitate the spread of communicable diseases by virtue of the design and use of the premises, endangering not only the patrons of such establishments but also the general public.
4. Sexually oriented businesses can cause or contribute to public health problems by the presence of live adult entertainment in conjunction with food and/or drink on the same premises.
5. The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed in this chapter.

Section 6.10- 3. Definitions

The following words and terms have the following meanings when used in this chapter.

1. **Sexually Oriented Business.** Shall include the following:
 - A. A business that meets any of the following criteria, measured on a daily, weekly, monthly, or yearly basis:

- i. Has more than 25% of its inventory, stock-in-trade, or publicly displayed merchandise in sexually oriented materials.
 - ii. Devotes more than 25% of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to sexually oriented materials.
 - iii. Derives more than 25% of its gross revenues from sexually oriented materials.
 - B. A business that engages for any length of time in a sexually oriented use as defined in this section or any other use that has an emphasis on specified sexual activities or specified anatomical areas.
2. **Sexually Oriented Materials.** Visual, printed, or aural materials, and other objects or devices, that:
- A. Contain, depict, simulate or describe specified sexual activities or specified anatomical areas.
 - B. Are marketed for use in conjunction with, or are primarily used only with or during specified sexual activities.
 - C. Are designed for sexual stimulation.
3. **Sexually Oriented Use.** Any of the following activities and businesses, even if the activity exists for only a short-time:
- A. **Adult Body Painting Studio.** An establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.
 - B. **Adult Bookstore.** An establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, movies, or motion picture film if it meets the criteria established in the definition of “sexually oriented business,” as defined in this section.
 - C. **Adult Cabaret.** A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on:
 - i. The depiction of nudity, specified sexual activities or specified anatomical areas.

- ii. The presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

- D. **Adult Companionship Establishment.** A business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- E. **Adult Conversation/RAP Parlor.** A business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- F. **Adult Health/Sport Club.** A health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- G. **Adult Hotel or Motel.** A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- H. **Adult Massage Parlor/Health Club.** A massage parlor or health club that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- I. **Adult Mini-Motion Picture Theater.** A business or establishment with a capacity of less than 50 persons that, as a prevailing practice, presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- J. **Adult Modeling Studio.** A business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.
- K. **Adult Motion Picture Arcade.** Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or

characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

- L. **Adult Motion Picture Theater.** A motion picture theater with a capacity of 50 or more persons that, as a prevailing practice, presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.
- M. **Adult Novelty Business.** An establishment or business that has a variety of items for sale if it meets the criteria established in subdivision A of the definition of “sexually oriented business” defined in this section.
- N. **Adult Sauna.** A sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- O. **Adult Steam Room/Bathhouse Facility.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

4. **Specified Anatomical Areas.** Shall include the following:

- A. Less than completely and opaquely covered human genitals, pubic area, buttocks, anus, or female breast below a point immediately above the top of the areola.
- B. Human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

5. **Specified Sexual Activities.** Shall include the following:

- A. Actual or simulated: sexual intercourse; oral copulation; anal intercourse; oral-anal copulation; bestiality; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship; the use of excretory functions in the context of a sexual relationship; anilingus; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism or zooerastia.

- B. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence.
- C. Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation.
- D. Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts.
- E. Situations involving a person or persons, any of whom are nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding or other physical restraint of any person.
- F. Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being.
- G. Human excretion, urination, menstruation or vaginal or anal irrigation.

Section 6.10- 4. Exceptions

This chapter does not regulate the following:

- 1. Material with significant literary content or social commentary.
- 2. A business where sexually oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if the sexually oriented material on each item is blocked from view by an opaque cover as required under M.S. § 617.293, as it may be amended from time to time, and each item is in an area accessible only by an employee of the business.
- 3. A person or organization exempted under M.S. § 617.295.
- 4. Activity regulated under M.S. § 617.25 1.
- 5. Displaying works of art showing specified anatomical areas, so long as no sexually oriented materials are for sale, and the business does not have a liquor license.
- 6. Movies rated G, PG, PG-13, NC-17 or R.

Section 6.10- 5. License Required

No person may own or operate a sexually oriented business within the city unless the person is currently licensed under this chapter.

Section 6.10- 6. Persons Ineligible

No license may be issued to a person who:

- 1. Is not a citizen of the United States or a resident alien;
- 2. Is a minor at the time the application is filed;

3. Has been convicted of a crime directly related to the licensed occupation and has not shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of the owner, operator or manager of a sexually oriented business under M.S. § 364.03, Subd. 3, as it may be amended from time to time, or a person not of good moral character and repute;
4. Holds a liquor license under Minnesota Basic Code Chapter 112.
5. In the judgment of the licensing authority, is not the real party in interest or beneficial owner of the business operated under the license;
6. Has had a license for a sexually oriented business or similar business revoked anywhere within five years of the license application; or
7. In the case of an individual, is not a resident of the state; in the case of a partnership, the managing partner is not a resident of the state; or in the case of a corporation, the manager is not a resident of the state. The required residency must be established by the time the license is issued and maintained throughout the existence of the license and all renewals. The time for establishing residency may, for good cause, be extended by the licensing authority. Penalty, see Section 6.10-14.

Section 6.10- 7. Places Ineligible

No license may be issued for:

1. A place or a business ineligible for a license under city ordinance or state law;
2. Operation in a zoning district where the business is not allowed pursuant to Title VIII of this code;
3. A place or business that is currently licensed as a tattoo establishment, pawnshop, massage business or establishment that sells alcoholic beverages; or
4. Operation on a premises on which taxes, assessments or other financial claims of the city or other government agency are delinquent and unpaid, unless the non-payment is not under the control of the applicant.

Section 6.10- 8. License Application

1. The application for a sexually oriented business license under this chapter must be made on a form supplied by the city and must provide the following information:
 - A. The business in connection with which the proposed license will operate;
 - B. The location of the business premises;

- C. The legal description of the premises to be licensed, including a map of the area for which the license is sought, showing dimensions, locations of buildings, street access and parking facilities;
- D. Whether all real estate and personal property taxes that are due and payable for the premises to be licensed have been paid, and if not paid, the years and amounts that are unpaid;
- E. Whether the applicant is the owner and operator of the business and if not, who is;
- F. Whether the applicant has ever used or been known by a name other than his or her true name, and if so, what was the name or names, and information concerning dates and places where used;
- G. Whether the applicant is married or single. If married, the true name, place and date of birth and street address of applicant's spouse;
- H. Street address at which the applicant and spouse have lived during the preceding ten years;
- I. Kind, name and location of every business or occupation the applicant and spouse have been engaged in during the preceding ten years;
- J. Names and addresses of the applicant's and spouse's employers and partners, if any, for the preceding ten years;
- K. Whether the applicant or spouse has ever been convicted of a violation of a state law or local ordinance, other than a non-alcohol related traffic offense. If so, the applicant must furnish information as to the time, place and offense for which convictions were had;
- L. Whether the applicant or spouse has ever been engaged as an employee or in operating a sexually oriented business, massage business, or other business of a similar nature. If so, the applicant must furnish information as to the time, place and length of time;
- M. Whether the applicant has ever been in military service. If so, the applicant must, upon request, exhibit all discharges;
- N. If the applicant is a partnership, the name and address of all partners and all information concerning each partner as is required of a single applicant as above. A managing partner or partners must be designated. The interest of each partner or partners in the business must be submitted with the application and, if the partnership is required to file a certificate as to trade name under the provisions of M.S. Ch. 333, as it may be amended from time to time, a copy of the certificate must be attached to the application;

- O. If the applicant is a corporation or other organization, the applicant must submit the following:
 - i. Name, and if incorporated, the state of incorporation;
 - ii. Names and addresses of all officers;
 - iii. The name of the manager or proprietor or other agent in charge of, or to be in charge of the premises to be licensed, giving all information about said person as is required in the case of a single applicant; and
 - iv. A list of all persons who, single or together with their spouse, own or control an interest in said corporation or association in excess of 5% or who are officers of said corporation or association, together with their addresses and all information as is required for a single applicant.

 - P. The amount of the investment that the applicant has in the business, land, building, premises, fixtures, furniture or stock-in-trade, and proof of the source of the money;
 - Q. A list of responsible persons, including the names of owners, managers and assistant managers, who may be notified or contacted by state or city employees in case of emergency. These persons must be residents of the state;
 - R. Whether the applicant holds a current license for a sexually oriented business or similar business from another governmental unit;
 - S. Whether the applicant has ever been denied a license for a sexually oriented business or similar business from another governmental unit; and
 - T. Other information that the city deems appropriate.
2. No person may make a false statement or material omission in a license application or investigation. A false statement or material omission is grounds for denial, suspension or revocation of a license.
 3. Each licensee has the continuing duty to properly notify the Director of Community Development of a change in the information or facts required to be furnished on the application for a license. This duty continues throughout the period of the license. Failure to comply with this section will constitute cause for revocation or suspension of the license.
 4. The application for the renewal of an existing license must be made at least 90 days prior to the date of the expiration of the license and must be made on the form which the city provides.

Section 6.10- 9. Fees.

1. An applicant for a license must pay to the city the investigation fee specified in the Ordinance Establishing Fees and Charges, adopted pursuant to Section 2.1-11 of this code, as that ordinance may be amended from time to time. This fee will be for the purpose of conducting a preliminary background and financial investigation of the applicant. If the city believes that the public interest so warrants, it may require a similar investigation at the time of renewal of a license. If an investigation is ordered at the time of license renewal, the applicant must pay the fee specified above, except that the fee will be the smaller of the stated dollar amount or the actual cost of the investigation. There will be no refund of the investigation fee after the investigation has begun.
2. The annual fees for a license are set forth in the Ordinance Establishing Fees and Charges, adopted pursuant to Section 2.1-11 of this code, as that ordinance may be amended from time to time.
3. Each license expires on December 31 of the year in which it is issued. Fees for licenses issued during the license year will be prorated according to the number of months remaining in the year. For this purpose an unexpired fraction of a month will be counted as a whole month having elapsed.
4. No refund of a fee will be made except as authorized by ordinance.

Section 6.10- 10. Granting of Licenses

1. No license may be issued until the Police Department, or the county Sheriff, if the city has no Police Department, has conducted an investigation of the representations set forth in the application, the applicant's moral character, and the applicant's financial status. All applicants must cooperate this investigation.
2. No license, except for a renewed license, may be issued for a sexually oriented business until the Council has held a public hearing. Notice of the hearing must be made in the same manner as that specified in Chapter 151 of this code, for a zoning ordinance amendment affecting district boundaries. The Council must grant the license unless the applicant or the location does not meet the requirements of the city code, the application was incomplete, or the application contained false information or a material omission. If the application is denied, the city must notify the applicant with the reason(s) stated for denial. Notification must be sent certified, United States mail, return receipt requested, to the address provided on the license application. If the Council fails to act on the application within 45 days after receipt of a complete application, the application will be deemed approved. An applicant wishing to appeal the

action of the City Council may seek a writ of certiorari before the Minnesota Court of Appeals.

3. Council Discretion.

A. The City Council may issue a license before an investigation, notice and public hearing for an applicant who:

- i. Had a license within the previous five years for the establishment that is specified in the application and that is continuing to operate under a license;
- ii. Wishes to resume operation of the business without sufficient time, through no fault of his or her own, to meet the normal procedural requirements;
- iii. Had no criminal license convictions, or license suspensions or revocations during the prior licensed period; and
- iv. Otherwise qualifies and meets the requirements for a license.

B. In this situation, the City Council may immediately issue an interim license to the applicant for a period of no longer than 90 days. The applicant must then proceed through the specified requirements for an investigation, notice, and public hearing. At the public hearing the Council will decide whether the license should continue in effect or be revoked. The applicant has no greater right to continuation of the license than he or she would have had to issuance of a new license following the normal procedure without the interim license.

4. A license will be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without application in the same manner as an application for a new license. Transfer of 25% or more of the stock of a corporation or of a controlling interest of it, whichever is less, will be deemed a transfer of the license. If the licensee is a corporation that is wholly owned by another corporation, the same provisions about the transfer of a stock or a controlling interest will apply to that parent corporation, any second parent corporation that wholly owns the parent corporation, and all other similarly situated parent corporations up through the chain of ownership. Transfer of this amount of stock without prior Council approval is a ground for revocation or suspension of the license. In addition, each day the licensee operates under the license after a transfer has taken place without obtaining Council approval will be a separate violation of this chapter.
5. In the case of the death of a licensee, the personal representative of a licensee may continue operation of the business for not more than 90 days after the licensee's death.

Section 6.10- 11. Conditions of Licenses

1. A license is subject to the conditions in this section, all other provisions of this chapter, and of other applicable regulations, ordinances or state laws.
2. A licensee is responsible for the conduct of his or her place of business and the conditions of order in it. The act of an employee of the licensed premises is deemed the act of the licensee as well, and the licensee is liable for all penalties provided by this chapter equally with the employee, except criminal penalties.
3. The license must be posted in a conspicuous place in the premises for which it is used.

Section 6.10- 12. Restrictions and Regulations

A sexually oriented business is subject to the following restrictions and regulations:

1. No owner, manager or employee may allow sexually oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.
2. No owner, manager or employee may allow a person under the age of 18 to enter the business.
3. No owner, manager or employee may allow a person under the age of 18 to have access to sexually oriented materials, whether by sight, purchase, touch or other means.
4. No owner or manager may employ a person under the age of 18 on the licensed premises.
5. No owner, manager, or employee may have been convicted of a sex crime, as identified in M.S. § 609.293 to 609.352, 609.746 to 609.749, 609.79 or 5188.01, as they may be amended from time to time, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity, or domestic abuse within the past five years.
6. No business may exceed 10,000 square feet in gross floor area.
7. No owner, manager or employee may allow a patron, employee, or other person on the premises to physically contact, in public view, a specified anatomical area of himself or herself or of another person, except that a live performer may touch himself or herself.
8. A live performer must remain at all times a minimum distance of ten feet from members of the audience, and must perform on a platform intended for that purpose, that must be raised at least two feet from the level of the floor on which the audience is located. No performer may solicit or accept money, a tip, or other item from a member of the audience.
9. No business may have booths, stalls, partitioned portions of a room, or individual rooms, except as follows:

- A. Restrooms are allowed as long as they are no larger than reasonably necessary to serve the purposes of a restroom, no other activities are provided or allowed in the rooms, and there are no chairs, benches, or reclining surfaces in the rooms; and
 - B. Storage rooms and private offices are allowed, if the storage rooms and offices are used solely for running the business and no person other than the owner, manager and employees is allowed in them.
10. A licensee must not be open for business to the public:
- A. Between 1:00 a.m. and 8:00a.m. on the days of Monday through Saturday; and
 - B. Between 1:00a.m. and 12:00 noon on Sundays.

Section 6.10- 13. Suspensions and Revocations of License

- 1. *Delinquent taxes.* The City Council may suspend or revoke a license issued under this chapter for operation on a premises on which real estate taxes, assessments or other financial claims of the city or of the state are due, delinquent, or unpaid, unless the non-payment is not under the control of the licensee. If an action has been commenced under MS. Ch. 278, as it may be amended from time to time, questioning the amount or validity of taxes, the Council may on application by the licensee waive strict compliance with this provision; no waiver may be granted, however, for taxes, or a portion of them, that remain unpaid for a period exceeding one year after becoming due, unless the one-year period is extended through no fault of the licensee.
- 2. *Violations*
 - A. The Council may either suspend for up to 60 days or revoke a license for a violation upon a finding that the licensee or an agent or employee of the licensee has failed to comply with an applicable statute, regulation or ordinance relating to the subject matter of this chapter or violated the statutes in subsection (B) of subdivision 2 of this section. No suspension or revocation will take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. § 14.57 to 14.69, as they may be amended from time to time, with the exception of the suspension provided for in subdivision (B) of subsection 2 of this section.
 - B. Conviction of a sex crime, as identified in M.S, § 609.293 to 609.352, 609.746 to 609.749, 609.79 or 51 8B .01, as they may be amended from time to time, or related statute dealing with sexual

assault, sexual conduct, harassment, obscenity or domestic abuse by the licensee will result in the immediate suspension pending a hearing on revocation of a license issued under this chapter.

- C. *Prompt judicial review.* Prompt and final judicial review shall be provided to any applicant or licensee when a license is denied, suspended or revoked.

Section 6.10- 14. Penalty

Except as otherwise provided by state law, a person violating a provision of this chapter is subject to the penalties established in Section 1.1-19. A fine or sentence imposed does not affect the right of the city to suspend or revoke the license of the licensee as the Council deems appropriate.

TITLE VII: GENERAL OFFENSES

SECTION I - DAMAGE TO PROPERTY

Section 7.1- 1. Reserved

SECTION II - DISCHARGING FIREARMS

Section 7.2- 1. Reserved

SECTION III - CURFEW FOR MINORS

Section 7.3- 1. Reserved

SECTION IV - FIREWORKS

Section 7.4- 1. Fireworks

1. As used in sections 7.4 - 1 to 7.4 - 6, the term "fireworks" means any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, and includes blank cartridges, toy cannons, and toy canes in which explosives are used, the type of balloons which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, Roman candles, day go bombs, sparklers other than those specified in paragraph (c), or other fireworks of like construction, and any fireworks containing any explosive or inflammable compound, or any tablets or other device containing any explosive substance and commonly used as fireworks.
2. The term "fireworks" shall not include toy pistols, toy guns, in which paper caps containing 25/100 grains or less of explosive compound are used and toy pistol caps which contain less than 20/100 grains of explosive mixture.
3. The term also does not include wire or wood sparklers of not more than 100 grams of mixture per item, other sparkling items which are nonexplosive and nonaerial and contain 75 grams or less of chemical mixture per tube or a total of 200 grams or less for multiple tubes, snakes and glow worms, smoke devices, or trick noisemakers which include paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture. The use of items listed in this paragraph is not permitted on public

property. This paragraph does not authorize the purchase of items listed in it by persons younger than 18 years of age. The age of a purchaser of items listed in this paragraph must be verified by photographic identification.

4. A local unit of government may impose an annual license fee for the retail sale of items authorized under paragraph (3). The annual license fee of each retail seller that is in the business of selling only the items authorized under paragraph (3) may not exceed \$350, and the annual license of each other retail seller may not exceed \$100. A local unit of government may not:
 - A. impose any fee or charge, other than the fee authorized by this paragraph, on the retail sale of items authorized under paragraph (3);
 - B. prohibit or restrict the display of items for permanent or temporary retail sale authorized under paragraph (3) that comply with National Fire Protection Association Standard 1124 (2003 edition); or
 - C. Impose on a retail seller any financial guarantee requirements, including bonding or insurance provisions, containing restrictions or conditions not imposed on the same basis on all other business licensees.
5. As used in sections 7.4 - 1 to 7.4 - 6, the term "explosive fireworks" means any fireworks that contain pyrotechnic or flash powder, gunpowder, black powder, or any other explosive compound constructed to produce detonation or deflagration.

Section 7.4 -2. Sale, Possession, and Use of Fireworks Prohibited

Except as otherwise provided in sections 7.4 - 1 to 7.4 - 6, it shall be unlawful for any person to offer for sale, expose for sale, sell at retail or wholesale, possess, advertise, use, or explode any fireworks. This section shall not be construed to prohibit the possession, use, or explosion of fireworks by an engineer licensed pursuant to Minnesota Statutes 326.02 and 326.03 or a person under the engineer's direct supervision when undertaking acoustical testing; or sales at wholesale to those persons holding valid permits for a fireworks display from a governmental subdivision of the state; or sales outside the state or sales to licensed professional engineers for acoustical testing purposes only.

Section 7.4 - 3. Fireworks displays; Permits; Operator Certification

1. **General requirements; permit; investigation; fee.**
 - A. Sections 7.4 - 1 to 7.4 - 6 do not prohibit the supervised display of fireworks by a statutory or home rule charter city, fair association, amusement park, or other organization, except that:

1. a fireworks display may be conducted only when supervised by an operator certified by the state fire marshal; and
 2. a fireworks display must either be given by a municipality or fair association within its own limits, or by any other organization, whether public or private, only after a permit for the display has first been secured.
- B. An application for a permit for an outdoor fireworks display must be made in writing to the municipal clerk at least 15 days in advance of the date of the display and must list the name of an operator who is certified by the state fire marshal and will supervise the display. The application must be promptly referred to the chief of the fire department, who shall make an investigation to determine whether the operator of the display is competent and is certified by the state fire marshal, and whether the display is of such a character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. The fire chief shall report the results of this investigation to the clerk. If the fire chief reports that the operator is certified, that in the chief's opinion the operator is competent, and that the fireworks display as planned will conform to the safety guidelines of the state fire marshal provided for in paragraph (f), the clerk shall issue a permit for the display when the applicant pays a permit fee.
- C. When the supervised outdoor fireworks display for which a permit is sought is to be held outside the limits of an incorporated municipality, the application must be made to the county auditor, and the auditor shall perform duties imposed by sections 7.4 - 1 to 7.4 - 6 upon the clerk of the municipality. When an application is made to the auditor, the county sheriff shall perform the duties imposed on the fire chief of the municipality by sections 7.4 - 1 to 7.4 - 6.
- D. An application for an indoor fireworks display permit must be made in writing to the state fire marshal by the operator of the facility in which the display is to occur at least 15 days in advance of the date of any performance, show, or event which will include the discharge of fireworks inside a building or structure. The application must list the name of an operator who is certified by the state fire marshal and will supervise the display. The state fire marshal shall make an investigation to determine whether the operator of the display is competent and is properly certified and

whether the display is of such a character and is to be so located, discharged, or fired that it will not be hazardous to property or endanger any person. If the state fire marshal determines that the operator is certified and competent, that the indoor fireworks display as planned will conform to the safety guidelines provided for in paragraph (f), and that adequate notice will be given to inform patrons of the indoor fireworks display, the state fire marshal shall issue a permit for the display when the applicant pays an indoor fireworks fee of \$150 and reimburses the fire marshal for costs of inspection. Receipts from the indoor fireworks fee and inspection reimbursements must be deposited in the general fund as a nondedicated receipt. The state fire marshal may issue a single permit for multiple indoor fireworks displays when all of the displays are to take place at the same venue as part of a series of performances by the same performer or group of performers. A copy of the application must be promptly conveyed to the chief of the local fire department, who shall make appropriate preparations to ensure public safety in the vicinity of the display. The operator of a facility where an indoor fireworks display occurs must provide notice in a prominent place as approved by the state fire marshal to inform patrons attending a performance when indoor fireworks will be part of that performance. The state fire marshal may grant a local fire chief the authority to issue permits for indoor fireworks displays. Before issuing a permit, a local fire chief must make the determinations required in this paragraph.

- E. After a permit has been granted under either paragraph (b) or (d), sales, possession, use and distribution of fireworks for a display are lawful for that purpose only. A permit is not transferable.
- F. The state fire marshal shall adopt and disseminate to political subdivisions rules establishing guidelines on fireworks display safety that are consistent with sections 7.4 - 1 to 7.4 - 6 and the most recent editions of the Minnesota State Fire Code and the National Fire Protection Association Standards, to insure that fireworks displays are given safely. In the guidelines, the state fire marshal shall allow political subdivisions to exempt the use of relatively safe fireworks for theatrical special effects, ceremonial occasions, and other limited purposes, as determined by the state fire marshal.

2. Operator certification requirements.

- A. An applicant to be a supervising operator of a fireworks display shall meet the requirements of this subdivision before the applicant is certified by the state fire marshal.
 - B. An applicant must be at least 21 years old.
 - C. An applicant must have completed a written examination, administered or approved by the state fire marshal, and achieved a passing score of at least 70 percent. The state fire marshal must be satisfied that achieving a passing score on the examination satisfactorily demonstrates the applicant's knowledge of statutes, codes, and nationally recognized standards concerning safe practices for the discharge and display of fireworks.
 - D. An applicant shall apply in writing to the state fire marshal by completing and signing an application form provided by the state fire marshal.
 - E. An applicant shall submit evidence of experience, which must include active participation as an assistant or operator in the performance of at least five fireworks displays, at least one of which must have occurred in the current or preceding year.
3. **Certification application; fee.** An applicant shall submit a completed initial application form including references and evidence of experience and successful completion of the written examination. Applicants shall pay a certification fee of \$100 to the State Fire Marshal Division of the Department of Public Safety. The state fire marshal shall review the application and send to the applicant written confirmation or denial of certification within 30 days of receipt of the application. Certification is valid for a period of four years from the date of issuance.
4. **Classification.** When an applicant has met the requirements of subdivisions 2 and 3, the state fire marshal shall certify and classify the operator for supervising proximate audience displays, including indoor fireworks displays, for supervising traditional outdoor fireworks displays, or for supervising both types of displays, based on the operator's documented experience.
5. **Responsibilities of operator.** The operator is responsible for ensuring the fireworks display is organized and operated in accordance with the state fire marshal's guidelines described in subdivision 1.
6. **Reports.**
- A. The certified operator shall submit a written report to the state fire marshal within ten days following a fireworks display conducted by the operator if any of the following occurred:

1. an injury to any person resulting from the display of fireworks;
 2. a fire or damage to property resulting from the display of fireworks; or
 3. an unsafe or defective pyrotechnic product or equipment was used or observed.
- B. The certified operator shall submit a written report to the state fire marshal within 30 days following any other fireworks displays supervised by the operator.
- C. The state fire marshal may require other information from operators relating to fireworks displays.
7. **Operator certification renewal.** An applicant shall submit a completed renewal application form prepared and provided by the state fire marshal, which must include at least the dates, locations, and authorities issuing the permits for at least three fireworks displays participated in or supervised by the applicant and conducted during the past four years. An applicant shall pay a certification renewal fee of \$100 to the State Fire Marshal Division of the Department of Public Safety. The state fire marshal shall review the application and send to the applicant written confirmation or denial of certification renewal within 30 days of receipt of the application. Certification is valid for a period of four years from the date of issuance.
8. **Suspension, revocation, or refusal to renew certification.** The state fire marshal may suspend, revoke, or refuse to renew certification of an operator if the operator has:
- A. submitted a fraudulent application;
 - B. caused or permitted a fire or safety hazard to exist or occur during the storage, transportation, handling, preparation, or use of fireworks;
 - C. conducted a display of fireworks without receipt of a permit required by the state or a political subdivision;
 - D. conducted a display of fireworks with assistants who were not at least 18 years of age, properly instructed, and continually supervised; or
 - E. otherwise failed to comply with any federal or state law or regulation, or the guidelines, relating to fireworks.
9. **Database.** The commissioner of public safety shall maintain a database of the information required under this section for purposes of (1) law enforcement, (2) investigative inquiries made under subdivision 1, and (3) the accumulation and statistical analysis of information relative to fireworks displays.

Section 7.4 – 4. Exemptions for License or Permit Holder

1. The holders of a federal explosives license or permit issued pursuant to United States Code, title 18, chapter 40, or their agents when the holder or agent is acting in compliance with the conditions of licensure; or
2. The holders of permits issued pursuant to section 7.4 - 7 or their agents, from the date of issuance until 20 days after the date of exhibition authorized by the permit, when the holder or agent is acting in compliance with the conditions of the permit and section 7.4 - 7.

Section 7.4 – 5. Construction of Section 624.20 to 624.25

Nothing in sections 7.4 - 1 to 7.4 - 6 shall be construed to prohibit any resident wholesaler, dealer, or jobber, from possessing or selling at wholesale fireworks which are not prohibited; or the possession or sale of any kind of fireworks for shipment directly out of the state; or the possession or use of fireworks by airplanes and railroads, or other transportation agencies for signal purposes or illumination; or the possession, sale, or use of blank cartridges for a show or theater, or for signal or ceremonial purposes in athletics or sports, or for use by military organizations or for use as a bird or animal repelling device.

Section 7.4 – 6. Officers may Seize Illegal Fireworks

The state fire marshal, or any sheriff, police officer, constable, or local fire marshal, shall seize, take, remove, or cause to be removed, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of sections 7.4 - 1 to 7.4 - 6.

Section 7.4 – 7. Violation

Any person violating the provisions of sections 7.4 - 1 to 7.4 - 6 may be sentenced as follows:

1. if the violation involves explosive fireworks in an amount of 35 pounds gross container weight or more, to imprisonment for not more than one year, or to payment of a fine of not more than \$3,000, or both;
2. if the violation involves explosive fireworks in an amount of less than 35 pounds gross container weight, to imprisonment for not more than 90 days, or to payment of a fine of not more than \$700, or both; and
3. if the violation involves any amount of fireworks other than explosive fireworks, to imprisonment for not more than 90 days, or to payment of a fine of not more than \$700, or both.

**CITY OF EAST GULL LAKE
RESOLUTION 11:02-25**

**A RESOLUTION AUTHORIZING SUMMARY PUBLICATION OF ORDINANCE NO. 2025-09
REPEALING AND REPLACING TITLE VIII: LAND USE, ZONING, AND SUBDIVISION**

WHEREAS, at the May 6, 2025 meeting, after proper notice and hearing, the Council adopted Ordinance No. 2025-04, as a complete repeal and replace of Title VIII, Land Use, Zoning and Subdivision, with certain sections subject to DNR review and possible revisions; and

WHEREAS, after the City received requested modifications from DNR, at the October 7, 2025 meeting, after proper notice and hearing, the Council adopted Ordinance No. 2025-09, as a complete repeal and replace of Title VIII, Land Use, Zoning and Subdivision, incorporating requested revisions from the DNR; and

WHEREAS, as authorized by Minnesota Statutes, Section 412.191, subd. 4, the City Council has determined that publication of the title and summary of Title VIII: Land Use, Zoning, and Subdivision Ordinance No. 2025-09 will clearly inform the public of the intent and effect of the Ordinance; and

WHEREAS, a printed copy of the Ordinance is available for inspection during regular office hours in the office of the City Clerk.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of East Gull Lake, that the following summary of Title VIII: Land Use, Zoning, and Subdivision Ordinance No. 2025-09 is approved for publication:

**CITY OF EAST GULL LAKE
TITLE VIII: LAND USE, ZONING, AND SUBDIVISION ORDINANCE NO. 2025-09**

Section 1. The City of East Gull Lake repeals and replaces Title VIII: Land Use, Zoning, and Subdivision of the City Code. The new ordinance promotes orderly development within the city and regulates the location, construction, reconstruction, alteration, and use of structures and land as well as the subdivision of land. The ordinance updates definitions, reorganizes sections and modified land uses and performance standards to be consistent with the goal and objectives of the City of East Gull Lake. Planning application processes required for major and minor Subdivisions, Planned Unit Developments, Conditional Use Permits, Interim Use Permits, and Variances are provided in the ordinance. The zoning map is also part of the Ordinance.

Section 2. The full ordinance will be in effect on the date of this summary publication.

Section 3. The full ordinance is available for review during regular office hours in the office of the City Clerk.

Adopted by the East Gull Lake City Council this ordinance amendment the 4th day of November, 2025.

A vote being taken on the motion, the following members of the Council voted in favor of the motion to adopt the Resolution: Mayor Dave Kavanaugh, Councilors Ruttger, Demgen, Hoffmann, and Bergin.

And the following voted against: None

WHEREUPON said resolution was declared duly approved and adopted and was signed by the Mayor and attested to by the City Administrator.


Dave Kavanaugh, Mayor



Laura Christensen, City Administrator

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TITLE VIII: LAND USE, ZONING AND SUBDIVISION

SECTION I – TITLE

This Ordinance shall be referred to and cited as the East Gull Lake Land Use, Zoning and Subdivision Ordinance, except herein where it shall be cited as the “Ordinance”.

SECTION II – INTENT AND PURPOSE NAAA

This Ordinance is established pursuant to the authority granted by Minnesota Statutes, in particular the M.S. Chapter 462, including but not limited to M.S. §§ 462.357 and 462.358, as well as other applicable state statutes and rules. Whenever other applicable city, state, or federal laws or rules referenced in this title have been amended or superseded, this title shall also be considered amended accordingly. This Ordinance hereby repeals “Zoning Ordinance #35 for the City of East Gull Lake”, and any revisions through the year 2024 and “Subdivision Ordinance #36 for the City of East Gull Lake” adopted July 2, 1990, and with revisions through the year 2024.

Section 8.2-1. This Ordinance is adopted for the purpose of:

1. Protecting public health, safety, comfort, convenience and general welfare.
2. Inaugurating and effectuating the goals of the Comprehensive Plan.
3. Promoting order in development by dividing the area of the city into zones and regulating therein the location, construction, reconstruction, alteration and use of the structures and land.
4. Conserving the natural and scenic beauty and attractiveness of the city, for the health and welfare of the public.
5. Providing for adequate light, air and access to property by regulating the use of the land and buildings and the bulk of structures in relation to surrounding properties. Also, to control drainage and water run-off onto adjacent properties and into the lakes, rivers or streams, or wetlands.
6. Providing for the administration of the provisions of the ordinance and defining the authority and duties of the City Administrator, Planning and Zoning Administrator, Planning Commission, Board of Adjustment and City Council under this ordinance.

Section 8.2-2. Relation to the City’s Comprehensive Plan

It is the policy of the city that the enforcement, amendment, and administration of this Ordinance be accomplished consistent with the recommendations contained in the city comprehensive plan, as developed and amended from time to time by the Planning Commission and City Council. The City Council recognizes the city comprehensive plan as the official policy for the regulation of land use and development in accordance with the policies and purpose herein set forth. In accordance with Minnesota Statutes Section 473.858, as amended, the city will not approve any rezoning or other changes in these regulations that are inconsistent with the city comprehensive plan.

SECTION III – RULES AND DEFINITIONS

Section 8.3-1. Rules

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

1. The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
2. The masculine gender includes the feminine gender and the neuter gender.
3. The singular includes the plural, and the plural includes the singular.
4. The present tense includes the past and future tenses, and the future includes the present.
5. The word “may” is permissive. The word “shall” is mandatory. Mandatory compliance with the Ordinance shall allow for variances thereto.
6. All horizontal and vertical measured distances shall be expressed to the nearest tenth of a foot and its metric equivalent, unless specifically stated otherwise.
7. The words “premises”, “lot,” “plot,” “piece of land” and “parcel of land” of land are interchangeable.
8. The words “used for,” shall include the phrases “arranged for,” “designed for,” “intended for,” “improved for,” “maintained for,” and “occupied for.”

Section 8.3-2. Definitions

The following words shall be defined as follows for the purpose of this Ordinance:

1. **Abandoned Building.** A building as defined hereinafter on public or private property, which no longer serves a practical use and, due to its location or structural condition, is considered a safety hazard in the opinion of the Planning and Zoning Administrator.
2. **Abutting.** To have a common boundary with or touch at least at one point.
3. **Accessory Building.** A subordinate building which is located on the same lot on which the principal building is situated, and which is reasonably necessary and incidental to the conduct of the principal building.
4. **Accessory Structure.** A structure that is supportive, secondary and subordinate in use and/or size to the principal structure on the same zoning parcel or zoning lot therewith. Includes all structures not considered the principal structure including, but not limited to T.V. towers, antennas, dish antennas, outdoor swimming pools, outdoor hot-tubs and decks.
5. **Accessory Use.** A use naturally and normally incident and subordinate to the principal use of the premises and located on the same parcel as the principal use. Accessory uses that are permissible within each zoning district are listed within the zoning districts.
6. **Addition.** A vertical or horizontal physical enlargement of an existing structure.
7. **Adjacent.** In close proximity to or neighboring, not necessarily abutting.
8. **Agent.** Any person acting on behalf of a landowner in dealing with activities under the jurisdiction of the Ordinance, including but not limited to realtors, contractors, building consultants, or attorneys.

9. **Agricultural Use.** The use of land for agricultural purposes including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses used for packing, treating or storing the product, provided, however, that the operation of any such accessory uses shall be secondary and subordinate to that of the normal agricultural activities.
10. **Airport.** Any premises used or intended for use form the landing and taking off of aircraft including any structures used or intended for use for aircraft services.
11. **Alteration.** A change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or by moving from one location to another, of a building or a structure or modifications upon the land including vegetation and topography changes.
12. **Animals, Domestic.** Common household pets, such as, but not limited to, dogs and cats, kept for amusement, companionship, or interest.
13. **Animals, Farm.** Animals such as, but not limited to, fish, fowl, cattle, swine, sheep and others raised for the purposes of food consumption.
14. **Animals, Wild.** Animals, such as, but not limited to, wolves, tigers, lions and snakes, that are not normally a domestic animal or farm animal and would ordinarily be confined in a zoo or found in the wild.
15. **Animal Feedlot.** A facility as defined by Minnesota Rules, Part 7020.0300.
16. **Animal Husbandry.** The care or breeding of domestic animals such as, but not limited to, cattle, hogs, sheep, horses, poultry, dogs (more than two (2)) or cats (more than three (3)) for the occupants of a property.
17. **Animal Unit.** A unit of measure based on the approximate production of wastes from one thousand (1,000) pounds of live weight of poultry or animals.

Animal Units

One (1) slaughter weight steer or heifer	1.00
One (1) mature dairy cow or horse	1.40
One (1) swine over 55 pounds	0.40
One (1) sheep	0.40
One (1) goose	0.05
One (1) duck	0.05
One (1) turkey	0.10
One (1) chicken	0.05

18. **Antenna.** A device used to transmit and/or receive telecommunication, television or radio signals, or electromagnetic waves between terrestrially and/or orbitally based structures directly or indirectly related to wireless personal communication services and cellular services.
19. **Apartment.** An individual living unit in a multiple family dwelling.
20. **Appeal.** An application for the review of an order, requirement, decision, determination or interpretation of this Ordinance made by an administrative officer in the application and/or enforcement of this Ordinance.
21. **Applicant.** Any person requesting approval of any land-use or development application, or similar entitlement regulated by the city. The applicant may or may not also be the owner or developer.
22. **Architectural Projection.** A non-functional or ornamental feature on a building or other structure that does not extend to, or from, the ground.
23. **Artist's Studio.** A fine arts workshop of a painter, sculptor, potter, weaver, carver, jeweler, photographer or other similar art that requires artistic skill, where the public is received or where the artist is engaging in retail sales.
24. **Attached.** At least two (2) buildings or structures that combine to form one building or structure through the use of at least one common wall, not including a breezeway.

25. **Bar.** An establishment that serves beverages and food for consumption on the premises.
26. **Balcony.** Same as a deck.
27. **Bathroom, Full.** A room containing a shower or bathtub and a sink and toilet.
28. **Bathroom, Half.** A room containing a sink and toilet with no shower or bathtub.
29. **Base Flood.** The flood having a one (1) percent chance of being equaled or exceeded in any given year. "Base flood" is synonymous with the term "regional flood" used in Minnesota Rules, Part 6120.5000.
30. **Basement.** The space below the first story of a structure which is greater than four (4) feet in height.
31. **Beach Sand Blanket.** A sand layer of not more than six inches (6") in thickness, fifty feet (50') in width along the shoreline or one-half the width of the lot whichever is less, and does not extend more than ten feet (10') waterward of the ordinary high water level.
32. **Bedroom.** A portion of a dwelling unit intended to be used for sleeping purposes, which may contain closets and may have access to a bathroom.
33. **Billboards.** A sign which directs attention to a business, activity, service, entertainment or a product not exclusively related to the premises or property where such sign is located. Non-commercial signs can be substituted for commercial billboard signs.
34. **Block.** An area of land bounded by streets, exterior boundary lines and/or bodies of water.
35. **Bluff.** A topographic feature such as a hill, cliff or embankment having all of the following characteristics:
 - A. Part or the entire feature is located in a shoreland area;
 - B. The slope rises at least twenty-five (25) feet above the ordinary high-water level of the water body;
 - C. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet above the ordinary high water level averages thirty (30) percent or greater (see Figure 1). An area with an average slope of less than eighteen (18) percent over a distance for fifty (50) feet shall not be considered part of the bluff (see Figure 2); and
 - D. The slope must drain towards the water body.

Figure 1: Illustration of a Bluff

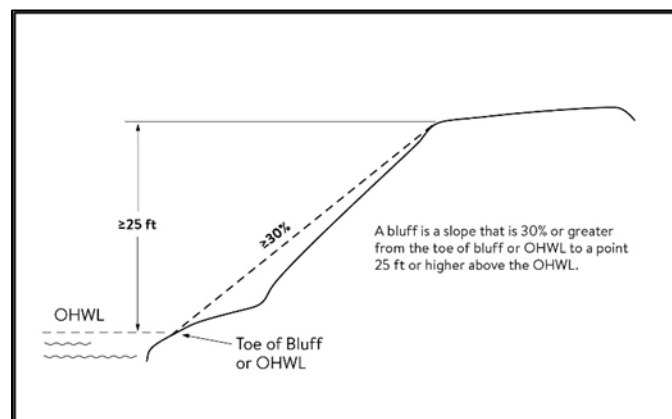
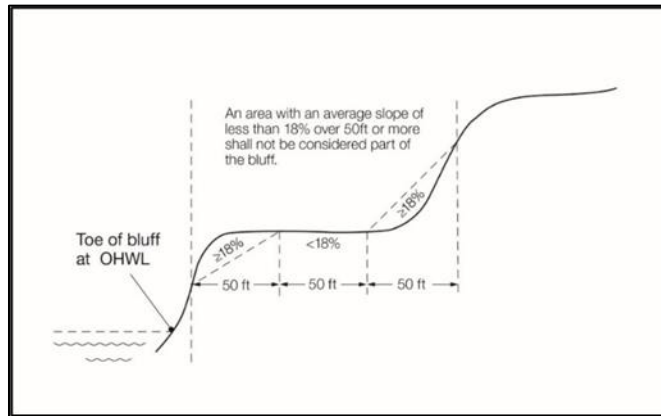
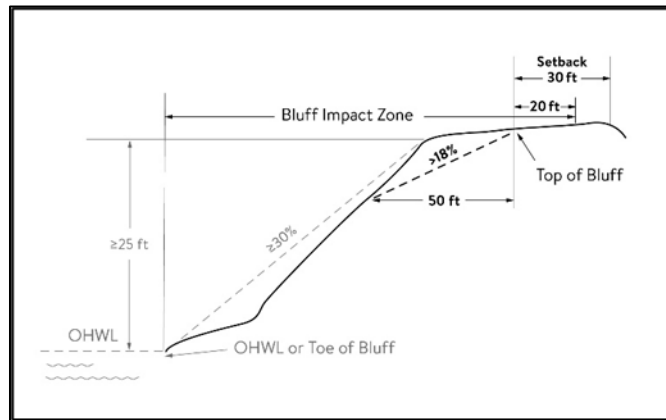


Figure 2: Exception to Bluff



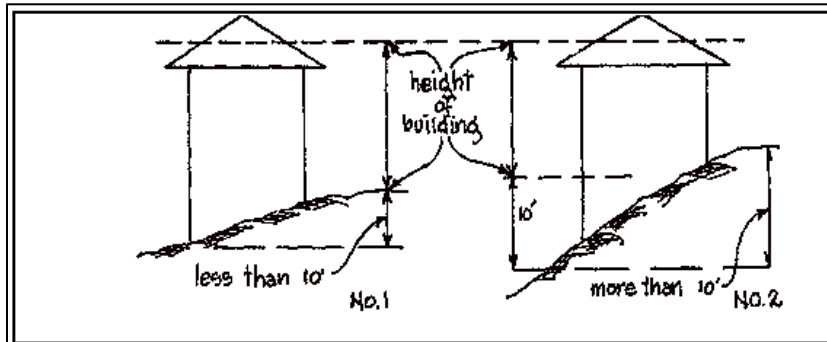
36. **Bluff Impact Zone.** A bluff and the land located within twenty (20) feet from the top of the bluff (see Figure 3).

Figure 3: Bluff Impact Zone and Top of Bluff



37. **Bluff, Toe of.** The lower point of a fifty (50) foot segment with an average slope exceeding eighteen (18) percent or the ordinary high-water level, whichever is higher.
38. **Bluff, Top of.** For the purposes of measuring setbacks, bluff impact zone, and administering vegetation management standards, the higher point of a 50-foot segment with an average slope exceeding eighteen (18) percent (See Figure 3).
39. **Board of Adjustment.** The Board, appointed by the City Council, to hear appeals from actions of the Planning and Zoning Administrator, and Variance requests.
40. **Breezeway.** A covered or enclosed walkway that physically, but not materially connects, connects two or more buildings or structures.
41. **Buffer.** An area consisting of perennial vegetation, excluding invasive plants and noxious weeds, adjacent to all bodies of water within the state and that protects the water resources, including wetlands, of the state from runoff pollution; stabilizes soils, shores, and banks; and protects or provides riparian corridors.
42. **Buildable Area.** Any site, lot, parcel or any portion thereof that does not contain designated flood plain, wetlands, bluffs or steep slopes
43. **Building.** Any structure used or intended for storage, shelter or occupancy.

44. **Building Height.** The vertical distance between the ground elevation abutting a building and the midpoint of the elevation of the highest gable of a pitched or hipped roof, the deck line of a mansard roof, or the highest point of a flat roof or a parapet wall. The ground elevation used to measure building height will be selected from one of the following, whichever results in the greater height:
- A. When the change in grade within the footprint of the building is equal to or less than 10 feet, the highest ground elevation abutting the building will be used.
 - B. When the change in grade within the footprint of the building is greater than 10 feet, an elevation 10 feet higher than the lowest ground elevation abutting the building will be used.



45. **Building Setback Line.** A line parallel to the front lot line or the ordinary high-water level at the required setback beyond which a structure may not extend.
46. **Bulk Storage.** All uses associated with flammable or combustible liquids are received by tank vessel, pipelines, tank car or tank vehicle and are stored or blended in bulk for the purpose of distributing such liquids. Such uses are subject to the regulation of the Minnesota State Fire Marshall, the Minnesota Pollution Control Agency and Minnesota Department of Agriculture Office.
47. **Campground.** Any area, whether publicly or privately owned, consisting of designated campsites with appropriate facilities and management services designed for temporary occupation by tents or recreational vehicles.
48. **Camping.** Habitation of a temporary structure.
49. **Campsite.** A parcel within a resort or campground designated for the occupancy of one family on a periodic basis in a tent or recreational vehicle.
50. **Cannabis cultivation business.** A business with a cannabis cultivator license, medical cannabis cultivator license, or cultivation endorsement from the State of Minnesota Office of Cannabis Management and is considered an agricultural use.
51. **Cannabis or hemp retailer.** A business with a cannabis retailer license, medical cannabis retailer license, lower-potency hemp edible retailer license, or retail endorsement from the State of Minnesota Office of Cannabis Management.
52. **Cemetery, Unplatted.** Any human remains or burials found outside of platted, recorded or identified cemeteries pursuant to Minnesota Statutes, Chapter 307.
53. **Child Daycare Center.** A use defined by Minnesota Statutes, Chapter 462, which is operated for profit for the daytime only care of children.
54. **Child Care, Family Home.** A primary residence where, for the whole or part of the day, an owner of the residence, licensed as a childcare provider, cares for five or more children who are eighteen (18) years of age or younger and who are not related to the owner, whether such facility is operated with or without compensation for such care.
55. **Church or religious institution.** A building, including its accessory buildings and uses, used by a religious organization organized under Minnesota Statutes, Chapter 315.
56. **City.** The City of East Gull Lake.

57. **City Administrator** The appointed person responsible for the day to day operations of the city.
58. **City Attorney.** The city attorney duly appointed by the Council to represent the City of East Gull Lake.
59. **City Clerk.** The appointed person vested with the powers and duties specified in Minnesota Statutes, section 412.151.
60. **City Council or Council.** The duly elected governing body of the city.
61. **City Engineer.** The Engineer duly appointed by the Council to perform technical services for the City of East Gull Lake.
62. **City Sewer or Water System.** A system of municipally maintained utilities, approved by the State, and serving more than one building or property.
63. **Commercial Use.** The principal use of land or buildings for the sale, lease, rental, trade of products, goods or services.
64. **Community Park.** A park designed to provide recreational opportunities to serve the entire community.
65. **Comprehensive Plan.** Also referred to as Community Plan. A compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and public, of the city and its environs and may include, but is not limited to, the following items: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan execution.
66. **Conditional Use.** A land use or development as defined by the Ordinance that would not be appropriate without restriction but may specifically be allowed with restrictions of conditions as determined by the Planning Commission and the Council upon a finding that the use is consistent with the regulations outlined in Section 8.10-5.
67. **Condominium Ownership or Common Interest Community.** A form of ownership within a multi-owner building or complex wherein the boundaries are defined by a condominium plan or common interest community in accordance with Minnesota Statutes, Chapter 515A or 515B or subsequent revisions.
68. **Construction Activity.** Means activities including, but not limited to, clearing, grading, building construction, and excavating, that result in land disturbance. This includes a disturbance to the land that results in a change in the topography, existing soil cover, both vegetative and nonvegetative, or the existing soil topography that may result in accelerated stormwater runoff that may lead to soil erosion and movement of sediment.
69. **Contiguous.** The sharing of a common border at more than a single point. Lots, parcels, or boundaries may be considered contiguous where separated by rights-of-way, rivers or streams.
70. **Controlled Access Lot.** Any lot which is designated for the exclusive use by non-riparian landowners within the same subdivision as a means to gain access to a lake, river or stream.
71. **Cul-de-sac.** A local street terminating in a vehicular turnaround.
72. **Deck.** A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use and at any point extending more than three feet above ground.
73. **DNR Commissioner.** The Commissioner of the Minnesota Department of Natural Resources.
74. **Dock.** A platform extending water ward from the shoreline intended for ingress and egress for moored watercraft or to provide access to water for swimming, fishing or other water orientated activities.

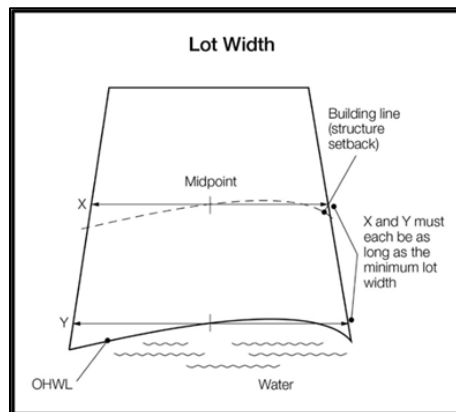
75. **Duplex.** A two-family structure on a single lot having two (2) units respectively being attached by common walls, and each being equipped with separate sleeping, cooking, eating, living and sanitation facilities.
76. **Dwelling, Guest Quarters.** A structure, not for sale, rent or lease, used as a dwelling unit that may contain sleeping spaces, kitchen and bathroom facilities in addition to those provided in the primary dwelling on the lot. The unit shall be used long term for a family member or short term for guests of the family occupying the primary dwelling unit on the premises. Any accessory structure with any of the following in addition to living spaces is considered a guest quarters dwelling:
- A. A kitchen;
 - B. A full bathroom;
 - C. A kitchen and full bathroom; and
 - D. An accessory structure that contains a half bathroom and no kitchen is not considered a guest quarters.
77. **Dwelling, Multi-Family.** Three (3) or more dwelling units attached together regardless of type of ownership, where families each live independently.
78. **Dwelling, Single Family.** A one-family dwelling unit not attached to any other dwelling unit for use by one family.
79. **Dwelling, Two Family.** A structure on a lot containing two (2) family dwelling units, each which is totally separated from the other by an unpierced wall extending from ground to roof.
80. **Dwelling, Townhouse.** A type of multi-family housing consisting of dwelling units attached by common party walls. Ownership may be defined by Plat or Condominium Plan.
81. **Dwelling Site.** A designated location for residential use by one or more persons using temporary or movable shelter including camping and recreational vehicle sites.
82. **Dwelling Unit.** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, including rental or time share accommodations such as a motel, hotel resort rooms and resort cabins.
83. **Earth Tone.** A palette of colors that are similar to natural materials and landscapes generally occurring in the city and in nature, including white, black and grey.
84. **Expansion.** Any increase in a dimension such as number of units or size, area, volume, or height of an existing structure or accessory structure or facility or an intensification of a use by increasing business volume, number of employees, hours of operation, amount of traffic, or other similar increases as identified by the City Council
85. **Exterior Storage.** Storage of goods, materials, equipment, manufactured products outside a fully enclosed building.
86. **Extractive Use.** The use of land for removal of sand, gravel, rock, industrial minerals, other non-metallic minerals or peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
87. **Family.** An individual or two (2) or more persons related by blood, marriage, guardianship or adoption living together as a single housekeeping unit; or a group of not more than five (5) persons not so related, maintaining a common household and using common cooking and kitchen facilities; or a residential program (group home) for six (6) or fewer persons as defined and licensed by the State of Minnesota.
88. **Fence.** A constructed barrier, including berms, intended to prevent escape or intrusion, or to mark a boundary, to shield or screen view, or to perform any similar function.
89. **Filling.** The act of depositing any earthen material and considered a grading activity.

90. **Final Floor Plan.** A detailed drawing or blueprint used to illustrate the arrangement and layout of various features, spaces and rooms within a building.
91. **Final Condominium Plat.** A drawing prepared by a Licensed Architect, Licensed Engineer or Licensed Land Surveyor depicting the condominium subdivision of real estate and related information conforming to the requirements of Minnesota Statutes 1980, Section 515A.2-110.
92. **Final Plat.** A drawing, in final form, showing a proposed subdivision containing all information and detail required by state statutes and by the Subdivision Ordinance to be presented to the Planning Commission and the City Council for approval, and which, if approved, may be duly filed with the County Recorder.
93. **Floodplain.** The channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the regional flood.
94. **Floodway.** The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which must be reserved to carry or store the base flood discharge without cumulatively increasing the water surface elevation more than one-half foot.
95. **Footprint.** The horizontal extent to which a structure covers the ground plane as represented in a plan view including cantilevered building elements but excluding eaves and similar architectural projections of the roof plane.
96. **Forest Land Conversion.** The clear cutting of forested lands to prepare for a new land use other than the re-establishment of a subsequent forest stand.
97. **Foundation.** A concrete, concrete block or treated wood portion of a structure which totally encloses the perimeter of the structure, supports the bearing loads of the super-structure and penetrates the ground to provide frost protection.
98. **Frontage.** The uninterrupted front boundary line of a lot, or the length of such line that abuts a public street or protected water.
99. **Garage, Attached.** A part of the principal structure that is designed and used by the occupants of the principal structure for the storage of noncommercial motor vehicles, boats and similar vehicles and ordinary household items which are owned and used by the occupant of the principal structure.
100. **Garage, Detached.** An accessory building not attached to the principal structure on the property designed and used for the storage of noncommercial motor vehicles, boats and similar vehicles and ordinary household items which are owned and used by the occupant of the building to which it is accessory.
101. **Gazebo.** A freestanding accessory structure with no kitchen, sleeping, sanitary facilities or pressurized water intended as weather and insect protection for such activities as picnicking and lake viewing.
102. **Grading.** The movement of dirt, so as to alter the existing topography of a property including removal of fill, excavation, or bringing additional fill unto a site or land disturbance.
103. **Green Space.** Privately owned property permanently dedicated by covenant or deed restriction to vegetate ground coverage with allowance for use as recreational facilities, tree coverage, water course, sewage disposal or similar uses. Public property permanently dedicated to parks, vegetative buffer, tree coverage or water courses.
104. **Home Occupation.** Any occupation or profession engaged in by the occupant of a residential dwelling unit provided that the use is clearly incidental, subordinate, and secondary to the use of the dwelling for residential purposes and does not change the residential character thereof.

105. **Hotel.** A building containing three (3) or more individual rooms, without kitchens, used for overnight lodging by the general public on a short-term basis for a fee, with or without meals, and which has common reservation and cleaning services, combined utilities, and on-site management and reception services.
106. **Impervious Surface.** A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, gravel driveways/parking areas, stone/rock landscaping walls and rip rap, or permeable pavers; and other similar surfaces.
107. **Improvement.** Making an existing structure or accessory structure or facility of better quality, more efficient, or more aesthetically pleasing, that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.
108. **Intensive Vegetation Clearing.** The complete removal of trees or shrubs in a continuous path, strip row or block.
109. **Interval Ownership.** Form of ownership of real property, condominium land or space further defined by a reoccurring time interval, resulting in more than one owner of the same property, also known as “timeshare”.
110. **Junk Motor Vehicle.** Any motor vehicle which is not in a condition for legal operation upon public streets or is partially dismantled, or which is used for the sale of parts or as a source of repair or replacement parts for other vehicles, or which is kept for scrapping, dismantling or salvage of any kind, or which is not properly licensed for operation within the State of Minnesota, except seasonal service vehicles, where license is required for part of the year only.
111. **Kitchen.** Any room or portion of a room within a building designed and intended to be used for cooking and preparation of food.
112. **Lake Classification.** The formal classification provided by the Department of Natural Resources for each body of Public Waters within the city.
113. **Land Use Permit.** A permit issued by the Planning and Zoning Administrator to allow the construction of a structure or to allow a Land Use when the provisions of this ordinance have been met.
114. **Landscaping.** Plantings such as trees, grass, shrubs, and decorative timbers, arbors, rocks and water displays.
115. **Landing Area.** The area of the airport used for the landing/arrivals and taking off/departures or taxiing of aircraft.
116. **Leaseback by Owner.** An arrangement between an owner of property and a leasing agent or resort to promote and operate the property for rental purposes.
117. **Licensed Architect.** A person licensed as an Architect by the State of Minnesota.
118. **Licensed Landscape Architect.** A person licensed as a Licensed Landscape Architect by the State of Minnesota.
119. **Licensed Engineer.** A person licensed as a Professional Engineer by the State of Minnesota.
120. **Licensed Surveyor.** A person who is licensed as a licensed Surveyor by the State of Minnesota.
121. **Lot.** A parcel, piece or portion of land described by Metes and Bounds, registered land survey, auditor’s plat, or subdivision plat and separated from other parcels or portions of land by said description for purposes of sale, lease, mortgage, building or separation.
122. **Lot Area.** The horizontal area of a lot bounded by the lot lines and the ordinary high-water level if bounded by water.

123. **Lot, Corner.** A lot situated at the junction of and abutting on two (2) or more intersecting streets or a lot at the point of deflection in alignment of one street with the internal angle less than one hundred thirty-five (135) degrees.
124. **Lot, Double Fronted.** Lots with frontage on two (2) generally parallel streets or lots with frontage on a lake and a street or lots with two frontages on a lake(s).
125. **Lot, Front.** The boundary of a lot which abuts on a public right of way, or if a corner lot, the shortest of the two (2) boundaries. If the lot abuts public water, the lake side shall be considered the lot front.
126. **Lot Line.** The property lines bounding a lot except that where the description extends into a public right of way, the right of way line shall be considered the lot line.
127. **Lot of Record.** A lot which is part of a subdivision or plat, an auditor's subdivision or a registered land survey; or a parcel of land not so platted, for which a deed has been recorded in the office of the Cass County Recorder or Registrar of Titles prior to the effective date of this Ordinance.
128. **Lot Tiers.** Successive strips of land parallel with the ordinary high-water level, each one tier depth wide, and extending across the parcel.
129. **Lot Width.** The shortest distance between side lot lines measured at the midpoint of the building line, or side lot lines at the ordinary high-water level, if applicable (see Figure 4).

Figure 4: Lot Width



130. **Maintenance and Repair.** The normal upkeep of a structure including the replacement of windows, siding, roofs, nonbearing walls or interior remodeling that does not expand the footprint of the existing structure, add volume to the usable living space or intensify a non-conforming use.
131. **Manufactured Home also known as Mobile Home.** A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under this Minnesota Statutes, Chapter 327.
132. **Marina.** A dock or set of docks on a single parcel that contains more than seven (7) watercraft or more watercraft than first tier dwelling units, whichever is greater.

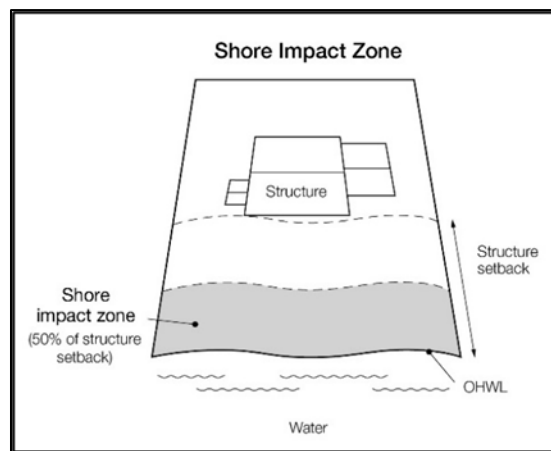
133. **Motel.** A building containing guest rooms or units, each of which has a separate entrance directly from the outside of the building, or corridor, with parking space reserved for each unit, and which is designed, used or intended to be used primarily for the accommodation of transient guests.
134. **Natural Drainage way.** All land surface areas which, by nature of their contour or configuration, collect, store and channel surface or runoff water.
135. **Neighborhood.** The area adjacent to or surrounding existing or proposed development characterized by common use or uses, density, style and age of structures and environmental characteristics.
136. **Non-conforming.** The building, structure or use of land lawfully existing prior to and not in conformance with the provisions of this ordinance.
137. **Non-precision instrument runway.** A runway having an existing or planned straight-in instrument approach procedure utilizing air navigation facilities with only horizontal guidance, and for which no precision approach facilities are planned or indicated on an approved planning document.
138. **Nuisance.** A nuisance is any thing, act or use that interferes with the use or enjoyment of property; endangers personal health or public safety; is offensive to the senses such as excessive smoke, odor, noise, heat, vibration, glare, traffic generation, visual impact and other similar interferences or offenses; unlawfully interfere with the use of or obstruct, or tend to obstruct, or render dangerous for passage, a public water, park, square, street, alley or highway; depreciates the value of the property of the inhabitants of the City or of a considerable number thereof; or in any way render the inhabitants of the City, or a considerable number thereof, insecure in life or in use of property.
139. **Nursery.** A business growing and selling trees, flowering or decorative plants and shrubs.
140. **Supervised living facilities including but not limited to senior living facilities.** Any institution or facility required to be licensed as such under Minnesota Statutes, Sections 144.50 to 144.56 by the State Board of Health.
141. **Off-street parking.** A designated space or area of land with a paved or all-weather surface, including pavers and class 5 gravel, not within a public street or right-of-way and used for the parking of vehicles.
142. **Ordinary High-Water Level (OHWL).** The boundary of public waters and wetlands consisting of an elevation delineating the highest water level which has been maintained for sufficient period of time to leave evidence on the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For water courses the ordinary high-water level is the elevation of the top of the bank of the channel, for reservoir and flowages, the ordinary high-water level is the operating elevation of the normal summer pool.
143. **Owner.** An individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity having proprietary interest in the land and/or building.
144. **Parks.** A park, playground, beach, swimming pool, trail, nature area, recreation center or any other area in the city owned, leased, used or controlled by the city or a private entity designated for recreational areas or open space.
145. **Parking Space.** An area enclosed in the principal building, in an accessory building, or unenclosed, all weather surface, sufficient in size to store one motor vehicle, which has adequate access to a public or private street, alley or driveway permitting satisfactory ingress and egress of an automobile.
146. **Party Wall or Floor.** A common wall which divides two (2) independent dwelling units or businesses.
147. **Perennial Ice Ridges.** The recurrent pushing action of a lake's ice sheet against the shore causing sediment buildup on shorelines.

148. **Permitted Use.** A land use conforming to the character of a zoning district which is permitted by ordinance.
149. **Person.** An individual, firm partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative.
150. **Planned Unit Development (PUD).** A zoning district characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common green space, density increases and can include a mix of structure types and land uses.
151. **Planned Unit Developments, Commercial.** A zoning district that can provide transient, short-term lodging spaces, rooms, or parcels and their operation are essentially service orientated. These shall include but not be limited to hotel/motel accommodations, resorts, recreational vehicle and camping parks and other primarily service-oriented activities.
152. **Planned Unit Development, Residential.** A zoning district where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, townhouses, cooperatives and full fee ownership residences would be considered as Residential Planned Unit Developments. Includes time share condominiums not part of a resort. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.
153. **Planning and Zoning Administrator.** The duly appointed person responsible for the enforcement and administration of this Ordinance.
154. **Planning Commission.** The body duly appointed by the City Council to determine the development of the city and make recommendations to the City Council and having the powers and duties of a planning agency specified in Minnesota Statutes, section 462.354, subd. 1.
155. **Porch.** A covered platform attached to a structure with or without screening material, canvas or blind material, or regular pane glass intended for weather and insect protection. Contains no kitchen, permanent sleeping areas, or sanitary facilities.
156. **Porch, Enclosed.** A covered platform attached to a structure with more permanent enclosures than those described in "porch". If the enclosed porch contains any sleeping area, kitchen, laundry, sanitary facilities, heat, insulation, air conditioning, or considered in the opinion of the Planning Commission as a 3-season porch due to construction, it is an addition to the home, requiring a permit and subject to all bulk and density requirements applied to permanent structures.
157. **Principal Structure or Use.** The single primary structure or use on a lot, as distinguished from accessory uses, buildings or structures.
158. **Protective Covenants.** Restrictions placed on the property by the owner and duly filed with the County Recorder or Registrar of Titles. These may also be used in Planned Unit Developments to establish homeowner's associations, restrict shoreline development provide for common facilities, and the like.
159. **Public Building.** Any structure used or intended for supporting or sheltering any use or occupancy that is open to the general public.
160. **Public Waters.** Any water as defined in Minnesota Statutes, Section 103G.005, Subd. 15(a).
161. **Public Utility:** Person, corporations, or governments supplying gas, electric transportation, water, sewer, or land laid telephone service or fiber to the general public. For the purpose of this Ordinance, commercial wireless telecommunication services shall not be considered public utility uses and are defined separately.
162. **Recorder.** The County Recorder of Cass County.

163. **Recreational Facilities.** An area of land, water, or any building in which amusement, recreation or athletic sports are constructed which may be provided for public or private use whether temporary or permanent, and whether provision is made for the accommodation of an assembly or not. A community park, arena, stadium, or gymnasium is a recreational facility or building for the purpose of this title.
164. **Recreational Vehicle.** Vehicles for recreational use that can be driven, towed or hauled. These vehicles may be designed to be temporary living space for camping or travel use only. Recreational vehicles shall include, but not limited to, travel trailers, camper trailers, truck campers, self-propelled motor homes and other similar vehicles.
165. **Replacement and Restoration.** Reconstruction of part or all of an existing structure or accessory structure or facility that closely matches or replicates the preexisting structure or facility.
166. **Residential Facilities.** A residential use defined by Minnesota Statutes, Chapter 462.357 Subdivision 7 and Subdivision 8.
167. **Resort.** "Resort" means the same as that defined in Minnesota Statute, Section 103F.227.
168. **Restaurant.** An establishment where the principal business is the preparation, service and sale of food and beverages to be consumed by customers at tables or counters located within the building and accessory structures on the premises.
169. **Right-of-Way.** A property or portion thereof subject to an easement dedicated to the public, connecting to other public right of ways, which affords primary access by pedestrians and vehicles to abutting properties.
170. **Riparian.** The rights to use and enjoy the water which is incident to the ownership of the shore and include the right to access the water, including the right to build and maintain docks and landings on the riparian land and extending into the water that do not obstruct navigation or create a water safety hazard, as well as uses of water such as hunting, fishing, boating, sailing, irrigating and growing.
171. **Riprap.** Natural rock, loosely placed, free of debris or silt that averages more than 6 inches but less than 30 inches in diameter. Does not include concrete or bricks.
172. **Runway.** Any existing or planned paved surface or turf covered area of the airport which is specifically designated and used or planned to be used for the landing and/or taking off of all types of aircraft.
173. **Sanitary Sewer System.** Pipelines or conduits, pumping stations and force main and all other constructions, devices, appliances or appurtenances used for conducting sewage or industrial waste or other waste to a point of ultimate disposal and treatment.
174. **Screening.** Fencing, an earthen berm or vegetative growth that visually separates one object from another.
175. **Setback.** The minimum horizontal distance between a structure, sewage treatment system or other facility and an ordinary high-water level, sewage treatment system, top of bluff, road, highway, property line or other facility. Three (3) feet of roof overhang, stoops not exceeding thirty (30) square feet and steps from stoop to ground not over four (4) feet wide may protrude into the setback. Decks and patios less than 3 feet high may be constructed with a principal structure as permitted and may intrude in the front yard setback so long as the setback is not decreased by more than 8 feet below the required setback.
176. **Setback, Interior Lot.** In a Planned Unit Development, the closest horizontal distance between the lot line and the foundation or wall of a structure when the lot line is not the exterior boundary of the development. Three (3) feet of roof overhang, stoops not exceeding thirty (30) square feet and steps from stoop to ground not over four (4) feet wide may protrude into the setback.

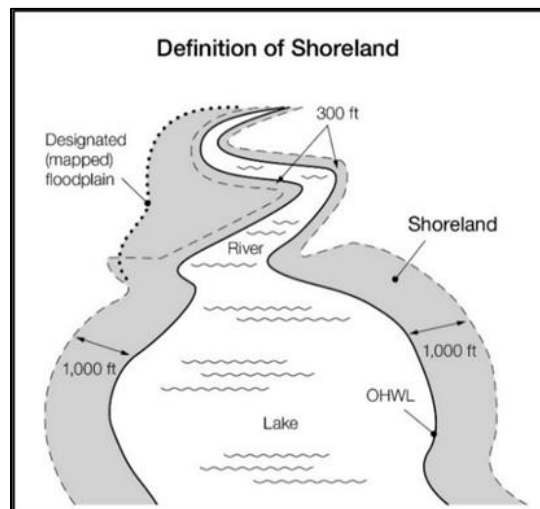
177. **Setback, Side, Exterior.** The closest horizontal distance between the exterior boundary side lot line and the foundation or wall of a structure. This setback takes precedence over setback, interior lot, where any conflict exists. Three (3) feet of roof overhang, stoops not exceeding thirty (30) square feet and steps from stoop to ground not over four (4) feet wide may protrude into the setback.
178. **Sewage Treatment System.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated under Minnesota Rules, Part 7080.1100, Subd. 82.
179. **Shore Impact Zone.** Land located between the ordinary high-water level of a public water and a line parallel to it at a setback of fifty (50) percent of the zoning district structure setback, excluding provisions for a setback reduction due to adjoining property setbacks or setback averaging. (see Figure 5).

Figure 5: Shore Impact Zone



180. **Shoreland.** Land located within the following distances from public waters:
- A. One thousand (1,000) feet from the ordinary high-water level of a lake, pond, or flowage; and
 - B. Three hundred (300) feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater (See Figure 6).

Figure 6: Definition of Shoreland



181. **Shore recreation facilities.** Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.
182. **Short-term residential rental.** A rental dwelling, or rental dwelling unit that is offered to transient guests for a period of less than 30 consecutive days. Use as a short-term rental is permitted by license for up to four (4) times per calendar year.
183. **Sight Triangle.** Visibility from any street or driveway shall be unobstructed above a height of three (3) feet, measured from where both street or driveway centerlines intersect within the triangle described as beginning at the intersection of the projected curb line (or edge of shoulders for rural sections) of two (2) intersecting streets or drives, thence twenty-five (25) feet along one curb line, thence diagonally to a point twenty five (25) feet from the point of beginning along the other curb line.
184. **Signs.** Any letter, work, symbol, model, printed, projected or affixed device, poster, picture, reading matter, or other representation in the nature of an advertisement, announcement, direction or informative device including structural and component parts. Also see specific definitions in Section VI – Performance Standards, Section 8.6 - 2.
185. **Signs, Offsite.** Any sign not located on the property with the use which is advertised.
186. **Signs, Onsite.** Any sign located on the property with the use which is advertised.
187. **Significant Historical Site.** Any archeological site, standing structure, or other property that meets these criteria for eligibility to the National Register of Historical Places, or is listed in the State Register of Historical Sites or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A Historical Site meets these criteria if it is presently listed on either Register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historical sites.
188. **Sketch Plan.** A plan which is drawn to scale, used for planning and discussion purposes only.
189. **Slope.** An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude. Slope: 3.1 = 3 ft. horizontal to 1 ft. vertical.
190. **Sport Court.** A recreational facility designed for athletic purposes such as a basketball court, tennis court, pickleball, etc. that is surrounded by fencing or on a standalone pad. A sport court is considered an accessory structure.
191. **Steep Slope.** Lands having average slopes over twelve (12) percent as measured over horizontal distances of fifty (50) feet or more, but which are not bluffs.
192. **Street.** A public right-of-way that provides primary vehicular access to abutting property and shall include avenue, road or highway.
193. **Structure.** Any building, appurtenance including decks or other facility constructed, placed or erected which requires allocation on the ground or attached to something having a location on the ground except underground utility lines such as sewer, electric, telephone, telegraph, gas lines and except walks or steps on grade not more than four (4) feet wide, stoops not exceeding thirty (30) square feet, temporary furniture, planter, or decorative material and retaining walls under 4 feet in height.
194. **Subdivision.** The division of real estate into two (2) or more parcels for the purpose of sale, rent or lease, including Planned Unit Development.
195. **Suitability Analysis.** An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.

196. **Supervised living facilities including but not limited to senior living facilities.** Any institution or facility required to be licensed as such under Minnesota Statutes, Sections 144.50 to 144.56 by the State Board of Health.
197. **Temporary.** A use or structure that lasts longer than three days and is discontinued within fourteen (14) days. Any use or structure existing longer than fourteen (14) days, except for signs, shall be considered permanent unless approved and regulated by an interim use permit.
198. **Temporary Structure.** A structure of a temporary character including but not limited to houseboats, fish houses, recreational vehicles, tents or shacks, used as dwellings for more than a five (5) day period per year. Any new dwelling constructed or placed after the date of this Ordinance and not on a permanent foundation shall be considered a temporary structure.
199. **Tower:** Any pole, spire, or structure, or combination thereof, to which an antenna is attached, or which is designed for an antenna, meteorological device or similar apparatus to be attached, and all supporting lines, cables, wires and braces, which is intended to be used for commercial purposes.
200. **Trail.** Paths within the city which have been designated for pedestrian, snowmobile or bike traffic or golf carts, scooters, and other recreational apparatus as permitted by the City Code.
201. **Tree.** A woody plant four (4) inches or more in diameter measured at a point 4.5 feet above ground level. (This is usually defined as a Significant Tree.) for deciduous trees or 8 feet or more in height for coniferous trees.
202. **Variance.** The means by which an adjustment is made in the application of the specific regulations of this Ordinance to a specific property. Variances from the uses permitted in a district are not allowed under Minn Stat. 462.357, subd. 6.
203. **Vegetation Removal, Clear Cutting.** Outside of the Shoreland Overlay District. The removal of more than 75% and up to 100% of a stand of trees and brush over 10 feet in height on a lot or parcel of land as calculated in up to 40 acre increments.
204. **Vegetation Removal, Open Cutting.** Outside of the Shoreland Overlay District. The removal of more than 25% and up to 75% of a stand of trees and brush over 10 feet in height on a lot or parcel of land as calculated in up to 40 acre increments.
205. **Vegetation Removal, Select Cutting.** Outside of the Shoreland Overlay District. Removal of dead, diseased or damaged trees or shrubs, removal of trees for placement of structures and drives, and further removal of only individual trees to uniformly thin up to 25% of a stand, on a lot or parcel of land as calculated in up to 40 acre increments. Complete brush removal is allowable including trees under 10 feet in height.
206. **Walkway.** A parcel of property dedicated to the public for non-vehicular access purposes.
207. **Waterslide:** A slide located at the edge of a pool that is greater than six (6) feet in elevation from the pool deck to the slide entry platform, including but not limited to flume or chute slides that use water to transport the user, or drop slides with a drop of more than two inches from the edge of the landing to the water surface.
208. **Water-dependent Use.** The use of land for commercial, industrial, public or semi-public purposes, where access to and use of public water is an integral part of the normal conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of uses typically found in shoreland areas.

209. **Wetland.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. (MN Rule 8420.0111) For the purposes of this definition, wetlands must have the following three attributes:
- A. Have a predominance of hydric soils;
 - B. Are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
 - C. Under normal circumstances, support a prevalence of such vegetation.
210. **Wireless Telecommunications Services.** Licensed commercial wireless telecommunication services including cellular, personal communications services (PCS), special mobilized radio (SMR), enhanced specialized mobilized radio (EMSR), paging and similar services that are marketed to businesses and the general public.
211. **Zoning District.** A district on the zoning map under the terms and provisions of this Ordinance or which may hereinafter be adopted subsequent to the enactment of this Ordinance for which regulations governing the area, height, use of buildings, or use of land, and other regulations relating to development or maintenance of existing uses or structures, are uniform.
212. **Zoning District Overlay.** A zoning district containing regulations superimposed upon other zoning district regulations and superseding the underlying zoning district regulations.
213. **Zoning Map.** The map of the City of East Gull Lake, amended from time to time, which defines the boundaries of the zoning districts.

SECTION IV – GENERAL PROVISIONS

Section 8.4-1. Application of the Ordinance

1. The provisions of this Ordinance shall be held to be the minimum requirements for the maintaining of the public health, safety and welfare of the inhabitants of the City of East Gull Lake, Minnesota.
2. Unless otherwise preempted by state or federal law, where the provisions of the Ordinance are either more restrictive or less restrictive than applicable provisions of other laws, ordinances, statutes, resolutions, covenants or regulations of any kind, the more restrictive condition, standard or requirement shall prevail.
3. Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed or altered or moved and no structure or land shall be used for any purpose or in any manner which is not in conformity with this ordinance.
4. Any building considered abandoned under the above definition shall be removed from the site upon notice by the City.
5. No newly constructed structure or newly approved use of property, subject to conditions of approval for a variance, conditional use Permit, Interim Use Permit or other Land Use application, shall be occupied or used, in whole or part, for any purpose until the city has conducted a final inspection of the subject property and a Land Use Certificate of Compliance has been issued. Any existing structure or use of property subject to conditions of approval for a variance, conditional use permit, interim use permit or other Land Use application shall have a Land Use Letter of Compliance issued within twelve (12) months of the approval of the Variance, Conditional Use Permit, or Interim Use Permit. The Land Use Letter of Compliance, when issued, shall state that the building or use appears to be in compliance with the conditions of approval.
6. Use of the term Planning and Zoning Administrator includes the person duly appointed for that position or their designee.
7. The provisions of this Ordinance shall be applicable to all property within the city. The zoning ordinance shall also be applicable to unincorporated territory within two miles of its limits in any direction except in a county or town that has adopted zoning regulations. The subdivisions ordinance shall also be applicable to unincorporated territory located within two miles of its limits in any direction except in a town which has adopted subdivision regulations.

Section 8.4-2. Environmental Documents and Concurrent Permits

1. It shall be the property owner’s responsibility to secure necessary concurrent permits such as Pollution Control Agency, State Waste Disposal Permits; Health Department Permits; Corps of Engineers Permits, DNR Public Water Permits and DNR Water Appropriation Permits, or any other permit required for approval of the project or development. Approval by the city does not imply approval by other agencies.
2. The city or their representative will prepare an Environmental Assessment Worksheet (EAW) or Environmental Impact Statement (EIS) or an Alternative Urban Areawide Review (AUAR), at the owner’s expense where a proposed project exceeds the limits defined in the Environmental Quality Council’s Rules and Regulations for Environmental review program or as requested by the Planning Commission, City Council or petitioned by the public.
3. The administration of an EAW or EIS or AUAR shall be in accordance with the rules and regulations of the Minnesota Environmental Quality Board. The Planning and

Zoning Administrator shall be responsible to the City Council and have the authority to administer the environmental document in conjunction with appropriate consultants hired by the city. The city staff and consultants shall review each document and make recommendations to the City Council whose decision shall be final.

Section 8.4-3. Use of Pre-existing Lots

1. A nonconforming single lot of record located within in the city, including any shoreland area, may be allowed as a building site without variances from lot size requirements, provided that:
 - A. All structure and septic system setback distance requirements can be met;
 - B. A Type 1 sewage treatment system consistent with Cass County SSTS ordinance 2018-03 can be installed or the lot is connected to a public sewer; and
 - C. The impervious surface coverage does not exceed the requirements of the underlying zoning district.
2. In a group of two (2) or more contiguous lots of record under common ownership, an individual lot shall be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
 - A. The lot must be at least sixty-six (66) percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, Chapter 6120;
 - B. The lot must be connected to a public sewer, if available, or be a Type 1 sewage treatment system consistent with Cass County SSTS ordinance 2018-03
 - C. Impervious surface coverage must not exceed the requirements of the underlying zone; and
 - a. Development of the lot must be consistent with the City of East Gull Lake Comprehensive Plan.
 - b. A lot subject to Section 8.4-3.2 and not meeting the requirements of Section 8.4-3.2 must be combined with one or more contiguous lots if they are under common ownership, are contiguous and do not meet the area or dimensional standard for the applicable zoning district. No portion of such single parcels may be used, sold or subdivided in a manner that lessens compliance with applicable area or dimensional standards.
3. Notwithstanding Section 8.4-3 (2), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements Cass County SSTS ordinance 2018-03, or connected to a public sewer.
4. Lots that are divided by a street in the R-3 or R-2 zoning district, within the City of East Gull Lake, shall be considered buildable without a Conditional Use Permit or Variance so long as the property meets the minimum lot sizes and dimensional standards when including the entire lot. Conditional Use Permits or Variances for other aspects of the site development, other than buildability, may still be required.
5. For residential riparian parcels bisected by a public road whose bisection results in a portion of the parcel being unbuildable due to setback requirements, or the presence of wetlands, flood plain, or bluffs as defined in this Ordinance, a landowner may use up to 20,000 square feet of their total parcel size, excluding the public road pavement and dedicated right of way or roadway easement or if there is no easement or right of way, 30' centered on the centerline of the paved road, for the purpose of computing impervious surface. For purposes of this section, unbuildable

would mean that a detached garage of 600 square feet cannot be placed on the site without the need of variance. This provision does not apply to parcels bisected by a public road that has a parcel size of 20,000 square feet or greater or buildable land on either or on both sides of the road.

Section 8.4-4. Non-conforming Structures and Uses

Any structure or use existing upon the effective date of the adoption of this Ordinance and which does not conform to the provisions of the Ordinance, but which was legally established may be continued subject to the following:

1. Any structure existing on the effective date of this Ordinance which is not in conformity with the regulations contained in this Land Use, Zoning and Subdivision Ordinance shall be allowed to continue, including through repair, replacement, restoration, maintenance, or improvement, subject to the following conditions:
 - A. No such structure shall be expanded, enlarged or altered, without first obtaining a variance, unless the following conditions can be met for the district in which the structure is located. In that case, no variance is required:
 - a. This enlargement, alteration or expansion itself does not increase the nonconforming aspects of the structure and does not violate any other provisions of this Ordinance, other than the provision that made the structure nonconforming in the first place.
 - b. Long-term sewage disposal needs shall be in compliance with Cass County SSTS ordinance 2018-03
2. A nonconforming structure which is destroyed or damaged by any means to the extent of greater than fifty percent (50%) of its estimated market value, as indicated in the records of the County Assessor at the time of damage, and for which no Land Use Permit has been applied for within 180 days of when the property is damaged, shall not be restored, repaired or replaced, except in conformity with this Ordinance, except in the case of a residence, which may be allowed to be rebuilt in the same footprint and dimensional envelope as the non-conforming structure with approval of the City Council. If a structure cannot be placed on the lot meeting all current standards, the variance procedure must be followed.
3. Nothing in this Ordinance shall prevent repair of a structure when said structure is declared unsafe by a certified Building Inspector, providing the cost of repairs shall not constitute more than fifty percent (50%) of the appraised value of the original structure.
4. All construction projects for which a valid Land Use Permit was granted before the effective date of this Ordinance may be completed, if meeting all other ordinance deadlines, although the structure would not meet newly established standards of this Ordinance. No such use shall be expanded, enlarged or intensified except in conformity with the provisions of this Ordinance, with consideration for variances thereto.
5. Where a parcel is voluntarily redeveloped to the extent that fifty (50) percent or more of the footprint building area, above the foundation, on the parcel, is removed, redevelopment of the site, shall be considered but not necessarily granted by the City Council, if the existing non-conformity is reduced to the extent possible. If a non-conforming structure is destroyed, by any cause, to an extent exceeding fifty (50) percent of its estimated market value, as indicated in the records of the county assessor immediately prior to destruction, and no zoning or Land Use Permit has been applied for within one hundred eighty (180) days, the structure or its replacement shall thereafter conform to this Ordinance. The city may impose

- reasonable conditions upon a Land Use Permit in order to mitigate any newly created impact on adjacent property or water body.
6. Normal maintenance, repair, replacement or restoration of a building or other structure containing or relating to a lawful non-conforming use is permitted when the maintenance, repair, replacement or restoration does not intensify or increase the use. The city may impose reasonable conditions upon a land use permit in order to mitigate any newly created impact on adjacent properties.
 7. A lawful, non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming use has been changed, it shall not thereafter be altered to increase the use non-conformity.
 - A. Sewage treatment systems shall comply with the Cass County SSTS ordinance 2018-03. Upon availability of a municipal sewer system to the property, connection to that system shall be made regardless of the conformance or non-conformance of the individual system.
 8. Parcels with legally existing, non-conforming guest quarters established as of January 1, 2002, are allowed to continue the non-conforming use of one guest quarters without regard to lot size or dimension until such use is voluntarily discontinued. If a guest quarters has been established in a non-conforming structure and the non-conforming structure is destroyed, the use of a guest quarters may be reestablished on the parcel so long as the new structure conforms to all provisions of this Ordinance except lot size or dimension, from which it is hereby exempt, and the use is reestablished within twelve (12) months of the destruction of the non-conforming structure.
 9. Existing non-conforming signs, off-site or on-site, may be reconstructed, including support systems, provided the following:
 - A. Permitting for reconstruction must be done by Conditional Use Permit.
 - B. The proposed off-site sign shall be visually compatible with the surrounding natural environment.
 10. A one-time addition to a non-conforming principal structure shall be permitted subject to the following:
 - A. Approval shall be granted through the Conditional Use Permit process.
 - B. The non-conformity is solely due to setbacks.
 - C. The addition is not within the Shore Impact Zone or Bluff Impact Zone.
 - D. The size of the addition shall not exceed fifty (50) percent of the size of the structure it is being added to.
 - E. The total footprint of the structure, once the addition is completed, shall not exceed two thousand five hundred (2,500) square feet, including decks, porches, patios and other projections.
 - F. For reasons of structural integrity, a basement may be allowed under the addition only where a basement exists in the original structure.
 - G. A landscaping plan is implemented that provides screening of the addition from adjacent properties, public roads, and the surface water.
 - H. A storm water management plan is implemented that directs storm water away from adjacent properties and surface waters.
 - I. The height of the addition shall not exceed the height of the existing structure.
 - J. Beyond minor alterations needed to accommodate the addition, no structural modifications shall be made to the original structure.
 - K. No permits shall be granted under this provision for homes constructed after July 1, 1995, or where a previous variance has been approved.
 - L. All other provisions of the Ordinance must be complied with.
 11. In evaluating land use permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water

runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment locations, and water supply capabilities, and other conservation-designed actions.

Section 8.4-5. Building Standards

1. All structures and appurtenances shall be constructed in accordance with the standards of the MN State Building Code. The city does not examine building plans nor assume liability for the structural stability or quality of any structures.
2. Sewage treatment systems shall conform to Cass County SSTS ordinance 2018-03
3. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the MPCA. Private wells must be located, constructed, maintained and sealed in accordance with the water well construction code of the Minnesota Department of Health. All wells must be installed by a well driller licensed in the State of Minnesota. A log of each well shall be filed with the city within forty-five (45) days of the well being drilled.
4. The provisions of the Ordinance were prepared to be in conformance with MN Rules 6120.2500-6120.3900. Where the conditions of the MN Rules are more restrictive, or in case of oversight, exclusion, or question in this Ordinance, the MN Rules shall govern, except for applications involving non-conforming uses.

SECTION V – ZONING DISTRICTS AND DISTRICT REGULATIONS

Section 8.5-1. General

- 1. The City of East Gull Lake is divided into zoning districts established on a map entitled “zoning map of East Gull Lake, Minnesota”, the map is displayed on the Cass County Interactive East Gull Lake zoning map and is considered the official zoning map for the City. The map may be subsequently amended by the procedures of Section 8.10-9
- 2. Where uncertainty exists with respect to the boundaries of any districts indicated on the zoning map, the following rules shall apply:
 - A. Boundaries indicated as approximately following the centerline of streets or highways shall be construed as following the centerlines of said streets or highways.
 - B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
 - C. Boundaries indicated as approximately following city boundary lines shall be construed as following such boundaries.
 - D. Boundaries indicated as approximately parallel to the centerlines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the official zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on the official zoning map.
 - E. Boundaries following the shoreline of a stream, lake or other body of water shall be construed to follow the ordinary high-water level (OHWL) as defined by the DNR and in the event of change in the shoreline shall be construed as moving with the OHWL.
 - F. Boundaries indicated as approximately following the centerline of streams, rivers, canals or other bodies of water shall be construed to follow such centerlines.
 - G. Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between two (2) districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Planning and Zoning Administrator.

- 3. The following Districts are hereby established:
 - Open..... O
 - Residential – Low Density..... R-1
 - Residential – Medium Density..... R-2
 - Shoreline Residential – Medium Density..... R-3
 - Commercial Waterfront..... CW
 - Public Use PU
 - RecreationalREC
 - Planned Unit Development.....PUD
 - Shoreland Overlay District.....SOD

4. Lakes are classified as follows:

Name	DNR ID#	Classification
Bass Lake	11-215	Natural Environment Lake (NE)
Dade Lake	11-214	Natural Environment Lake (NE)
Echo (Previously Ruth) Lake	11-212	Natural Environment Lake (NE)
Gull Lake	11-305	General Development (GD)
Lynch Lake	11-210	Natural Environment Lake (NE)
Stephens Lake	11-213	Natural Environment Lake (NE)
Ruth (Previously School Section) Lake	11-211	General Development (GD)
Sylvan Lake	11-304	General Development (GD)
Unnamed	11-619	Natural Environment Lake (NE)
Unnamed	11-782	Natural Environment Lake (NE)
Unnamed	11-783	Natural Environment Lake (NE)
Unnamed	11-784	Natural Environment Lake (NE)
Unnamed	11-785	Natural Environment Lake (NE)
Unnamed	11-786	Natural Environment Lake (NE)
All Streams and Rivers	NA	Tributary

5. The jurisdiction of this Ordinance shall include the shorelands of all the public waters in the city listed in Sec. 8.5-1.4.

6. The following provisions apply to all zoning districts:

- A. No accessory structure or use may be established on a lot without the establishment of a principal structure or use on the same lot.
- B. Agricultural use is prohibited within seventy-five (75) feet of the OHWL.
- C. There shall be no impervious coverage within fifty (50) feet of the OHWL except walks and steps on grade less than four (4) feet wide as provided for in this Ordinance or other uses or structures permitted in this Ordinance.
- D. New recreational vehicle parks are prohibited.
- E. New water orientated accessory structures, including boathouses, are prohibited.
- F. One principal building per lot except for PUD or a multi-family project.
- G. Every building hereafter erected shall be located on a lot having frontage on a public street unless approved with private drive access, or public easement for access as approved by the City Council.
- H. Storing Or Parking Junked Vehicle Prohibited: It is unlawful for any person to park, store or leave any junked motor vehicle, whether attended or not, upon any public or private property within the city, or for any person, as an owner of or an occupant having control of private property within the city to permit the parking, storing or leaving of any junked vehicle upon such private property, unless such junked vehicle is within an enclosed building or structure.
- I. The use and occupancy of a tent, RV or other temporary dwelling for the purpose of living quarters is not permitted in any district.
- J. In the case of a double frontage lot, it shall meet the lot width and setback requirements on both frontages that abut any roads or lakes.
- K. In all districts where single family dwellings are permitted, the following standards shall apply for single family dwellings:
 - a. The minimum width of the main portion of the structure shall be not less than twenty (20) feet, as measured across the narrowest portion.
 - b. All dwellings shall be placed on a permanent foundation and anchored to resist overturning, uplift and sliding.

7. All uses are considered prohibited unless specifically allowed in this Code.
8. Criteria for Creation of Zoning Districts and Land Use categories:
 - A. Preservation of natural sensitive areas.
 - B. Present ownership and development.
 - C. Shoreland soil types and their engineering capabilities.
 - D. Topographic characteristics.
 - E. Vegetative cover.
 - F. In-water physical characteristics.
 - G. Recreational use of surface water.
 - H. Road and service center accessibility.
 - I. Socio economic development needs of the public.
 - J. Availability of public sewer.
 - K. The necessity to preserve and restore certain areas having significant historical or ecological value.
 - L. Conflicts between Land Uses and impacts of commercial uses or higher densities on adjacent properties.
 - M. Alternative available for desired Land Use.
 - N. Prevention of spot zoning.
 - O. Conformance to the City of East Gull Comprehensive Plan.
9. Land Uses

8.5-1.9 East Gull Lake-Zoning District Use Table

If a use is not expressly noted in the table, the use is not allowed.

USE	O	R-1	R-2	R-3	CW	PU	REC	PUD
Accessory Building		A/C	A/C	A/C	A	A	A	A
Accessory Structures		A	A	A	A	A	A	A
Accessory uses for general public					C			
Accessory Uses		A	A	A	A			A
Agricultural Use setback 75' of OHWL, other than Cannabis Cultivation		P						
Agricultural use, setback 75' of OHWL, Cannabis Cultivation		C						
Airport, Public or Private						C	C	
Animal Grooming Facility		C	C					
Animal Husbandry, Domestic		C						
Animal Husbandry, Food		C						
Archery Range							C	
Artist's Studio		C	C					
Assisted living facility under chapter 144G, serving six or fewer persons, a licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under MN Rules 9502.0315 to 9502.0445 to serve 14 or fewer children. *		P	P	P				
Ball Fields						C	C	
Beach					P	P	P	P
Campground					C	C		
Cemetery					P			
Child Care, Center					P		A	

USE	O	R-1	R-2	R-3	CW	PU	REC	PUD
Child Care, Family Home		C	C	C				
Church or Religious Institution					P	C		
Controlled Access Lots					A			
Duplex								P(RPUD)
Dwelling, Guest Quarters		C	C	C				
Dwelling, Multi-Family								P(RPUD)
Dwelling, Single Family		P	P	P	P			P(RPUD)
Dwelling, Townhouse								P(RPUD)
Exterior storage except for retail merchandise					A	A	A	
Forest Land Conversion						C	C	
Gas Pumps					C			
Grading and/or filling of less than 10 cubic yards including in shore or bluff impact zones and steep slopes		P	P	P	P	P	P	P
Grading and/or filling of between 10 cubic yards and 50 cubic yards within shore or bluff impact zones and steep slopes.			C	C	C	C	C	C
Grading and/or filling up to 50 cubic yards of material not on steep slopes or within shore and bluff impact zones within the shoreland.		P	P	P	P	P	P	P
Grading and/or filling of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones but within shoreland.		C	C	C	C	C	C	C
Grading and/or filling up to 200 cubic yards of material outside of shoreland.		P	P	P	P	P	P	P
Grading and/or filling of more than 200 cubic yards of material outside of shoreland		C	C	C	C	C	C	C
Group Care Facility						C		
Golf Course/Driving Range							C	
Home Occupation		I	I	I				
Interval Ownership					C			P(CPUD)
Licensed residential facility serving from 7 through 16 persons or a licensed day care facility serving from 12 through 16 persons						C		
Non-residential structures or buildings with a footprint area of 10,000 square feet or greater					C			
Manufactured Home Park								P
Marinas					C			
Motels/Hotels					C			C(CPUD)
Nursery/Landscaping		C						
Nursing Home/Senior Living Facilities						C		
On-sale liquor sales (requires liquor license only, no land-use permit required)					A		A	
Parks	P	P	P	P	P	P	P	P
Public Buildings					P	P	P	
Recreational Facilities					A	P	A	
Resort					C			P(CPUD)
Restaurants and Bars					P		A	P(CPUD)

USE	O	R-1	R-2	R-3	CW	PU	REC	PUD
Retail sales, other than Cannabis retail businesses and lower-potency hemp edible retail businesses					P		A	
Retail sales for Cannabis and lower-potency hemp edible retail businesses only					C			
Residential Structures and Buildings with a footprint area of 6,000 square feet or greater		C	C	C				
Short-term Rental (rental 4 times per calendar year by city license)		P	P	P				
Sign, one unlighted, identification sign not exceeding 3 square feet		P	P	P				
Sign, onsite signs		A	A	A	A	A	A	A(CPUD)
Sign, unlighted directional signs not visible from adjacent property or right of way							P	
Significant Historic Sites	C							
Sports Court (Tennis, basketball, etc.)		A	A	A	A	A	A	A
Swimming pools and hot tubs		A	A	A	A	A	A	A
Telecommunications Tower		C						
Temporary Structure		P	P	P	P	P	P	P
Trail	P	P	P	P	P	P	P	P
Vegetation Removal, Clear Cutting, outside of shoreland						C	C	
Vegetation Removal, Limited Clearing, within the shore and bluff impact zones	C	C	C	C	C	C	C	C
Vegetation Removal, Open Cutting, outside of shoreland	C	C	C	C	C	C	C	C
Vegetation Removal, Select Cutting, outside of shoreland	P	P	P	P	P	P	P	P
Waterslide					C			P(CPUD)

P – Permitted Use

C – Conditional Use Permit Required

I – Interim Use Permit Required

A – Accessory Use

PUD – Table lists either RPUD (residential PUD or CPUD (commercial PUD); if no note the use is regulated in both.

*Excepting that a residential facility whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offense or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offense shall not be considered a permitted use.

Section 8.5-2. Open District (O)

Purpose: To establish and maintain a Land Use District to prevent development from occurring in the environmentally sensitive wetlands and green space whether publicly or privately owned, to enhance wildlife and passive recreation.

1. No structure or land use shall be used except for one or more of the uses designated in 85-1. 9 East Gull Lake-Zoning District Use Table as a Permitted (P), Conditional Use (C), Accessory Use (A) or Interim Use (I).
2. Lot Dimensional Requirements (O).
3. The setbacks of the most restrictive adjacent Zoning District shall apply.
4. Mixed Zone Lots. (O)

5. For a lot crossing the Open District boundary into another Zoning District, the minimum lot size shall be the same as the other Zoning District with no area credit given for the Open District area.

Section 8.5-3. Residential Districts (R-1), (R-2), and (R-3)

Purpose: To establish and maintain Land Use Districts that are:

- A. R-1: Semi-rural in character which prevents the occurrence of dense urban development while retaining the wooded or nature of the land.
 - B. R-2: Residential in character which provides a buffer between wooded residential (R-1) and higher density shoreline residential zones. The R-2 Zoning District generally does not have lake frontage.
 - C. R-3: Residential in character on the shorelines of public waters and is compatible with the natural resources of lakes and streams.
1. No structure or land use shall be used except for one or more of the uses designated in 8.5-1.9 East Gull Lake-Zoning District Use Table as a Permitted (P), Conditional Use (C), Accessory Use (A) or Interim Use (I).
 2. All Residential Districts Requirements. Attached garages shall be used for the storage of non-commercial motor vehicles, boats and similar vehicles and household items.
 - A. All non-commercial vehicles, boats, and similar vehicles must be owned or registered to the occupant(s) of the principal structure.
 - B. All attached garages shall not exceed one thousand six hundred eighty (1,680) square feet or forty (49) percent of the total building square footage area whichever is less.

3. Lot Requirements are as follows:

8.5-3.1: Lot Requirements Table

Dimensional Requirements		Lot Width (Min)	Buildable Lot Area (Min)	Building height, Principal Structure (Max)	Building above highest known groundwater or lake level (Min)	Density (Max)
R-1	All Lots	200 ft	2.5 acres	30 ft	3 ft	1 unit/ 2.5 acres
R-2	GD Lake or Non-Shoreland	150 ft	40,000 sq ft	30 ft	3 ft	1 unit/ 40,000 sq ft
	NE Lake	200 ft	80,000 sq ft	30 ft	3 ft	1 unit/ 80,000 sq ft
R-3	GD Riparian Only	100 ft	20,000 sq ft	30 ft	3 ft	1 unit/ 20,000 sq ft
	Non-Riparian GD	150 ft	40,000 sq ft	30 ft	3 ft	1 unit/ 40,000 sq ft
	NE Lake	200 ft	80,000 sq ft	30 ft	3 ft	1 unit/ 80,000 sq ft

8.5-3.2: Setback Requirements Table

Dimensional Requirements		Setback, right of way, local streets (Min)	Setback, right of way, collector/ arterial streets (Min)	Setback, OHWL (Min)	Setback, OHWL (Min. with Sewer)	Setback, Bluff (Min)	Setback, Side (Min)	Setback, Side, Corner (Min)	Setback Rear (Min)	Sign Setback (Min)
R-1	GD or Non-shoreland	10 ft	30 ft	75 ft	50 ft	30 ft	20 ft	40 ft	20 ft	5 ft
	NE Lake	10 ft	30 ft	150 ft	150 ft	30 ft	30 ft	40 ft	20 ft	5 ft
R-2	GD Lake or Non-Shoreland	10 ft	30 ft	75 ft	50 ft	30 ft	20 ft	30 ft	20 ft	5 ft
	NE Lake	10 ft	30 ft	150 ft	150 ft	30 ft	30 ft	30 ft	20 ft	5 ft
R-3	GD Lake	10 ft	30 ft	75 ft	50 ft	30 ft	10 ft	30 ft	20 ft	5 ft
	NE Lake	10 ft	30 ft	150 ft	150 ft	30 ft	15 ft	30 ft	20 ft	5 ft

4. On parcels with municipal sanitary sewer service, where principal structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining principal structure setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone and the setback is not less than fifty (50) feet.
5. Accessory Structure and Building Standards.
 - A. All accessory structures and buildings shall be subject to the principal structure setback requirements listed in Table 8.5-3.2 except if the ordinance specifically requires a different setback.
6. Decks.
 - A. A deck less than three (3) feet high or a patio on grade may be constructed in conjunction with a new principal structure as a permitted use provided the front yard setback is decreased no more than eight (8) feet less than the ordinance requirement. The deck shall not be roofed or screened in but may have railings.
 - B. A permit shall not be required for replacing boards on a pre-existing deck in the same footprint.
7. Accessory Buildings.
 - A. Accessory buildings used or intended to be used for the storage of personal property, or the storage of equipment used for agricultural purposes, are allowed subject to the following regulations:
 - a. All properties regardless of lot area may have a detached accessory building of one thousand six hundred eighty (1,680) square feet that meets all other regulations. The maximum square footage of the total of all accessory building area on an individual lot shall be no more than two percent (2.0%) of the total lot square footage or 1,680 square feet whichever is greater. If the square footage of a single accessory building exceeds three thousand five hundred (3,500) square feet it shall require a Conditional Use Permit.
 - b. The maximum number of accessory buildings on an individual lot shall be subject to the amounts in Table 8.5-3.3.
 - c. Each lot may have one (1), one hundred twenty (120) square foot shed in addition to the total number of accessory building square footage and building number allowed.
 - d. All accessory buildings shall be screened from view from adjacent parcels and public waters with vegetation, landscaping, fencing, or similar conditions to the extent practical.
 - e. All accessory buildings over two thousand (2,000) square feet shall be set back twice the normal setback distance from all lot lines.
 - f. The exterior of all accessory buildings shall generally match the exterior color and appearance of the principal structure which exists, or is proposed to be constructed, upon the property on which the accessory buildings are proposed to be located. There is no exterior materials standard in the R-1 zoning district.
 - g. Roofing of all accessory buildings must include the use of boxed eaves and a two (2) foot overhang.
 - h. No storage of more than eight cannabis plants, with no more than four being mature, flowering plants and subject to state law regarding personal adult use of Cannabis.
 - i. Storage of more than eight cannabis plants, with no more than four being mature, flowering plants requires a Cannabis Cultivator license and is subject to a Conditional Use Permit.
 - j. All single-family dwellings shall be required to provide at least two (2) enclosed garage parking spaces, no less than four hundred forty (400) square feet in area and no less than twenty (20) feet wide in either direction.

Table 8.5-3.3: Accessory Building and Accessory Structure Maximums Table

Lot Area	Number of Accessory Buildings	Maximum Height
Less than one acre	2	24 ft
1 acre-1.99 acres	2	24 ft
2 acres – 9.99 acres	3	24 ft
10+acres	4	24 ft

Table 8.5-3.4: Accessory Structures and Accessory Building Types Table

ACCESSORY STRUCTURES	ACCESSORY BUILDINGS
Deck Patios T.V. towers antennas Dish antennas Outdoor swimming pools Outdoor hot tubs Fences six (6) feet tall or less Flagpoles Recreation Facilities, Private play Facilities, Rooftop Solar Panels Sports Court Stairways, Lifts & Landings (Shoreland)	Carport Garage, Detached Gazebo Greenhouse Guest Quarters Pool House Shed Trash Enclosure

8. Impervious Surface Coverage and Stormwater Management.
 - A. Construction of principal or accessory structures and buildings, or installation of improvements on the land such as sidewalks, trails, landscaping and decks on residential lots shall require submittal to the city of a stormwater management and retention plan showing containment of 1 inch of stormwater runoff off from all impervious surfaces on the parcel. The direct runoff of stormwater to adjacent water bodies, including wetlands and adjacent parcels, shall be eliminated using berms or other permanent means.
 - B. The following should be submitted for all properties requiring submittal of a stormwater management and retention plan:
 - a. Lot Impervious Surface Coverage & Landscaping for Stormwater Worksheet
 - b. Site Plan including at a minimum:
 - i. North arrow along with property boundary and information.
 - ii. Existing and proposed impervious areas.
 - iii. Existing and proposed grading contours at 1' or 2' intervals.
 - iv. Drainage arrows indicating the flow of water on the property and off impervious surfaces, including gutter placement on structures.
 - v. Location of well(s) and septic drainfields or mounds.
 - vi. Location of permanent stormwater retention areas.
 - vii. The amount of stormwater each feature will capture. List the depth, width and length of permanent storm water management areas and buffers.
 - C. Lots that meet the exceptions shown in Table 8.5-3-5 are not required to submit a stormwater management and retention plan. There is no stormwater plan requirement for installation of a fence or sign in any residential zoning district.

Table 8.5-3.5: Impervious Surface Requirements

Zoning District		Max impervious surface coverage (with submission of Stormwater plan for city review and approval)	Exceptions to the Stormwater Plan submittal requirement:
R-1		15%	R-1 Lots under 10% impervious surface
R-2	GD or Non-shoreland	25%	R-2 Lots under 20% impervious surface
	NE Lake	20%	R-2 Lots under 15% impervious surface
R-3	GD Lake	25%	R-3 Lots under 20% impervious surface
	NE Lake	15%	R-3 Lots under 10% impervious surface
	Lots divided by a street	25% Total for both lot areas	R-3 Lot areas under 20% impervious surface
CW	GD Lake	25%	N/A
	NE Lake	20%	N/A
PUD		25%	N/A
Recreational		15%	N/A

9. R-1 Requirements

When a property owner engages in Animal Husbandry, the maximum allowed animal unit shall be equal to 0.5 animal units per acre minus one for the residential unit subject to City Code SECTION II – Animals. See 5.2-4 of City Code.

10. Conditional Use Permit Requirements. Conditional uses specifically identified in 8.5-1.9 East Gull Lake-Zoning District Use Table shall be evaluated based upon the standards and criteria set forth in Section 8.10-5 of this title. In addition, the following conditional uses in the R-1, R-2, and R-3 districts shall meet the following standards.

- A. Accessory Buildings. Total aggregate accessory building square footage exceeding three thousand five hundred (3,500) square feet must meet the following conditions:
 - a. Lot size must be equal to or greater than four (4) acres.
 - b. The buildings shall be screened from view from adjacent parcels and public waters with vegetation, landscaping, fencing, or similar conditions sufficient to mitigate the view of the structure.
 - c. The exterior of all accessory buildings shall generally match the exterior color and exterior building materials of the principal structure which exists, or is proposed to be constructed, upon the property on which the accessory buildings are proposed to be located. There is no exterior materials standard in the R-1 zoning district.
 - d. Roofing of all accessory buildings must include the use of boxed eaves and a two (2) foot overhang.
 - e. Any single accessory building over two thousand (2,000) square feet shall be set back twice the normal setback distance from all lot lines.
 - f. Other permit standards the city deems appropriate for screening from the lake and reduction of identified impacts to adjacent property owners, wetlands, surface waters and public infrastructure.

- B. Guest Quarters. Guest Quarters accessory buildings must meet the following conditions:
- Shall not be greater than seven hundred (700) square feet or cover more than seven hundred (700) square feet of land.
 - The structure shall not exceed fifteen (15) feet in height unless it is constructed as the second story of an accessory structure in which the entire structure cannot exceed twenty-four (24) feet in height.
 - Shall be located to reduce its visibility as viewed from public waters and adjacent shorelands.
 - Shall be screened from adjacent parcels and public waters by vegetation, landscaping, fencing, or similar conditions sufficient to mitigate the view of the structure.
 - The exterior of all guest quarters shall generally match the exterior color and appearance of the principal structure which exists, or is proposed to be constructed, upon the property the accessory buildings are proposed to be located.
 - Roofing of all accessory buildings must include the use of boxed eaves and a two (2) foot overhang.
 - Provided that all lot and building standards are met, lots within R-1, R-2, and R-3 zoning districts may establish guest quarters by CUP.
 - Lots that contain guest quarters are subject to the regulations in Table 8.5-3.6.

Table 8.5-3.6: Guest Quarters Table

		Lot width with guest quarters or duplex	Buildable lot area with guest quarters or duplex (Minimum)
Shoreland	GD Riparian Only	180 ft	40,000 sq. ft
	Non-Riparian GD	265 ft	80,000 sq. ft
	NE Lake	300 ft	160,000 sq ft

Section 8.5- 4. Commercial Waterfront District (C-W)

Purpose: To establish and maintain a commercial, recreationally orientated Land Use District within the shoreland area comprised of resorts, restaurants, marinas and similar water-oriented uses with independent sanitary facilities and that is compatible with the natural resources of lakes and streams.

1. No structure or land use shall be used except for one or more of the uses designated in 8.5-1.9 East Gull Lake-Zoning District Use Table as a Permitted (P), Conditional Use (C), Accessory Use (A) or Interim Use (I).
2. Lot Requirements (CW)

8.5-4.1: Lot and Use Requirements (CW) Table

	Lot Width at OHWL/Building Line (Min)	Minimum Lot Area (Acres)	Building height, Principal Structure (Max)	Building above highest known groundwater lot lake level (Max)	Max impervious surface coverage (with submission of Stormwater plan for city review and approval)
C-W, GD Lake	300 ft	10	30 ft	3 ft	25%
C-W, NE Lake	300 ft	10	30 ft	3 ft	20%

Dimensional Requirements	Setback, right of way, local streets (Min)	Setback, OHWL (Min)	Setback, Bluff (Min)	Setback, side (Min)	Setback, Parking (Min)	Distance Between Buildings (Min)	Setback from CW Boundary	Setback, sign (Except OHWL), (Min)	Setback, sign (From OHWL), (Min)
C-W, GD Lake	30 ft	75 ft	30 ft	20 ft	10 ft	20 ft	15 ft	10 ft	75 ft
C-W, NE Lake	30 ft	150 ft	30 ft	30 ft	10 ft	20 ft	15 ft	10 ft	150 ft

	GD Lake	RD Lake	NE Lake	Non-shoreland CW
Impervious coverage – maximum	25%	25%	20%	25%

3. Performance Standards.
 - A. Screening and Landscaping
 - a. Visual screening is required within all perimeter setback areas in addition to normal landscaping and plantings to contain the activities of the commercial waterfront uses.
 - b. Screening may consist of dense evergreen plantings eight feet or more in height, wood walls with one hundred (100) percent obstruction, a building wall consisting of aesthetically pleasing materials and no signage, or similar structures with similar materials. All structural elements shall meet required setbacks.
 - c. All commercial buildings in the C-W district shall be landscaped according to a plan prepared by a professional landscape architect, or a commercial nursery, and be approved by the Planning Commission. The plan will be reviewed based upon the remaining vegetation on site, the amount of screening necessary to mitigate impacts to neighbors and the visibility of the project to the public right of way and lake.

- B. General Requirements
 - a. All buildings shall be subject to the standards of the MN State Building Code and be designed by a Licensed Architect. All new multifamily buildings shall have fire-rated party walls and floors as is required by the International Building Code. An Architect shall certify this requirement.
- C. All waste materials, debris, refuse or garbage shall be kept in an enclosed building or enclosed within a container. The container, if located within public view, shall be completely screened by a wall or materials consistent with the principal structure.
- D. Exterior Finishes
 - a. All exterior wall finishes on any principal or accessory building shall be one of or a combination of the following:
 - i. Face brick
 - ii. Natural or cut stone, wood or log.
 - iii. Decorative concrete block; rock face, break away or other types of decorative block. Unadorned concrete blocks painted or unpainted is not permitted.
 - iv. Glass, fiberglass or similar non-metal materials.
 - v. Stucco and EIFS as an accent material.
 - b. New materials. The Planning Commission may approve other new materials that are equal to or better than the materials listed in 3.D.a of this section.
 - c. Neighboring structures within the development. All structures shall be compatible with neighboring structures in mass, color and exterior materials.
- E. Building Requirements
 - a. Except public or religious institution buildings (such as city hall, community center, schools or churches), no structure within the C-W district shall exceed a ten thousand (10,000) square feet building footprint unless by conditional use permit.
 - b. The color of buildings should complement the adjacent buildings' colors and include a similar mix of colors.
 - c. No retail merchandise shall be stored within any required yard area.
- F. Exterior Lighting Requirements
 - a. Lighting fixtures. Fixtures shall be of a downward directed and shielded or cut off type concealing the light source from view and preventing glare and spilling into residential areas.
 - b. Parking lot and security lighting. All parking lot and security lighting shall be directed away from adjoining residential uses.
 - c. Maximum lighting levels. Any lighting for non-residential uses within the C-W shall not exceed one (1) footcandle at the property line. If the property is adjacent to a residential use, the illumination cannot exceed one-half (.5) footcandle at the shared property line.
 - d. Height restrictions. Lighting fixtures mounted on poles or structures shall have a maximum height of twenty-five (25) feet when the C-W property is adjacent to a residentially zoned property. Within fifty (50) feet of any residentially zoned property no light fixture may exceed twelve (12) feet in height. The city may grant exceptions to the height requirements when the lighting is located in an area otherwise screened or blocked from view from the residential property.
- G. Parking Requirements
 - a. Off-street parking shall be provided subject to the regulations of Section 8.6.7 Parking. On-street parking is not permitted under any circumstances.
- H. Development Agreements and Financial Sureties

- a. As part of any permitting or review process, the Planning Commission may require the developer of any commercial waterfront property to enter into a developer agreement. The agreement shall be in a format that is acceptable to the City Attorney and shall be recorded. The terms of the developer agreement may include the conditions approved by the city, bonding requirements and other items deemed necessary by the city.
 - b. Prior to construction of any public utility or roadway, the developer shall post a letter of credit, cash or other security satisfactory to the City Attorney, in the amount of one hundred twenty-five (125) percent of the cost of off-site and on-site sewer, water, storm sewer, other public utilities and street improvements required for the project as estimated by the applicant's engineer.
 - c. The city shall hold the letter of credit, cash or other security to ensure the timely and satisfactory installation of required public improvements. The city shall use the proceeds, if the developer defaults for any reason, to remove or complete the construction. The city may, at its discretion, allow construction and approval of the utilities and street after preliminary approval, but before final approval of a plat or condominium plat.
 - d. Such required financial guarantees may be reduced in increments as construction or installation is completed to the satisfaction of the City Engineer and City Administrator.
4. Resorts: To establish and maintain regulations for the development, expansion, or conversion of resorts which will add to the recreational character of the city. Resorts shall be developed in a manner that provides sufficient utilities to their members and development that is consistent with the natural environmental amenities of the community.
- A. Review Criteria. The following shall be reviewed by the city in considering a resort planning application, in addition to any other applicable review criteria, which may include Shoreland Ordinance standards.
 - a. Physical and aesthetic impacts of increased density; and
 - b. Level of current development in the area; and
 - c. Amount and ownership of existing lands;
 - B. Design Criteria. The following criteria shall be established for any new, updates or expansions of resort developments in existing CW zoned developments within the City of East Gull Lake.
 - a. Minimum Size. Resorts shall contain a minimum of five (5) dwelling units or sites.
 - b. Base Density. The maximum density for a Resort will be calculated using the standards found in the commercial PUD 8.5-9.9B.
 - c. Buffer. A minimum of a fifty (50) foot vegetative buffer will be preserved or established and maintained along the boundary of the Resort. There shall be no dwelling units or impervious coverage within this buffer with the exception of access roads or utility crossings. The buffer will serve to screen the adjacent parcels, where applicable, from the dwelling units within the Resort. The screening will contain both low growing (e.g. brush) and high growing (e.g. trees) vegetation. Adjacent parcels, where applicable, shall be a minimum of fifty (50) percent screened, as measured by the Planning and Zoning Administrator, from the adjacent parcel during leaf-on conditions. An earthen berm may be used where, in the opinion of the Planning Commission, the existing vegetation cannot be enhanced to meet the fifty (50) percent screening criteria. Use of a berm shall not preclude the maintenance of a fifty (50) foot buffer and resulting fifty (50) foot setback or

- the installation of screening as part of the berm
- d. Open Space. At least fifteen (15) percent of the buildable area of the site shall be preserved in open space. Open space shall be left in its natural state, to the extent feasible. Any alterations to open space shall be shown on a landscaping plan presented to the Planning and Zoning Administrator and shall contain native plant species to the extent possible.
 - i. Dwelling units or sites, road right-of-way, land covered by road surfaces, parking areas, stormwater basins, collection and treatment areas, structures and landscaped areas which are routinely maintained are considered developed areas and shall not be included in the computation of minimum open space.
 - ii. Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.
 - iii. The fifty (50) foot buffer shall be included as open space, minus areas used as accesses.
 - iv. Where a wildlife corridor is present, open space shall be designed to include the corridor.
 - v. The appearance of open space areas shall be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means acceptable to the city.
 - e. Common Space. At least fifty (50) percent of the project must be included as common space.
 - i. Open space shall be counted as common space.
 - ii. Common space may include any outdoor recreational facilities for use by owners and renters of the dwelling units or sites, or the public.
 - iii. Common space may include areas used for stormwater retention or management and areas used for sanitary sewer collection or disposal. Where common space includes sanitary sewage treatment systems, the use of the space shall be restricted where necessary to avoid adverse impacts on the systems.
 - iv. Common space must not include commercial facilities or uses, including water-oriented facilities or access to public waters.
 - v. The appearance and use of common space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means acceptable to the city.
 - f. Stormwater management.
 - i. All resorts must develop and maintain a stormwater management plan complying with standards found in Section 8.6-7
 - ii. Capacities of existing drainage ways shall be maintained.
 - iii. All stormwater facilities necessary to meet the approved stormwater management plan must be maintained by the Resort owner or their designee both on site and off site.
 - iv. All resorts shall contain 1 inch of stormwater runoff off from all impervious surfaces within the development as approved by the City Engineer.
 - v. Runoff from the parcel shall not be concentrated unless part of a city approved stormwater management plan.
 - g. Sanitary sewer and water supply standards.
 - i. All dwelling units within the Resort must be connected to publicly owned

1. No structure or land use shall be used except for one or more of the uses designated in 8.5-1.9 East Gull Lake-Zoning District Use Table as a Permitted (P), Conditional Use (C), Accessory Use (A) or Interim Use (I).
2. Lot Requirements below: (PU)

8.5-5.1: Lot and Use Requirements (PU) Table

	Lot Width (Min)	Minimum Lot Size (sq ft)	Building height, Principal Structure (Max)	Building above highest known groundwater lot lake level (Max)	Non-shoreland max impervious surface coverage (with submission of Stormwater plan for city review and approval)	Shoreland max impervious surface coverage (with submission of stormwater plan for city review and approval)
PU	100 ft	20,000	35 ft	3 ft	45% of the lot	25% of the lot

Dimensional Requirements	Setback, right of way, local and collector streets (Min)	Setback, side (Min)	Setback, rear (Min)	Setback OHWL	Setback OHWL with Sewer	Onsite Sign Setback
PU	30 ft	15 ft	35 ft	GD 75 ft NE 150 ft	GD 50 ft NE 150 ft	10 ft

Section 8.5- 6. Recreational (REC)

Purpose: To establish and maintain a Land Use district for existing uses of land or for land properly suited for recreational development that is semi-rural in character, which allows public and private recreation facilities and accessory uses, which promotes and maintains aesthetics in areas that serve as a transitional zoning district between residential uses and commercial uses.

1. No structure or land use shall be used except for one or more of the uses designated in 8.5-1.9 East Gull Lake-Zoning District Use Table as a Permitted (P), Conditional Use (C), Accessory Use (A) or Interim Use (I).
2. Lot Requirements below: (REC)

8.5-6.1: Lot and Use Requirements (REC) Table

	Lot Width (Min)	Minimum Lot Size (acres)	Building height, Principal Structure (Max)	Building above highest known groundwater lot lake level	Max impervious surface coverage (with submission of Stormwater plan for city review and approval)
REC	300 ft	10	40 ft	3 ft	15% of the lot
	Dimensional Requirements	Setback, right of way, local streets (Min)	Setback, side (Min)	Setback, corner side (Min)	
	REC	75 ft	30 ft	40 ft	

3. Performance Standards. (REC)
 - A. Compatibility of Structures. All structures shall be compatible with the surrounding

- neighborhood. Structures shall contain earth tone colors, including white, black and grey, or natural wood or brick exterior.
- B. Compatibility of Use. Use shall be compatible with the surrounding neighborhood. Uses shall not create noise, odor, light nuisances or any other nuisances.
 - C. Parking. Adequate off-street parking shall be provided as required by 8.6-10. On-street parking is not allowed under any circumstances.
 - D. Screening. All sites shall be heavily landscaped to provide seventy-five (75) percent opacity screening of structures to adjacent residential parcels and over fifty (50) percent opacity screening from the road or any non-residential parcel. Percentages shall be determined by the Planning and Zoning Administrator based upon the amount of structure that can be seen during leaf-on conditions. A landscape and screening plan must be submitted and approved by the Planning Commission with each land use permit.
 - E. Lighting. Lighting shall be minimal. Lighting shall be downward directional and shall be compatible with the surrounding development. On site lighting shall not exceed one-half (.5) footcandle at all property lines.

Section 8.5-7. Shoreland Overlay District

Purpose and Intent. It is the intent of these shoreland overlay regulations to impose restrictions in addition to those required by the underlying Zoning for the protection of shoreland areas, the preservation and enhancement of the quality of surface waters and the wise utilization of water and related land resources.

1. Authorization. This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules, Parts 6120.2500 - 6120.3900, and the planning and Zoning enabling legislation in Minnesota Statutes, Chapter 462.
2. Jurisdiction. The provisions of this ordinance apply to the shorelands of the public water bodies as classified in Section 8.5-1 (4) of this ordinance. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this ordinance.

Section 8.5-7.1 Administration

Purpose. The purpose of this Section is to identify administrative provisions to ensure the ordinance is administered consistent with its purpose.

1. Permits
 - A. A land use permit is required for the construction of buildings or building additions (including construction of decks and signs), and grading and filling activities.
 - B. A certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subd. 3 is required whenever a permit of variance is required for any improvement or use of the property. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level as regulated by Cass County.
2. Application materials. Application for permits and other zoning applications such as variances shall be made to the Planning and Zoning Administrator on the forms provided. The application shall include the necessary information so that the Planning and Zoning Administrator can evaluate how the application complies with the provisions of this ordinance.

3. Letter of Zoning Compliance. A letter of zoning compliance for each activity requiring a permit as specified in Section 8.4-1 of this ordinance is required. This letter will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction not allowed or out of compliance with the permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section XI of this ordinance.
4. Conditional Uses. All conditional uses in the Shoreland Area shall comply with Section 8.10-5
5. Mitigation.
 - A. In evaluating all variances, conditional uses, and land use permit applications, the zoning authority shall require the property owner to address the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:
 - a. Advanced storm water runoff management treatment;
 - b. Reducing impervious surfaces;
 - c. Increasing setbacks from the Ordinary High-Water Level (OHWL);
 - d. Restoration of wetlands;
 - e. Limiting vegetation removal and/or riparian vegetation restoration;
 - f. Provisions for the location, design and use of structures, sewage treatment systems consistent with Cass County SSTS ordinance 2018-03 , water supply systems, watercraft launching and docking areas, and parking areas;
 - g. Other conditions the City Council deems necessary.
 - h. In evaluating plans to construct sewage treatment systems consistent with Cass County SSTS ordinance 2018-03 , roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.
6. Notifications to the Department of Natural Resources.
 - A. All amendments to this shoreland ordinance must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. East Gull Lake will submit the proposed ordinance amendments to the Commissioner or the Commissioner's designated representative at least thirty (30) days before any scheduled public hearings.
 - B. All notices of public hearings to consider variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
 - C. All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
 - D. Any request to change the shoreland management classification of public waters within East Gull Lake must be sent to the Commissioner or the Commissioner's designated representative for approval, and must include a resolution and supporting data as required by Minnesota Rules, Part 6120.3000, Subp.4.

- E. Any request to reduce the boundaries of shorelands of public waters within East Gull Lake must be sent to the Commissioner or the Commissioner’s designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.
- 7. Mandatory EAW. An Environmental Assessment Worksheet consistent with Minnesota Rules, Chapter 4410 must be prepared for projects meeting the thresholds of Minnesota Rules, Part 4410.4300, Subparts 19a, 20a, 25, 27, 28, 29, and 36a.

Section 8.5-7.2 Shoreland Classifications

Purpose. To ensure that shoreland development on the public waters of East Gull Lake is regulated consistent with the classifications assigned by the Commissioner under Minnesota Rules, Part 6120.3300.

- 1. Lakes are classified as follows:

Table 8.5-7.1: Public Waters of East Gull Lake

Name	DNR ID#	Classification
Bass Lake	11-215	Natural Environment Lake (NE)
Dade Lake	11-214	Natural Environment Lake (NE)
Echo (Previously Ruth) Lake	11-212	Natural Environment Lake (NE)
Gull Lake	11-305	General Development (GD)
Lynch Lake	11-210	Natural Environment Lake (NE)
Ruth Lake	11-211	General Devel
Stephens Lake	11-213	Natural Environment Lake (NE)
Sylvan Lake	11-304	General Development (GD)
Unnamed	11-619	Natural Environment Lake (NE)
Unnamed	11-782	Natural Environment Lake (NE)
Unnamed	11-783	Natural Environment Lake (NE)
Unnamed	11-784	Natural Environment Lake (NE)
Unnamed	11-785	Natural Environment Lake (NE)
Unnamed	11-786	Natural Environment Lake (NE)
All Streams and Rivers	NA	Tributary

Section 8.5-7.3 Land and Uses and Special Provisions

Purpose. To identify land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality.

- 1. No structure or use shall be allowed within the overlay district except for one or more of the uses designated in 8.5.1.9 East Gull Lake-Zoning District Use Table as Permitted (P), Conditional Use (C), Accessory Use (A) or Interim Use (I) as defined by the underlying zoning district for each parcel.
- 2. Commercial, Public, and Semipublic Use Standards.

- A. Water-dependent uses may be located on parcels or lots with frontage on public waters provided that:
 - a. The use complies with the provisions of Section 8.5-4;
 - b. The use is designed to incorporate topographic and vegetative screening of parking areas and structures;
 - c. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
 - d. Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:
 - i. Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff; and
 - ii. Signs placed within the shore impact zone are:
 - 1. No higher than ten feet above the ground, and no greater than 32 square feet in size; and
 - 2. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and
 - iii. Other lighting may be located within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination across public waters. This does not preclude use of navigational lights.
 - B. Commercial, public, and semi-public uses that are not water-dependent must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
3. Forest Management Standards.
- A. The harvesting of timber and associated reforestation must be conducted consistent with the applicable provisions of the Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers.
 - B. Intensive vegetation clearing for forest land conversion to another use is a conditional use subject to an erosion control and sedimentation plan developed and approved by the soil and water conservation district

Section 8.5-7.4 Dimensional and General Performance Standards

Purpose. To establish dimensional and performance standards that protect shoreland resources from impacts of development.

- 1. Lot Area and Width Standards. Residential lots within the Shoreland Overlay District are subject to the following requirements:
 - A. Only lands above the ordinary high-water level and excluding right-of-way can be used to meet lot area and width standards;
 - B. Lot width standards must be met at both the Ordinary High-Water Level and at the building line;
 - C. The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property;
 - D. Residential subdivisions with dwelling unit densities exceeding those in Sections 8.5-3 are allowed only if designed and approved as residential PUDs under Section 8.5-9 of this ordinance

Table 8.5-7.2: Subdivision Lot Requirements

Dimensional Requirements		Lot Width (Min)	Buildable Lot Area with Sewer (Min)
R-1	All Lots	200 ft	2.5 acres
R-2	GD Lake	150 ft	40,000 sq ft
	NE Lake	200 ft	80,000 sq ft
R-3	GD Riparian Only	100 ft	20,000 sq ft
	GD Non-Riparian	150 ft	40,000 sq ft
	NE Lake	200 ft	80,000 sq ft

2. Placement, Height, and Design of Structures.
 - A. OHWL Setbacks. Structures, impervious surfaces, and sewage treatment systems consistent with Cass County SSTS ordinance 2018-03, must meet setbacks from the Ordinary High-Water Level (OHWL) as show on Table 8.5-7.3.

Table 8.5-7.3. Setbacks from OHWL

		<u>Setback, OHWL Structures without Sewer(Min)</u>	<u>Setback OHWL Structures with Sewer or Sewage Treatment Systems</u>
<u>R-1 & R-2</u>	GD/ Lake	75 ft	50 ft
	NE Lake	150 ft	150 ft
<u>R-3 & PU & CW & REC</u>	GD Riparian Only	75 ft	50'
	Non-Riparian GD	75 ft	50 ft
	NE Lake	150 ft	150 ft

- B. Setback averaging. On parcels with municipal sanitary sewer service, where principal structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining principal structure setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone or the setback is less than fifty (50) feet (See Figure 8.5-7.1);

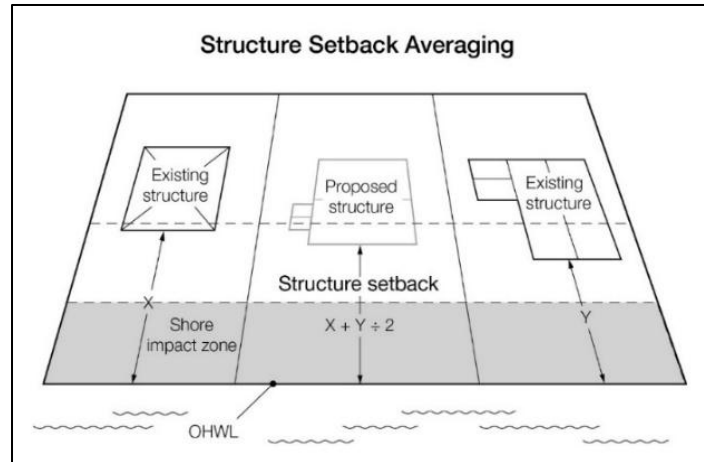
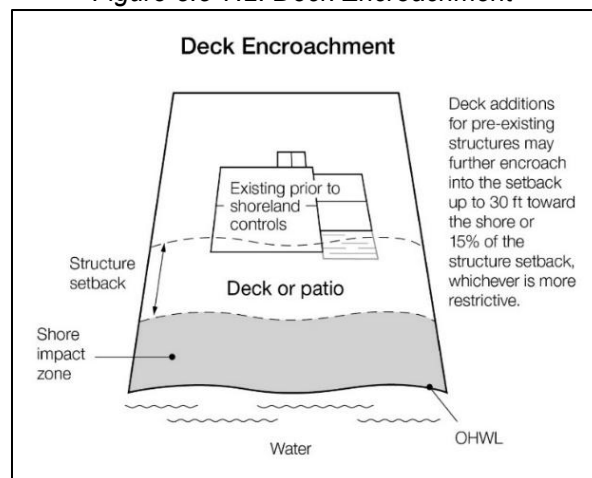


Figure 8.5-7.1. Structure Setback Averaging

- C. Setbacks of decks. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high-water level if all of the following criteria are met:
- The structure existed prior to July 2, 1990;
 - A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
 - The deck encroachment toward the ordinary high-water level does not exceed fifteen (15) percent of the existing setback of the structure from the ordinary high-water level or is no closer than thirty (30) feet from the OHWL, whichever is more restrictive;
 - The deck is not roofed or screened (See Figure 8.5-7.2).

Figure 8.5-7.2. Deck Encroachment



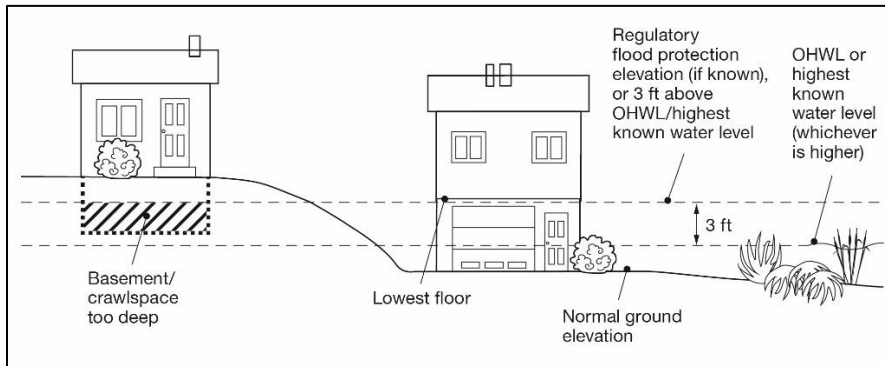
- D. New Decks. A deck less than three (3) feet high or a patio on grade may be constructed in conjunction with a new principal structure as a permitted use provided the waterfront yard setback is decreased no more than eight (8) feet below normal. The deck shall not be roofed or screened in but may have railings.
- E. Additional structure setbacks. Structures must also meet the following setbacks as found in Table 8.5-7.4, regardless of the waterbody classification:

Table 8.5-7.4. Additional Setbacks

Setback from:	Setback
Top of bluff	30 ft
Unplatted cemetery	50 ft
Right-of-way line of federal, state, or county highway	50 ft
Right-of-way line of town road, public street, or other roads not classified	20 ft

- F. Bluff Impact Zones. Structures, impervious surfaces, and accessory facilities, except stairways and landings, shall not be placed within bluff impact zones.
- G. Lowest Floor Elevation. Determining elevations. Structures shall be placed at an elevation consistent with the applicable floodplain regulatory elevations. Where these elevations are not known, the lowest floor, including basement, must be placed or flood-proofed at an elevation determined using the following methodology:
 - a. For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high-water level, whichever is higher (See Figure 8.5-7.3).
 - b. For rivers and streams, by placing the lowest floor at least three feet above the highest known flood elevation. If highest know flood elevation is not available , by placing the lowest floor at least three feet above the ordinary high water level or by conducting a technical evaluation to establish a flood protection elevation. Technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules, parts 6120.5000 to 6120.6200. (See Figure 8.5-7.3)

Figure 8.5-7.3. Lowest Floor Elevation



- H. Methods for placement
 - a. In addition to the lowest floor, all service utilities must be elevated or water-tight to the elevation determined in 8.5-7.4G and Figure 8.5-7.3 Lowest Floor Elevation.
 - I. If the structure is floodproofed, then it must be built to resist hydrostatic pressure through elevation methods such as blocks, pilings, filled stem walls, elevated concrete pad, internally flooded enclosed areas, or through other accepted engineering practices consistent with FEMA technical bulletins 1, 2 and 3.
- 3. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the value of the site unless adequate information about the site has been removed and documented in a public repository.

4. Water Supply and Sewage Treatment.
 - A. Water supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
 - B. Sewage treatment. Any premises used for human occupancy must be connected to a publicly owned sewer system, where available or comply with Cass County SSTS ordinance 2018-03 .

Section 8.5-7.5 Performance Standards for Private and Public Facilities

1. Placement and Design of Roads, Driveways, and Parking Areas. These facilities must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters. They must be constructed to minimize and control erosion to public waters consistent with the DNR field office technical guides of the local SWCD and comply with the following standards:
 - A. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts;
 - B. For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
2. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways, lifts, and landings must meet the following design requirements:
 - A. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments;
 - B. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public-space recreational uses, and planned unit developments;
 - C. Canopies or roofs are not allowed on stairways, lifts, or landings;
 - D. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
 - E. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
 - F. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, if they are consistent with the dimensional and performance standards of sub items A to E and the requirements of [Minnesota Rules, Chapter 1341](#).
3. Shore recreation facilities:
 - A. Docks. The landward end of all docks must meet a ten (10) foot setback from the nearest lot line. Docks shall also be placed so as not to block access from an adjacent property to open water. The storage of all docks, and all watercraft or water-oriented items shall also be subject to the ten (10) foot setback rule.
 - B. Notwithstanding any provision of this section to the contrary, the ten (10) foot setback for docks shall not apply to the extent necessary to allow ingress or egress

- of a pre-existing boathouse.
- C. This Ordinance shall apply to the use, maintenance and installation of any dock and accessory or ancillary structures or equipment at any time.

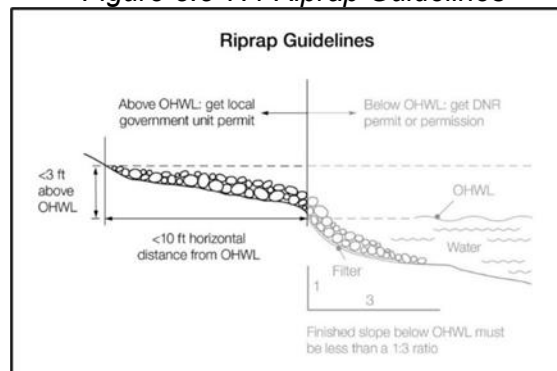
Section 8.5-7.6 Vegetation and Land Alterations

Purpose. Alterations of vegetation and topography are regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, sustain water quality, and protect fish and wildlife habitat.

1. Removal or alteration of vegetation must comply with the provisions of this subsection except for:
 - A. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities. Sewage treatment facilities shall comply with Cass County SSTS ordinance 2018-03.
 - B. The construction of public roads and parking areas if consistent with Section 7.1 of this ordinance;
 - C. Forest management uses consistent with Section 8.6-9 of this ordinance; and
 - D. Agricultural uses consistent with Section 8.5-3.2 of this ordinance.
2. Intensive vegetation clearing in the shore and bluff impact zones and on steep slopes is prohibited. Intensive clearing outside of these areas is allowed if consistent with the standards in Section 8.6-9 of this ordinance.
3. Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes, is allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided the existing shading of water surfaces along rivers is preserved.
4. Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards is allowed without a permit.
5. Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.
6. Grading and Filling.
 - A. Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section 7.1 of this ordinance.
 - B. Permit Requirements.
 - a. Grading, filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways, must receive an approved land use permit prior to commencement of work and do not require a separate grading and filling permit. However, the standards in Section 8.6-8 of this ordinance must be incorporated into the permit.
 - b. For all other work, including driveways not part of another permit, a Land Use Permit for grading and filling is required for;
 - i. The movement of more than 10 cubic yards but less than 50 cubic yards of material on steep slopes or within shore or bluff impact zones requires a conditional use permit in addition to a Land Use Permit for grading;
 - ii. The movement of less than 10 cubic yards of material on steep slopes or within shore or bluff impact zones requires a Land Use Permit for grading;
 - iii. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones within the Shoreland Area requires a conditional use permit in addition to a Land Use Permit for grading.

- iv. Placement of retaining walls, including boulder walls within the shore or bluff impact zone provided that:
 1. If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project,
 2. The structures are used only to correct a documented existing erosion problem and not for aesthetic reasons.
 3. The height and length are the minimum necessary to control the erosion problem and are not higher than four (4) feet or longer than ten (10) feet unless the Planning and Zoning administrator determines that a larger wall is necessary to correct the erosion problem, and walls are screen by vegetation to not be visible from the waterbody.
- v. The City of East Gull Lake encourages the use of riprap only as a last resort to control shoreline erosion. Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket is permitted with a Land Use Permit if:
 1. There is a demonstrated need to stop existing erosion. This determination must be made through one or more site visits by the Planning and Zoning Administrator.
 2. The project below the OHWL complies with Minn. Rule 6115.0215;
 3. The project above the OHWL complies with the following standards:
 - A. the finished slope does not exceed three feet horizontal to one-foot vertical;
 - B. the landward extent of the riprap is within ten feet of the ordinary high-water level; and
 - C. the height of the riprap above the ordinary high-water level does not exceed three (3) feet (See Figure 8.5-7.4).
 - D. The riprap conforms to the natural alignment of the shoreline;
 - E. Average rock size range between 6 inches and 30 inches and is sized appropriately for the wave energy.
 - F. The riprapped area is no more than 200 linear feet.
 - G. The riprap is loosely laid and placed randomly.

Figure 8.5-7.4 Riprap Guidelines



- C. Grading, filling and excavation activities must meet the following standards:
 - a. Grading or filling of any wetland must meet or exceed the wetland protection standards under Minnesota Rules, Chapter 8420 and any other permits, reviews, or approvals by other local state, or federal agencies such as watershed districts, the DNR or US Army Corps of Engineers;
 - b. Land alterations must be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:
 - i. Limiting the amount and time of bare ground exposure
 - ii. Using temporary ground covers such as mulches and similar materials;
 - iii. Establishing permanent, deep-rooted and dense vegetation cover as soon as possible;
 - iv. Using sediment traps, vegetated buffer strips or other appropriate techniques;
 - v. Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;
 - vi. Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty (30) percent or greater;
 - vii. Fill or excavated material must not be placed in bluff impact zones;
 - viii. Any alterations below the ordinary high water level of public waters must first be authorized by the commission under MN statutes, Section 103G; and
 - c. Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties. Connections to public waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, Chapter 6115.
- D. Ice Ridges. If ice ridges occur annually, the property owner shall restore the shoreline every year. Removal or grading of an ice ridge must not disturb emergent aquatic vegetation, unless authorized by an aquatic plant management permit from the DNR's Division of Fisheries. A permit will be issued based upon the following information being submitted for City staff review and approval:
 - a. The ice ridge resulted from ice action within the last year.
 - b. The total length of shoreline zone to be affected does not exceed two hundred (200) feet.
 - c. All ice ridge material that is composed of muck, clay, or organic sediment is deposited and stabilized at an upland site above the ordinary high-water level of any public water.
 - d. All ice ridge material that is composed of sand or gravel is removed or graded to conform to the original cross-section and alignment of the lakebed, with a finished surface at or below the ordinary high-water level.
 - e. No additional excavation or placement of fill material occurs on the site.
 - f. All exposed areas are immediately stabilized as needed to prevent erosion and sedimentation.
 - g. Local zoning officials, the watershed district, if applicable, and the soil and water conservation district are given seven (7) days' prior notice.
- E. Beach Sand Blankets

- a. Beach sand blankets are not feasible or allowable on every lot. This includes, but is not limited to, properties with wetlands, bluffs, steep slopes greater than 24%, and seepage areas.
 - b. Beach sand blankets on residential lots above the OHWL, shall not exceed twenty (20) feet in width parallel to the shoreline and shall be incorporated in any shoreline alteration areas. The beach sand blanket shall not exceed twenty (20) cubic yards of sand within the 20 feet area and requires a Land Use Permit.
 - c. Only one addition of not more than ten (10) cubic yards of sand may be placed on existing beach areas on residential lots with a Land Use Permit for perpetuity, regardless of ownership.
 - d. Beach sand blankets on WC or PUD zoned properties shall not exceed fifty (50) feet in width and fifty (50) cubic yards of volume.
 - e. Berms of not less than twelve (12) inches above grade level or diversions not less than twelve (12) inches below grade level shall be placed landward of all beach sand blankets to prevent erosion from upland runoff.
 - f. All activity below the OHWL, requires applicable MN DNR approval and permits.
 - g. The beach blanket does not cover emergent aquatic vegetation below the OHWL, unless authorized by an aquatic plant management permit from the MN DNR.
- F. Stormwater Management General Standards:
- a. When possible, existing natural drainageways, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
 - b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized as soon as possible, and appropriate facilities or methods used to retain sediment on the site
 - c. When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.
- G. Stormwater Management Specific Standards:
- a. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.
 - b. New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, Part 6115.0231.

Section 8.5-7.7 Subdivision and Platting Provisions

Purpose. To ensure that new development minimizes impacts to shoreland resources and is safe and functional.

1. Subdivisions within the Shoreland Overlay District shall be subject to the rules and regulations outlined within Section VIII Subdivision Standards.

2. Additional Performance Standards. In addition to those regulations outlined in Section VIII, subdivision within the Shoreland Overlay District shall be subject to the following additional regulations.
 - A. Land suitability. Each lot created through subdivision, including planned unit developments authorized under Section 8.5-8 PUD of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
 - B. Consistency with other controls. Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed later to use the lots for their intended purpose.
3. Water and Sewer Design Standards.
 - A. A potable water supply and a sewage treatment system consistent with [Minnesota Rules, Chapters 7080 – 7081](#) and Cass County SSTS ordinance 2018-03 must be provided for every lot.
 - B. Each lot must include at least two soil treatment and dispersal areas that support systems described in [Minnesota Rules, parts 7080.2200 to 7080.223](#) or site conditions described in [part 7081.0270, subparts 3 to 7](#), as applicable.
 - C. Lots that would require the use of holding tanks are prohibited.
4. Information requirements.
 - A. Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;
 - B. The surface water features required in [Minnesota Statutes, section 505.021, Subd. 1](#), to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources;
 - C. Adequate soils information to determine suitability for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
 - D. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
 - E. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
 - F. A line or contour representing the ordinary high-water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
 - G. Dedications. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
 - H. Platting. All subdivisions that cumulatively create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapters 462.358 Subd. 3a and 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after the adoption of this ordinance unless the lot was previously approved as part of a formal subdivision.

Section 8.5-8 Planned Unit Development (PUD)

1. General.
 - A. Planned Unit Development (PUD) requires the assistance of professionals and usually involves the approval of multiple agencies or other governmental bodies. Where circumstances are favorable, PUD's provide more latitude in Land Use than normal development to allow for planning, clustering facilities, consolidating green spaces and internal recreation amenities. While densities higher than normal are allowed, they must be justified by the preservation and consolidation of green space, preservation of sensitive environmental features, high quality of design and architecture, increased screening and landscaping, increased recreational amenities and other significant improvements and design features beneficial to the residents, neighbors and the general public.
 - B. Provisions of the underlying zoning district or proposed district shall provide guidance to the density and development pattern of the future PUD.
 - C. Area Used For Land Uses: The city may permit up to ten percent (10%) of the gross floor area of all buildings in a PUD to be used for land uses for which the site is not designated in the comprehensive plan if the City Council finds that such use is in the best interests of the city.
2. Suitability. The city must consider the following criteria in the examination of a parcel for suitability as a PUD:
 - A. Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;
 - B. Physical and aesthetic impacts of increased density;
 - C. Suitability of the site for the use of a planned unit development;
 - D. Condition and availability of infrastructure suitable for a PUD;
 - E. Itemized benefits of using the PUD as compared to the underlying or proposed zoning district;
 - F. Level of current development in the area;
 - G. Site characteristics such as sensitive environmental features including steep slopes, hardwood forests, and poor soils that could benefit from a PUD;
 - H. Consistency with the character of the neighborhood,
 - I. Amounts and types of ownership of undeveloped lands.
 - J. Size of the parcel and amount, if any, of shoreline.
 - K. Minimum parcel size is as follows:

Table 8.5-8.1 Minimum parcel size in PUD

	R-1	R-2	R-3	C-W
Minimum land area	10 acres	5 acres	5 acres	10 acres
Minimum lake frontage	N/A	N/A	300 feet	300 feet

3. Design Criteria for all new PUD's.
 - A. Minimum Size. Planned unit developments shall contain a minimum of five units within the PUD boundary.
 - B. Buffer. A minimum of a fifty (50) foot vegetative buffer will be maintained or established along the boundary of the PUD. There shall be no units or impervious coverage within this buffer with the exception of access roads or utilities. The buffer will serve to screen the adjacent parcels and the lake, where applicable, from the units within the PUD. The screening will contain both low vegetation and shrubbery and high growing trees both coniferous and deciduous. Adjacent parcels and the lake, where applicable, shall be a minimum of fifty (50)

percent screened, as measured by the Planning and Zoning Administrator, from the adjacent parcel or the lake during leaf-on conditions. An earthen berm may be used where, in the opinion of the Planning Commission, the existing vegetation cannot be enhanced to meet the fifty (50) percent screening criteria. Use of a berm shall not preclude the maintenance of a fifty (50) foot buffer or the installation of screening in addition to the berm.

- C. Open Space. At least twenty-five (25) percent of the total project area must be preserved in open space.
 - a. Open space shall be left in its natural state and shall be contiguous.
 - b. Dwelling units or sites, road right-of-way, land covered by road surfaces, parking areas, stormwater basins, collection and treatment areas, structures and landscaped areas which are routinely maintained are developed areas and shall not be included in the computation of minimum open space.
 - c. Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.
 - d. The fifty (50) foot buffer shall be included as open space, minus areas used as accesses.
 - e. Where a wildlife corridor is present, open space shall be designed to include the corridor.
 - f. The appearance and long-term maintenance of open space areas shall be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means acceptable to the city.
 - g. Open Space Requirements within the Shore Impact Zone:
 - I. A minimum of fifty (50) percent of the Shore Impact Zone (SIZ) must be maintained as open for the existing residential PUDs.
 - II. A minimum of seventy (70) percent of the Shore Impact Zone (SIZ) must be maintained as open space for new residential PUDs.
 - III. A minimum of fifty (50) percent of the Shore Impact Zone (SIZ) must be maintained as open space for all commercial PUDs.
- D. Common Space. At least fifty (50) percent of the project must be included as common space.
 - a. Open space shall be counted as common space.
 - b. Common space may include any outdoor recreational facilities for use by owners of the dwelling units or sites, or the public.
 - c. Common space may include areas used for stormwater retention or management and areas used for sanitary sewer collection or disposal. Where common space includes sanitary sewage treatment systems, the use of the space shall be restricted where necessary to avoid adverse impacts on the systems.
 - d. Any and all of the Shore Impact Zone (SIZ) must be included as common space.
 - e. Common space must not include commercial facilities or uses.
 - f. The appearance and use of common space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means acceptable to the city.
- E. Stormwater management.
 - a. All PUD's must develop and maintain a stormwater management plan complying with Section 8.6-7.
 - b. Capacities of existing drainage ways shall be maintained.

- c. Unless specifically allowed by the city, inlets and outlets to adjacent parcels shall be maintained. Flows from outlets shall be maintained unless approved by the city.
 - d. All PUD's shall meet the standards of containment of 1 inch of stormwater runoff off from all impervious surfaces on within the development.
 - e. Runoff from the parcel shall not be concentrated unless part of a city stormwater management plan.
- F. Sanitary sewer and water supply standards.
- a. Residential planned unit developments must be connected to publicly owned water supply and sewer systems, when available. The sanitary sewer shall also be extended to the exterior boundary of the subdivision at locations designated by the Engineer at the developers cost.
 - b. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health. On site sewage systems shall meet the Cass County and the Minnesota Pollution Control Agency.
- G. Erosion control.
- a. All PUD's must develop and maintain an erosion control plan consistent with Section 8.6-8 during construction activities and until slope stabilization and vegetation is restored.
 - b. Temporary ground cover, sediment entrapment facilities, vegetated buffer strips, or other techniques must be used to minimize erosion.
 - c. Steps shall be taken to ensure that disturbed ground is restored or stabilized as soon as possible after being disturbed.
- H. Exterior lighting. All exterior lighting shall be directed downward. Lighting shall not illuminate adjacent parcels, either directly or indirectly. Lighting cannot exceed one footcandle at the property line abutting residential development.
- I. Shore Recreation Facilities. Shore recreation facilities, if proposed, including but not limited to swimming areas, docks and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.
- J. Restore and maintain shoreland. At least twenty (20) percent of the shoreland must be restored to its natural state after development is completed and must be continually maintained.
- K. Building standards. Units must be clustered in one or more groups and located in suitable areas of the development. All structures, including both residential and commercial buildings within a PUD must meet the minimum standards:
- a. New multifamily dwellings of four (4) units or larger shall be designed by an Architect.
 - b. New multifamily buildings shall have two-hour fire rated party walls and floors.
 - c. New multi-family buildings shall have a forty-five (45) decibel rating between units.
 - d. Water systems must be winterized.
 - e. Parking and driving areas must be paved.
 - f. All buildings shall be earth tone, including white, black, and grey, in color and shall be designed, constructed and positioned to be compatible, in color,

character and mass, with the surrounding neighborhood and adjoining land uses.

- L. Impervious Surfaces: The total impervious surface requirement for any PUD shall be limited to a maximum of 25%. Individual lots may vary from the standard so long as the total impervious surface is 25%.
 - M. Parking requirements. Parking shall be provided as required in Section 8.6-6.
 - N. Association Required. PUDs shall be managed through the creation of a management association consistent with the requirements of MN Statute 515B.
4. Design Criteria for existing PUD's.
- A. Additional development within an existing PUD shall not bring the PUD further out of compliance with the ordinance design criteria.
 - B. Allowances for density increases shall only be made in existing PUD's where the proposed new development within the PUD meets the design criteria and specific density increase criteria and the new development serves to bring the entire PUD closer to conforming to the design criteria.
5. Computing PUD density determination for Residential PUDs. Proposed new or expansions to existing PUDs must be evaluated using the following procedures:
- A. The project parcel is divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high-water level at the following intervals, proceeding landward:

Table 8.5-8.2 Tier Dimensions

Shoreland Tier Dimensions		
	Unsewered (feet)	Sewered (feet)
Gen develop lakes – first tier	200	200
Gen develop lakes – second and additional tiers	267	267
Recreational Development	267	267
Natural Environmental lakes	400	320
All Rivers	300	300

- B. The area within each tier is next calculated, excluding all road rights of way or easements, wetlands, bluffs, or land below the Ordinary High-Water level of public waters. This area is then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable base number of dwelling units or sites.
- C. Base Density. To compute the base density, the buildable area within each tier, as calculated in Section 8.5-8.5, is divided by the single residential lot size standard for the zoning district. This shall yield a base density of dwelling units or sites for each tier.
- D. Transferability. Within the first five tiers, allowable base densities may be transferred from any tier to any other tier further from the shoreland water body or watercourse but shall not be transferred to any other tier closer.
- E. Density increases. The city may allow some dwelling unit or site density increases for residential planned unit developments. Where density increases are allowed, they shall be allowed only in conformance with the following table:

Table 8.5-8.3 Density Increases Allowed

Criteria	Density Increase Tier 1	Density Increase, Tier 2	Density Increase, Tier 3 and Beyond
Setback from lake increased 50%	N/A	5%	10%
Setback from lake increased 100%	N/A	10% (not cumulative)	20% (not cumulative)
External vegetative buffer increased to an average of 75 feet	N/A	5%	25%
External vegetative buffer increased to an average of 100 feet	N/A	10% (not cumulative)	50% (not cumulative)
Screening increased to 50% effective	N/A	5%	25%
Screening increased to 75% effective	N/A	25% (not cumulative)	50% (not cumulative)
Open Space increased to 40% of total area	N/A	15%	25%
Connection to City Sewer	35%	35%	35%

- F. Increases are from the base density. Increases permitted by Table 8.5-8.3 do not result in cumulative density increases (e.g. A seventy-five (75) foot buffer allows a five (5) percent increase in Tier 2. A one hundred (100) foot buffer would allow a ten (10) percent increase in Tier 2. If meeting the 100%, the increase is ten (10) percent; the two increases are not additive.
- G. Increases in unit or site densities shall not exceed the following maximums:

Table 8.5-8.4 Maximum Allowable Density Increase in PUDs

Maximum Allowable Dwelling Unit or Site Density Increases for Residential PUD Developments	
Tier	Maximum Density Increase
First	35%
Second	75%
Third and all Subsequent	150%

6. Residential development density for properties not located within the Shoreland Overlay District will be the same development density as the existing pre-existing zoning district and designation in the Comprehensive Plan of the subject property.
7. The City may consider, but not necessarily grant, additional residential density in PUDs outside of the Shoreland area based upon the criteria listed in Table 8.5-8.3 and 8.5-8.4.

8. Administration and any maintenance requirements. Prior to final approval of any residential planned unit developments, the city will require adequate provisions developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development as a community.
 - A. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers through a Homeowners Association or other legal vehicle.
 - B. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.
 - C. Assessments must be adjustable to accommodate changing conditions.
 - D. The association must be responsible for insurance, taxes and maintenance of all commonly owned property and facilities.
 - E. Changes to the homeowner's association must be approved by the city.

9. Commercial Planned Unit Developments

- A. In addition to the suitability criteria in 8.5-8.2, the city shall consider the following criteria when determining if a commercial PUD is appropriate for a specific parcel:
 - a. Location of the parcel in proximity to a recreational facility. The parcel shall abut a recreational facility on at least 25% of its perimeter. A recreational facility includes at least one of the following:
 - i. Golf Course
 - ii. Public Pool
 - iii. Public Park Larger than 10 Acres in total area
 - iv. Any property zoned Recreational Zoning
 - v. Abutting a lake or stream as defined by Table 8.5-7.1
 - b. The parcel size shall be a minimum of 20 acres.
 - c. The subject parcel shall abut an arterial roadway or shall have the ability to obtain dedicated access through an adjacent parcel to an arterial roadway.
- B. Base density. Base density or number of lodging spaces per acre for Commercial PUDs that provide transient, short-term lodging spaces, room, or parcels and their operation in the Shoreland Area is determined through the following steps:
 - a. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes shall not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.

- b. Select the appropriate floor area/dwelling site area ratio from the following table for the floor area or dwelling site area determined in 8.5-1.9Ba:

Table 8.5-8.5 FAR Table for PUDs

Average Unit floor area (Square Feet)	Sewered general development lakes; first tier on unsewered general development lakes	Second and additional tiers on unsewered general development lakes; recreational development lakes	Natural Environment lakes & streams
200	0.040	0.020	0.010
300	0.048	0.024	0.012
400	0.056	0.028	0.014
500	0.065	0.032	0.016
600	0.072	0.038	0.019
700	0.082	0.042	0.021
800	0.091	0.046	0.023
900	0.099	0.050	0.025
1,000	0.108	0.054	0.027
1,100	0.116	0.058	0.029
1,200	0.125	0.064	0.032
1,300	0.133	0.068	0.034
1,400	0.142	0.072	0.036
1,500	0.150	0.075	0.038

*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 1,000 square feet. For manufactured homes, use the area of the manufacture home, if known, otherwise use 1,000 SF.

- c. Multiply the usable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
 - d. Divide the area computed in sub item (c) by the average determined in sub item (a). This yields a base number of dwelling units or sites for each tier. Use one thousand (1,000) square feet minimum for a RV or manufactured home.
- C. Transferability. Within the first five tiers, allowable base densities may be transferred from any tier to any other tier further from the shoreland water body or watercourse but must not be transferred to any other tier closer.

- D. Density increases. The city may allow some dwelling unit or site density increases for commercial planned unit developments. Where density increases are allowed, they shall be allowed only in conformance with the following table:

Table 8.5-8.6 Allowed Density Increase

Criteria	Density Increase Tier 1	Density Increase, Tier 2	Density Increase, Tier 3 and Beyond
Setback from lake increased 50%	N/A	5%	10%
Setback from lake increased 100%	N/A	10% (not cumulative)	20% (not cumulative)
External vegetative buffer increased to an average of 75 feet	N/A	5%	25%
External vegetative buffer increased to an average of 100 feet	N/A	10% (not cumulative)	50% (not cumulative)
Screening increased to 50% effective	N/A	5%	25%
Screening increased to 75% effective	N/A	25% (not cumulative)	50% (not cumulative)
Open Space increased to 40% of total area	N/A	15%	25%
Connection to City Sewer	25%	30%	30%

Increases are from the base density. Increases allowed by Table 8.5-8.6 do not result in cumulative density increases (e.g. A seventy-five (75) foot buffer allows a five (5) percent increase in Tier 2. A one hundred (100) foot buffer would allow a ten (10) percent increase in Tier 2. If meeting the 100% the increase is ten (10) percent; the two increases are not additive.

- E. Increases in unit or site densities shall not exceed the following maximums:

Table 8.5-8.7 Maximum Allowable Density Increase in PUDs

Tier	Maximum Density Increase
First	25%
Second	55%
Third and each subsequent tier	125%

- F. For non-shoreland commercial PUDs, the City shall use the sewered general lake category found in Table 8.5-8.2. The City may consider, but not necessarily grant, additional density in PUDs outside of the Shoreland area based upon the criteria listed in Table 8.5-8.6.

SECTION VI – PERFORMANCE STANDARDS

Section 8.6-1. Financial Guarantee

At the time of filing an application for a permit associated with construction of public improvements, the applicant shall file a Letter of Credit or deposit cash with the city in the amount of one hundred twenty-five (125) percent of the total cost of the water, sanitary sewer, storm sewer, sewage disposal and street construction as estimated by the City Engineer. The financial guarantee provides the city the ability to remove or complete the construction if the developer defaults on its plans for any reason. The financial guarantee if a letter of credit shall be provided by a duly licensed bank, must be approved as to form by the City Attorney. The financial guarantee shall contain a provision that it will automatically be renewed, and it may not be canceled without thirty (30) days' advance written notice to the licensing authority.

Section 8.6-2. Signs

Purpose. It is not the purpose or intent of this section to regulate the message displayed on any sign; nor is it the purpose or intent of this chapter to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this section is to:

1. Regulate the number, location, size, type, illumination, and other physical characteristics of signs within the city in order to promote public health, safety, and welfare.
2. Maintain, enhance, and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community.
3. Improve the visual appearance of the city while providing effective means of communication, consistent with constitutional guarantees and the city's goals of public safety and aesthetics.
4. Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the city.
5. Ensure adequate means of expression as allowed by the first amendment of the U.S. Constitution and other federal, state, and local laws.
6. Minimize hazards caused by signs that are structurally unsound, interfere with sightlines or unduly distract drivers, pedestrians, or bicyclists.
7. Promote the use of new and changing technology to enhance variety and flexibility in signage, while maintaining certain restrictions to protect the public safety and welfare.

Section 8.6- 2.1 Definitions

1. **BANNERS:** Attention getting devices which may resemble flags and are of a paper, cloth or plastic like consistency.
2. **SIGN:** Any letter, work, symbol, model, printed, projected or affixed device, poster, picture, reading matter, or other representation in the nature of an advertisement, announcement, direction or informative device including structural and component parts.
3. **SIGN AREA:** The area of a sign includes the space inside a continuous line drawn around and enclosing all letters, designs and background materials exclusive of border, trim and structural supports. For the purpose of calculating the area of multiple faced or back-to-back signs, the stipulated maximum sign area shall refer to a single face.

4. SIGN, FLASHING: A directly or indirectly illuminated sign or portion thereof that exhibits changing light or color effect by any means, so as to provide intermittent illumination that changes light intensity in sudden transitory bursts and creates the illusion of intermittent flashing light by streaming, graphic bursts showing movement, or any mode of lighting which resembles zooming, twinkling or sparkling.
5. SIGN, FREESTANDING: Any sign that is attached directly to the ground or is supported vertically by any structure having a source of support independent of any building existing on the premises on which the sign is located.
6. SIGN, LEGAL NON-CONFORMING: Any sign lawfully in existence on the effective date hereof or any sign lawfully in existence on the date of any amendment to this section which does not conform to the regulations affecting signs for the district in which the sign is situated.
7. SIGN, NON-CONFORMING: Any sign which does not conform to the regulations of this chapter.
8. SIGN, OFF PREMISES: A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located. For purposes of this sign ordinance, easements and other appurtenances shall be considered to be outside such lot and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premises sign.
9. SIGN, OFFICIAL: Signs of a public noncommercial nature including public notification signs, safety signs, traffic signs, directions to public facilities when erected by or on behalf of a public official or employee in the performance of official duty.
10. SIGN, ON PREMISES: Any sign that directs attention to the name of the building, premises, or to the name of the building management firm, or to the business, principal product, service, entertainment, or activity conducted, sold or offered upon the premises on which such sign is located or to noncommercial speech.
11. SIGN, PORTABLE: A sign so designed as to be movable from one location to another, and which is not permanently attached to the ground, sales display device or structure.
12. SIGN, PROJECTING: Any sign which is affixed to the outside of the exterior wall or soffit of any building and is not parallel to the plane of the wall or soffit.
13. SIGN, ROOF: Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.
14. SIGN, ROOF INTEGRAL: Any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six inches (6").
15. SIGN, ROTATING: A sign or portion of a sign which turns about on an axis.
16. SIGN, SHIMMERING: A sign which reflects an oscillating sometimes distorted visual image.
17. SIGN, SIDEWALK: A portable sign for temporary placement on a sidewalk in the public right of way, intended for a building or business located adjacent to the right of way with no front yard or a front yard that will not accommodate a permanent freestanding sign as permitted by this chapter.
18. SIGN, TEMPORARY: A sign, banner, pennant, portable changeable copy sign, portable sign, or similar device designed and/or displayed to promote brief business, professional, commodity, service or entertainment activities such as, but not limited to, grand openings, sales, or special events.

19. SIGN, WALL: A sign which is affixed to the exterior wall, mansard roof or soffit of a building and which is parallel to the building wall. A wall sign does not project more than twelve inches (12") from the surface to which it is attached, nor extend beyond the top of the parapet wall.
20. SPEECH, COMMERCIAL: Speech advertising a business, profession, commodity, service or entertainment.
21. SPEECH, NONCOMMERCIAL: Speech dissemination of messages not classified as commercial which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

Section 8.6- 2.2 Performance Standards

1. Applicability. Any sign visible from a public street erected, altered, or maintained after the effective date of this ordinance shall conform to the regulations in this chapter.
2. Interpretation.
 - A. The provisions of this section shall be held to be the minimum requirements for the promotion and protection of the public health, safety, morals, and general welfare.
 - B. When any condition imposed by any provision of this section is either more restrictive or less restrictive than similar conditions imposed by any provision of any other applicable law, Municipal Code provision, statute, resolution, or regulation of any kind, the more restrictive one which imposes higher standards or requirements shall prevail.
3. Permit Required: Except as noted in subsection 4 of this section, no sign shall be erected, altered, improved, reconstructed, maintained or moved in the city without first securing a land use permit from the city:
 - A. The content of the message or speech displayed on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit.
 - B. Application for a permit shall be filed by the property owner or designated agent with the city on forms provided by the city.
 - C. Application for a permit shall include sufficient information regarding the number, location, size, illumination and other physical characteristics of the sign(s) to fully and clearly review the proposed construction and placement. Specifically, all applications shall contain the following information, unless waived by the city:
 - a. Names and addresses of the applicant, owners of the sign and lot.
 - b. The address at which any signs are to be erected.
 - c. The legal description or PID at which the signs are to be erected and the street on which they are to front.
 - d. Type and size of sign (e.g., wall sign, pylon sign).
 - e. A site plan to scale showing the location of lot lines, building structures, parking areas, existing and proposed signs and any other physical features. Signs shall not impede sight distances at intersections, driveways and curves.
 - f. Written consent of the owner or lessee of any site on which the sign is to be erected.
 - g. A detailed description of any electronic or electrical components that are proposed to be added to the sign.
 - h. Other information to demonstrate compliance with this and all other ordinances of the city.
4. Permit Not Required: The following signs shall not require a permit and are allowed in addition to those signs allowed 8-6.2 of this chapter. These exemptions shall

remain in compliance with the provisions of this section or any other law or ordinance regulating the same.

- A. Address Signs: New and existing buildings shall have building address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background and be plainly legible and visible from the street or road fronting access to the property.
- B. Signs allowed by Minn. Stat. Sec. 211B.045 of any size and number may be posted on private property with the permission of the property owner beginning 46 days before the state primary in a state general election year until 10 days following the state general election, and 13 weeks prior to any special election until ten days following the special election. Sign installation shall comply with the Fair Campaign Practices Act contained in Minn. Stats., Chapter 211B.
- C. Ground signs advertising the sale or rental of real property upon which those signs are maintained, subject to the following:
 - a. In all residential districts each property shall be allowed one sign per site.
 - b. Sites with multiple frontages along a public right of way will be allowed one additional sign per right of way frontage provided that the frontage faces another local collector or County road.
 - c. Each sign is limited to eight (8) square feet and a total of eight (8) feet in height.
- D. Updating: The refacing, or removal and replacement for maintenance purposes of a legal non-conforming sign. The sign shall not be increased in size, nor the support system be improved, and the sign shall be removed in its entirety upon the determination by the Planning and Zoning Administrator that the sign is in disrepair, or the support system is failing.
- E. Temporary Signs: Temporary signs such as streamers, sidewalk signs, and banners installed on-premise for up to 7 days, once per calendar year.

Section 8.6-2.3 Prohibited Signs

- 1. Shimmering, flashing, revolving or intermittently lighted signs are prohibited.
- 2. Roof-mounted signs are prohibited.
- 3. Signs painted directly on walls or structures.
- 4. Off-premises signs are prohibited. Any existing off-premises signs are considered non-conforming structures except for District Regulations 2.D below.

Section 8.6-2.4 District Regulations

- 1. General Regulations
 - A. Official Signs placed by the city, County, shall be considered exempt from the provision.
 - B. Signs may not contain elements commonly used by highway departments or other road jurisdictions to alert, direct or caution traffic such as, but not limited to, octagonal stop signs or speed limit signs.
- 2. Residential Districts.
 - A. Signs shall not be internally or externally lit but may be reflective. Residential Subdivision signs in (4) below may be illuminated but shall be with an indirect light with the light source fully diffused and aimed toward the sign and ground. The light cannot distract motorists along the adjacent roadways.
 - B. No sign shall be larger than 3 square feet, except as provided in (4) below.
 - C. Only one sign per principal use shall be allowed.

- D. Residential subdivisions having five (5) or more lots are allowed up to one (1) decorative freestanding monument signs per principal entrance to the subdivision. Each sign is limited to forty-eight (48) square feet and ten feet (10') in height. These signs shall be located on private property and shall not be located within any sight triangle.
3. Commercial Waterfront
 - A. Wall signs flush on a building and not protruding shall cover a maximum of fifteen (15) percent of any face of the building.
 - B. Each lot shall have the choice of one of the following for a second onsite sign:
 - a. A sign protruding from the front of the building not more than four (4) feet with a maximum area of twenty-four (24) square feet.
 - b. A free-standing sign with a sign area not larger than forty-eight (48) square feet with ten (10) additional square feet per additional business in same building or same development complex under one ownership for a maximum size of seventy (70) square feet. The maximum height shall be ten (10) from ground to top of sign.
 - C. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public and are in addition to the signage permitted in this section, subject to the regulations set forth within the Shoreland Overlay District.
 - D. Signs for discontinued business will be removed sixty (60) days after notification by the Planning and Zoning Administrator or by the owner or landlord for their former tenant after discontinuance of the business.
 - E. Wayfinding signage internal to the site is permitted without permit.
 4. Recreational District
 - A. Each Recreationally zoned development may be allowed on-site signage as regulated by this section. Unless otherwise allowed, the size of any single sign shall not exceed forty-eight (48) square feet in area. The sign may be back-to-back with up to forty-eight (48) square feet per face. No sign shall exceed ten (10) feet from ground to the top of the sign.
 - B. A parcel of land may have internal directional signs that are not visible from the public road or adjacent parcels of land.
 - C. All signage attached to a building shall not cover more than ten (10) percent of any face of a building.
 - D. No signage shall be allowed to direct any light on to an adjacent parcel of land or cause a traffic hazard.

Section 8.6-3. Fences

1. Fences, including footings, not exceeding seventy-two (72) inches or 6' in height may be constructed entirely upon the private property for which the Land Use Permit has been issued except within the required Shoreland setback area of R-1, R-2, R-3 or C-W Districts. Fences shall comply with the 50' setback from the OHWL. Under no circumstances shall a fence be constructed closer than ten (10) feet from the surface of a public road or a city approved private road.
2. Fences shall not be erected where they create a visual safety hazard as defined below:
 - A. Except as may be approved by the Planning and Zoning Administrator, and except for a governmental agency for the purpose of screening, no wall, fence, structure, tree, shrub, vegetation or other obstruction shall be placed on or extend into a yard or right of way area so as to pose a danger to traffic by obscuring the view of approaching vehicular traffic or pedestrians from any street

- or driveway.
- B. Instillation of a fence shall not be within the sight triangle. Visibility from any street or driveway shall be unobstructed above a height of three (3) feet, measured from where both street or driveway centerlines intersect within the triangle described as beginning at the intersection of the projected curb line (or edge of shoulders for rural sections) of two (2) intersecting streets or drives, thence twenty-five (25) feet along one curb line, thence diagonally to a point twenty five (25) feet from the point of beginning along the other curb line.
4. Every fence shall be constructed in a workmanlike manner of substantial materials widely accepted in the fencing industry and reasonably suited for the purpose for which the fence is intended. All fences shall be subject to the following standards:
 - A. Fences shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire.
 - B. No plywood boards, canvas, plastic sheeting, metal sheeting or similar materials shall be used for any fence construction.
 - C. Chain link fences shall be constructed in a manner that no barbed ends shall be at the top.
 - D. The side of any fence considered to be its "face" (i.e., the finished side having no structural supports) shall face the abutting property or street right of way.
 - E. No part of any exterior surface shall have deterioration, holes, breaks, gaps, loose or rotting boards or timber.
 - F. Every exterior surface which has had a surface finish such as paint applied shall be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface shall have peeling, cracked, chipped, or otherwise deteriorated surface finish.

Section 8.6-4. Storage

Exterior Storage. Except as herein provided or as specifically allowed within the specific zoning districts established by Section V of this title, all materials and equipment shall be stored within a building.

1. Exceptions:
 - A. Laundry drying equipment.
 - B. Recreational or play equipment.
 - C. Construction and landscaping materials and equipment currently being used for construction on the premises.
 - D. Woodpiles
 - E. Agricultural equipment and materials associated with the principal or accessory use on an R-1 property.
 - F. Off-street parking except as otherwise regulated herein.
 - G. Boats, boat trailers, recreational vehicles, less than thirty (30) feet in length and fish houses are permissible if stored in the rear yard and set back over ten (10) feet from any property line. All recreational vehicles shall be counted towards the maximum number of vehicles allowed by Section 5.3 – 7
2. The outside storage of any junk vehicle is prohibited in any zoning district.
3. Bulk Storage (Liquid).
 - A. All structures associated with the bulk storage of oil, gasoline, liquid propane, liquid fertilizer, chemicals and similar liquids shall comply with the requirements of the Minnesota State Fire Marshall, the Minnesota Pollution Control Agency and Minnesota Department of Agriculture Office and when in excess of normal domestic requirements shall have documents from those offices stating that the

use is in compliance. No storage facility shall be constructed or placed where spillage from the facility would drain to a drainageway or public waters without providing complete containment.

Section 8.6-5. Sanitation Standards

1. Solid Waste. All solid waste shall be disposed of in accordance with the regulations of the Cass County Solid Waste Ordinance.
2. Subsurface Sewage Treatment Systems (SSTS)
 - A. All structures shall discharge into a municipal sanitary system if available.
3. If any structure does not have access to the municipal sanitary system, then it shall comply with the Cass County SSTS ordinance 2018-03 Water Supply.
 - A. All structures shall be connected to a municipal water supply, if made available.
 - B. All domestic and agricultural wells shall conform to the Minnesota Department of Health Standards for wells.
 - C. All water systems shall meet the requirements of the Minnesota Department of Health Standards for water systems.
 - D. All wells being abandoned shall be sealed according to Minnesota Department of Health Standards and report to the Minnesota Department of Health and the city.

Section 8.6-6. Parking Standards

1. Onsite parking or garage space shall be provided in all Districts, except as specifically exempted, with adequate drive access to prevent the need to back onto collector streets or County Highways. Onsite parking spaces shall not be used for storage except for licensed and operational motor vehicles.
2. Design Standards:

Angle of Parking	Stall Width	Stall Length
0 degrees	8 ft	22 ft
45 degrees	8.5 ft	18 ft
60 degrees	8.5 ft	18 ft
90 degrees	8.5 ft	20 ft

3. Parking shall be provided at the following ratios unless modified in the Conditional Use Permit for principal structures:
 - A. Two (2) stalls per dwelling unit and can be interior or exterior or both.
 - B. One and a half (1.5) stalls per dwelling unit in multi-family structures over twenty (20) units and motels or hotel units.
 - C. One (1) stall per three (3) seats-churches and other assembly places
 - D. One (1) stall per 250 square feet of any non-residential land use other than above.
 - E. The City Council may at its discretion increase or decrease the amount of parking necessary based upon anticipated parking demand based upon best practices, similar uses, or a parking study.
4. Onsite parking shall not be closer than ten (10) feet from any lot line.
5. All single-family dwellings shall be required to provide at least two (2) enclosed garage parking spaces, no less than four hundred forty (440) square feet in area and no less than twenty (20) feet wide in either direction.
6. All parking shall be paved and be adequately drained to a pervious surface designed to allow entrapment of silts and nutrients prior to discharge to public water. Single

- family residential development may provide compacted gravel driveways or a paved surface.
7. More than five (5) parking stalls contiguously located shall be landscaped according to a plan approved by the city.
 8. Loading Requirements
 - A. No loading facility shall be located on a street frontage (loading facility includes dock, berth, maneuvering area).
 - B. Loading areas, aisles and access drives shall be paved with a durable all-weather material and shall be so graded to immediately dispose of surface water.
 - C. Loading berths shall not be used for storage.
 - D. Loading berths shall be fifteen (15) feet in width and fifty (50) feet long with fourteen (14) feet of vertical clearance.

Section 8.6-7. Drainage

1. General.
 - A. When possible, existing natural drainageways and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
 - B. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible, and facilities and methods used to retain sediment on the site.
 - C. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds must be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.
 - D. All development shall contain provisions for adequate surface or subsurface runoff of stormwater and snow melt directed to natural drainageways. Storm water management plan must be implemented to retain 1 inch of stormwater runoff from all new and/or reconstructed impervious surfaces within the development or parcel.
 - E. All development shall provide for the continuance of natural drainageways, and structures shall be so constructed as to be 1 foot above the high-water level in the drainageway and/or ponding area created by a storm of a 100-year return period or a 1% chance of occurrence.
 - F. At a minimum, subdivisions and PUDs should maintain existing discharge rates for the 2-, 10- and 100-year 24-hour rainfalls.
 - G. All drainage structures provided shall be sufficient in size to pass a 5-year, 24-hour storm to a natural drainageway and to pass a 100-year, 24-hour storm along a drainageway.
 - H. The use of natural or manmade stormwater storage areas is encouraged. These areas should be vegetated and designed to naturally lower after a storm.
 - I. No filling of areas inundated by the 100-year, 24-hour storm along designated drainageways shall be allowed, except by Conditional Use Permit.
 - J. All parking areas, storage areas and impervious areas shall be designed to allow entrapment of silts and nutrients prior to discharge to a natural drainage way or public water. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming or surface debris before discharge.

- K. Newly constructed stormwater outfalls to public waters below the public water's Ordinary High Water Level (OHWL) may require additional permitting through the Minnesota Department of Natural Resources.
- L. The following should be submitted for all developments requiring stormwater management:
 - a. Grading, Drainage and Erosion Control plan including at a minimum:
 - i. Existing and proposed impervious surfaces.
 - ii. Existing and proposed grading contours at 1' or 2' intervals.
 - iii. Stormwater management features (infiltration basins, ponds, etc.)
 - iv. Erosion control and sediment control practices (silt fence, biologs, inlet protection, etc.)
 - b. Stormwater calculations showing development is designed to retain 1 inch of runoff on all new and/or reconstructed impervious surfaces.
 - c. Stormwater modeling showing the 100-year high water level for drainageways and/or ponding.
 - d. Stormwater modeling showing proposed discharge rates are at or below existing discharge rates for the 2-, 10- and 100-year storm events.
 - e. Use National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation Frequency Estimates with the MSE3 rainfall distribution when using rainfall-runoff models to compute hydrology for the design of hydraulic infrastructure.
- M. Development proposing construction activity that results in a land disturbance of 1 acre or more, including projects less than 1 acre that are part of a larger common plan of development or sale, shall adhere to and use permanent structural best management practices in order to achieve the applicable minimum control requirements as specified by the most current version of the Minnesota Pollution Control Agency's Construction Stormwater General Permit (CSW Permit).

Section 8.6-8. Grading, Erosion, and Sediment Control

- 1. The standards specified herein are intended to be used by all property owners, contractors and developers who perform land disturbing activity. Plans for all development activity must account for soil types and slopes. While corrections may be possible to permit development of land characterized by unsuitable soils or steep slopes, care must be taken to protect vegetative cover on the site and to ensure there are no adverse impacts to adjoining properties.
- 2. Any project that is disturbing one or more acres of land is required to meet the requirements of, and obtain a NPDES Construction Stormwater Permit from, the Minnesota Pollution Control Agency (MPCA).
- 3. The city hereby adopts and incorporates by reference the erosion, sediment, and waste control standards established by the MPCA'S NPDES/SDS Construction Stormwater General Permit MNR100001 (CSW Permit) as now constituted and from time to time amended.
- 4. Grading Standards. Land disturbance activity shall occur in accordance with the following criteria:
 - A. The smallest amount of bare ground shall be exposed for as short a time as feasible.
 - B. Temporary ground cover shall be as specified in the Erosion and Sediment Control Plan and permanent vegetative cover, such as sod, shall be provided. Temporary and permanent vegetation shall be maintained in compliance with all applicable requirements of the Municipal Code.

- C. Methods to prevent erosion and trap sediment shall be employed.
 - D. Fill shall be stabilized to accepted engineering standards.
 - E. All fill and grading activity shall comply with all other standards of the City's Ordinance.
 - F. Slope. The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than two horizontal to one vertical, for a short-term interim period, unless the owner furnishes appropriate soils engineering. Unless specifically approved, permanent slopes shall be no steeper than three horizontals to one vertical.
5. Grading Permits.
- A. All projects that include excavating, grading, filling or other land-disturbing activity on a per project basis that exposed soil in an area or areas encompassing at least 5,000 square feet or results in the movement of at least 50 cubic yards of material must obtain a Land Use Permit for grading and submit an erosion and sediment control plan as part of the Land Use Permit review and approval process.
 - B. All projects over one (1) acre of disturbance shall receive a Land Use Permit for grading from the City of East Gull Lake and are subject to the following requirements.
 - a. Submission of a stormwater management plan including stormwater calculations in compliance with Section 8.6-7
 - b. That all provisions necessary for management of the flood plain, surface waters and stormwater, as determined by city ordinances and those of other agencies having jurisdiction, have been met.
 - i. Soils and Slopes. No development shall be permitted on poorly drained soils, somewhat poorly drained soils, very shallow soils, soils with high shrink-swell or frost potential or very steep or steep sloped, as defined by State Statutes and Rules, unless the applicant provides plans designed by a Licensed Engineer or Licensed Landscape Architect demonstrating that the soil stabilization and construction techniques are consistent with accepted engineering practice, as determined by the City Engineer. Long-term maintenance practices shall be specified in the engineered plans. These regulations shall not prohibit earth sheltered construction, as defined in State Statute.
 - ii. Erosion and Sediment Control Plan. The developer shall prepare an Erosion and Sediment Control Plan, which shall define the temporary and permanent BMPs that will be implemented and maintained on the development site to protect surrounding property, and surface waters from the consequences of soil erosion resulting from grading and site development. The City Engineer shall review the Erosion and Sediment Control Plan for compliance with the BMPs specified in the Minnesota Stormwater Manual including the following standards.
 - a. Minimizing disturbance
 - b. Stabilizing and protecting disturbed areas as soon as possible
 - c. Protecting disturbed areas from storm water runoff
 - d. Controlling, reducing and/or delaying storm water runoff
 - e. Retaining sediment within the site area
 - i. New Vegetation. For all development where land disturbance activity occurs, the permanent new landscaped vegetation must be established. Temporary soil stabilization techniques or temporary vegetation shall be established and maintained on the site per the approved plan until work to establish the permanent vegetation commences.

Section 8.6-9. Tree Removal/Vegetation Preservation

1. Preservation. Vegetation shall be left intact to the maximum extent possible to retard surface run-off and soil erosion, to utilize excess nutrients, and to conserve nutrients in the soil and to preserve shoreland aesthetics.
2. Removal. The removal of vegetation shall be regulated in accordance with the following criteria:
 - A. All PUD and Subdivision proposals shall submit a Tree Preservation Plan that shall identify the trees to be preserved on the site and the methods to be employed to ensure that the identified trees are not damaged during construction. These methods must be acceptable to the city.
 - B. Vegetation shall be restored during and after all construction projects to retard surface runoff and soil erosion in accordance with Section 8.6-8 Grading, Erosion and Sediment Control.
 - C. Development shall be conducted so that the maximum number of trees, in particular large, significant trees, are preserved by the clustering of structures in existing cleared areas and natural clearings, and the utilization of other site design techniques. Design of the site and construction activities shall be conducted in a manner to avoid likely injury to large landmark trees.
 - D. Natural areas designated by conditions on Conditional Use Permits for screening or woodland preservation purposes shall be left natural except for removal of diseased trees. Replanting or thickening with native species is encouraged.
 - E. Any area disturbed during any grading operation shall have the native topsoil replaced and be seeded.
 - F. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
 - G. Limited clearing of trees and shrubs and cutting, pruning and trimming of trees to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structure or facilities, as well as providing a view to the water from the principal structure, in shore and bluff impact zones and on steep slopes is allowed, provided that:
 - a. Screening of structures, vehicles and other facilities as viewed from the water, assuming summer, leaf on conditions, is not substantially reduced.
 - b. Along river, existing shading of the water is preserved.
 - H. The developer or property owner shall remove seriously damaged, diseased or dead trees.
 - I. Vegetation removal, clear cutting, select and open cutting all require land use permits and may require a conditional use permit as defined in Table 85.1.9. All debris must be removed after work is completed.
5. Existing Trees
 - A. The City Council has determined that the health of existing trees within the city is threatened by fatal tree diseases and plant pests such as Dutch Elm and Oak Wilt diseases, the Emerald Ash Borer, and other invasive species or forest pests. It has further determined that the loss of shade trees growing upon public and private property would substantially depreciate the value of property within the city and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the City Council to control and prevent the spread of these diseases and other epidemic diseases or plant pests of shade trees, and this ordinance is enacted for that purpose.
 - B. Diseased trees shall be removed immediately and disposed of.
 - C. All trees, firewood, or stumps with or without bark intact that are infected or

infested by a tree disease or plant pest on public or private yards shall be declared a nuisance.

Section 8.6-10. Wetlands

1. Wetland Grading. Grading or filling in any type of wetland is prohibited except in conformance with Minnesota Rules 8420 and the United States Army Corps of Engineers' Wetland Delineation Manual 1987.
2. No Loss And Exemption Applications: The Wetland Conservation Act (WCA) No Loss and Exemption standards are regulated in Minnesota Rules 8420.0410-.0420, as amended. Applications for No Loss or Exemption determinations shall follow the procedures and requirements of Minnesota Rules 8420. Wet areas created by human activity ("incidental wetlands") as specified in Minnesota Rules 8420.0105 not intended to produce a wetland shall not be regulated by this section. Wetlands that are exempt per the WCA rule shall not be regulated by the policies within this section. However, buffer zones and restoration of disturbed areas in conformance with this section may be required if the project is part of an overall land development plan.
3. Impacts To Wetland:
 - A. Protective Buffer: A protective buffer of vegetation shall surround all wetlands. No structure or hard surfaces shall be installed within the buffer without obtaining a variance approved by the city.
 - B. Minimum Width: The buffer shall have a minimum width of fifteen (15) feet from the delineated edge of the wetland at the time of development.
 - C. The wetland and buffer shall be platted as an outlot if established as part of a subdivision application.

Section 8.6-11. Exterior Material Design Standards

Purpose. The purpose of this section is to establish minimum standards for exterior architecture of residential buildings to ensure high quality of development, redevelopment and compatibility with evolving architectural or planning themes that contribute to a community image of quality, visual aesthetics, permanence and stability which are in the best interest of the citizens of the city. These standards are intended to prevent use of materials that are unsightly, rapidly deteriorate, or contribute to depreciation of area property values.

1. General Requirements. This division shall apply to all residential structures, additions, exterior remodeling and accessory structures, unless different exterior materials are specifically approved as part of an overall Planned Unit Development (PUD) that creates a theme or blends with other elements of the PUD.
2. Single-Family and Two-Family Detached Dwelling Unit Design Standards:
 - A. All single-family detached dwellings shall have a minimum width and depth of twenty-four (24) feet.
 - B. Except for earth sheltered homes, all exterior vertical surfaces of a single-family dwelling and accessory structures shall be treated as a front and have an equally attractive, or the same, facade. Any exterior building finish shall consist of a combination of the following materials: wood, brick, natural stone, aluminum and glass, steel, or vinyl siding. Steel siding with exposed panels exceeding sixteen (16) inches in width, shall not be permitted.
 - C. Roofs shall be shingled with asphalt, wood, tiles or other comparable materials similar in appearance.
3. Exterior Design Standards Zones

- A. Residential and Recreation Districts.
 - a. R-1 Wooded Residential District: Principal and accessory structures in R-1 Wooded Residential and Recreation Districts of the city are not subject to the exterior design standards.
 - b. All temporary structures are exempt from Section 8.6-12 of this Ordinance.

Section 8.6-12. Telecommunications Towers

Purpose. The purpose of this section shall be to establish predictable and balanced regulations for the siting, screening construction and engineering of wireless communication equipment in order to accommodate the growth of wireless communication systems within the City of East Gull Lake, while protecting the public from adverse impacts on the city's aesthetic resources, and protecting the public welfare by:

1. Providing for the appropriate location and development of communication towers to serve the residents and businesses in the City of East Gull Lake;
2. Minimizing adverse visual impact of towers through careful design siting, and vegetative screening;
3. Through engineering and careful siting of the tower structure, provide adjacent owners security from failing tower structures.
4. Maximize the use of any new tower structure to reduce the number of towers needed.
5. Allowing communications towers in the R-1 zoning districts of the city, with application being granted through the Conditional Use process.

Permit Required: No commercial use antenna tower may be constructed in the city without first obtaining a conditional use permit and applying for a Land Use Permit. The permit application must be accompanied by a nonrefundable application fee. The application fee shall be established by the City Council. The permit fee shall be calculated according to the city's schedule of rates and fees. All technical data and all relevant information shall be submitted to the Planning Commission for its review including all information specified in all subsequent subsections of this chapter.

1. Design Requirements, Screening, Setbacks
 - A. Towers and antennas shall blend into the surrounding environment through the use of color and camouflaging architectural treatment except in instances where the color is dictated by federal or state authorities.
 - B. No tower shall have constructed thereon or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.
 - C. Towers and antennas shall be certified by a qualified and licensed professional engineer to conform to applicable state structural building standard.
 - D. Towers and their antennas shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
 - E. Metal towers shall be constructed of, or treated with, corrosive resistant material.
 - F. The use of guyed towers is prohibited. Towers must be self-supporting without the use of wires, cables, beams or other means. The design should utilize an open framework or monopole configuration. Permanent platforms or structures exclusive of antennas that serve to increase off-site visibility are prohibited.
 - G. Towers are not to exceed two hundred (200) feet.

- H. Towers shall be setback from all property lines an amount equal to the height of the structure.
- I. Suitable protective anti-climbing fencing, with a minimum height of six (6) feet shall be provided around any tower.
- J. Minimum spacing between tower locations one (1) mile.
- K. Tower locations should provide the maximum of screening possible and shall preserve on-site vegetation to the maximum extent possible for off-site view of the facility.
- L. The tower shall be painted in a color that is demonstrated to minimize visibility. No advertising or identification shall be placed on the tower or antenna.
- M. Co-Location Requirements. All commercial wireless telecommunication towers erected, constructed, or located in The City of East Gull Lake shall comply with the following requirements:
 - a. Documentation of the area to be served including a search ring for the antenna location. A narrative describing a search ring for the request, with not less than one (1) radius clearly explaining why the site was selected, what existing structures were available and why they are not suitable as locations or co-locations.
 - b. Documentation that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the search ring of the service area or within a one-half ($1/2$) mile radius due to one or more of the following reasons:
 - i. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned equipment at a reasonable cost.
 - ii. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer or qualified radio frequency engineer and the interference cannot be prevented at a reasonable cost.
 - iii. Existing or approved towers and buildings within the search radius that are sixty (60) feet or over in height that cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
 - iv. Other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
 - c. Any proposed tower shall be designed structurally, electrically, and in all respects to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over one hundred (100) feet in height, or for a least one (1) additional user if the tower is over sixty (60) feet in height but less than 100'. Tower must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at different heights.
 - d. An agreement between the applicant and the city shall be signed and attached to the permit stating the following:
 - i. A site plan and building plan must be submitted to the city as part of the land use permitting process.

- ii. A building plan showing the construction of the antennas, the proposed method of attaching them to the existing structure and documenting that the request meets the requirements of this code.
 - iii. A report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's ability to support the antennas.
 - iv. An intermodulation study to ensure there will be no interference with existing tenants or public safety telecommunication providers.
 - v. Those antennas rigidly attached to a building and whose base is on ground, may reduce the required setback by the amount equal to the distance from the point of attachment to the ground.
- 2. Accessory Utility Buildings. All buildings and structures accessory to a tower shall:
 - A. Be architecturally designed to blend in with the surrounding environment and shall meet the height and setback limitations as established for each land use district.
 - B. Have ground mounted equipment screened from view with suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- 3. Tower Lighting. Towers shall not be illuminated by artificial means and shall not have affixed or attached to it in any way except during time of repair or installation any lights reflectors, flashers, or other illuminating device, except as required by the Federal Aviation Administration or the Federal Communications Commission or state agency.
- 4. Abandoned or Unused Towers. The city shall be notified when towers are abandoned or no longer used. Abandoned or unused towers and associated facilities shall be removed within six (6) months of the cessation of operation at the site. A time extension of up to ninety (90) days may be approved by the Planning and Zoning Administrator. In the event that a tower is not removed within the six (6) months of the cessation of operations at site, the tower and associated facilities may be removed by the city and the costs of removal assessed against the property.
- 5. Public Telecommunications Interference. Commercial wireless telecommunications services shall not interfere with public safety telecommunications. All applications shall include a certified statement that the construction of the tower, including reception and transmission functions, will not interfere with radio, television or public safety telecommunications before a permit may be issued.
- 6. Nonconforming Towers. In order to avoid requiring new towers and to minimize the number of towers needed to serve the city, the following provisions shall apply to nonconforming towers. Telecommunication towers in existence at the time of this amendment may be permitted to increase tower height after being issued a conditional use permit. The city shall consider the following criteria as part of the conditional use permit process.
 - A. Tower safety concerns include tower collapse, falling ice, and airplane traffic.
 - B. Land use character and history of tower(s).
 - C. Comparative visual impact to the surrounding lands of the proposed tower height increase.
 - D. Disturbances or conflict with residential uses on the property or surrounding properties.
 - E. Other factors which tend to reduce conflicts or are incompatible with the character and needs of the area.
 - F. The tower shall be setback from all property lines at a minimum, the proposed height of the antenna structure and not exceed 200'.
- 7. Additional Submittal Requirements. In addition to the information required elsewhere, applications shall include the following information:

- A. A report from a licensed Professional Engineer that describes the commercial wireless telecommunication service tower's capacity, including the number and type of antennas that it can accommodate.
- B. A letter of intent from the commercial wireless telecommunication service tower owner committing the tower owner and successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
- C. The location of all public and private airports within a three (3) miles radius of the tower site.
- D. Permittees must obtain FAA approval and/or provide documentation that the FAA approval is not needed.
- E. Permittees must obtain FCC licensure and approval as required for various communications applications. No interference with local television and radio reception will be allowed. A copy of this documentation shall be provided to the City.

SECTION VII – SPECIAL PROVISIONS

Section 8.7-1. Campgrounds/Campsites

1. Campsites will be allowed only as an existing permitted use or new conditional use within a resort in the C-W district or as part of a PUD approval.
2. Minimum parcel size - No campground or recreational vehicle park shall be allowed on a parcel of less than forty (40) acres.
3. Dwelling site requirements. The dwelling sites must conform to the Minnesota Department of Health Standards and the following:
 - A. Campsites or recreational vehicle sites shall have a minimum of three thousand (3,000) square feet designated for each family unit, with a minimum of forty (40) feet, center to center.
 - B. A strip of land with a minimum width of forty (40) feet shall be reserved for a service road adjacent to each of the designated sites.
 - C. Parking shall be off the road and on an improved surface.
 - D. Availability of a water system capable of providing one hundred (100) gallons per site, per day, at twenty (20) psi at the most remote fixture for RV sites, or within four hundred (400) feet of each campsite for non-RV sites.
 - E. Provision of a conforming onsite sewage collection and disposal system sized for one hundred (100) gallons per campsite per day or connection to the municipal wastewater system
 - F. Provision of a solid waste facilities consisting of one (1) thirty (30) gallon can for each four (4) campsites or one (1) dumpster for each twenty (20) sites, constructed to prevent overturning or cover removal by animals, and screened.
 - G. Provision of a fire pit and ash container for each campsite.
 - H. Campsites for recreational vehicles shall have sewer connection, water connection and electric connection, or recreational vehicles shall be self-contained and a wastewater disposal station for the first and each one hundred (100) such vehicles at least fifty (50) feet from the nearest campsite shall be provided.
 - I. Drinking water and restroom facilities with showers shall be provided, all within four hundred (400) feet of every site not served with full facilities.
 - J. Grass or other complete ground cover shall be maintained except in parking areas and roads.
 - K. Recreation vehicles shall be moved off site or into a designated storage area for at least four (4) months of every year.
 - L. The exterior setback area shall be screened to obstruct at least fifty (50) percent vision from the boundary line assuming leaf-off conditions.
 - M. Evidence shall be provided, prior to final approval, that the licenses and approval process of Minnesota Department of Health has been adhered to.
 - N. All sites shall be well drained.
8. The submission requirements for a campground shall be the same as PUDs, except as determined not applicable by the Planning and Zoning Administrator.

Section 8.7-2. Extractive Uses

1. Extractive Uses are not permitted. Extractive uses are not permitted except for the following activities which are considered grading activities and are permitted without need of a grading permit:
 - A. Excavation for a foundation, cellar or basement of a building if a Land Use permit has been issued.

- B. Excavation by state, county or city authorities in connection with construction or maintenance of roads, highways or utilities.
 - C. Curb cuts, utility hookups or street openings for which another permit has been issued by the city.
 - D. Excavation less than one hundred (100) square feet in area or one (1) foot in depth, annually
 - E. Excavation or grading for tillage agricultural purposes.
2. Other grading activities in the City, permitted by ordinance must meet performance standards in the 8.6-8 and receive a Land Use Permit from the City to permit grading activities.

Section 8.7-3. Home Occupation

1. General. The use of a property zoned residential for gainful employment shall be allowed by Interim Use Permit (IUP) and subject to the regulations listed in Section 8.10-7. Examples of potentially allowable home occupations include office, professional service, hairdressing by occupant only, minor repair services excluding automobile or truck repair, photo/art studio, dressmaking or alterations, and teaching/tutoring limited individual lessons. Home occupations are not limited to this list and occupations on this list do not automatically qualify.
2. Requirements. The home occupation must comply with all rules and regulations of Federal, State, County and local agencies. Any required State or County license should be obtained prior to authorization of the IUP. In the event the license cannot be obtained without zoning approval, the applicant shall provide documentation that the license has been applied for and provide the name of the licensing agency contact person.
3. Performance Standards. A home occupation shall comply with the following standards:
 - A. There shall be no outward indication, including signage that the residence is anything other than a single family residential dwelling unit.
 - B. No exterior storage or equipment or materials used in a home occupation shall be permitted whether used on site or off.
 - C. No additional outside parking spaces at any given time other than for the homeowners and guests.
 - D. The home occupation shall not at any time produce light, glare, noise, fumes, smoke, dust, heat, odors, vibration, traffic, pollutants and toxic waste that are detectable to the normal senses, off property.
 - E. Any and all building and land alterations shall be for the sole purpose customarily found in a single-family rural character dwelling.
 - F. No person or persons can be employed other than the owner/owners of record that reside in the principal dwelling.
 - G. No deviations can or will be allowed that change the intent of the above for the permitted use of a home occupation within the City of East Gull Lake.
 - H. Home Occupations are not transferable to any new title property owners.
4. Excluded Uses. The following are expressly prohibited as home occupations within the City of East Gull Lake:
 - A. Auto repair and painting
 - B. Barber shops and/or beauty salons with employees outside the residence,
 - C. Medical offices
 - D. Private schools with organized classes
 - E. Restaurants
 - F. Retail sales.

Section 8.7-4. Manufactured Housing Development

PURPOSE. The purpose of this section is to ensure quality development compatible with that occurring throughout the city, while also ensuring the safety and well-being of residents and their guests.

1. Manufactured home developments are permitted by PUD in all districts where such uses are allowed. No person shall develop or operate a manufactured home park without obtaining approval from the city.
2. All new manufactured home development within the city shall meet the following standards:
3. All new manufactured home developments shall comply with all requirements of a PUD (including density) for the zoning district in which it is located, unless specific in this section.
4. No individual lot shall be located within 35 feet of the exterior of the development adjacent to another property or public right-of-way.
5. The minimum lot size for each dwelling unit shall be 6,000 square feet, with a minimum 50-foot lot width.
6. All structures, including common buildings and recreational structures, shall maintain the following setbacks:
 - A. Front or right of way 25 feet
 - B. Corner side 15 feet
 - C. Rear 15 feet
 - D. Side 10 feet
7. All manufactured home development must be served by municipal sewers, and a centralized water system. All sewer, water and electrical connections must be winterized to allow for year-round use.
8. A permanent storm safety shelter shall be provided, which meets all requirements of MN State Statutes. The shelter must be accessible to residents of the development at all times.
9. Private streets within the development shall be constructed with a paved or bituminous surface and have a minimum 20-foot surface within a 40-foot corridor.
10. Maximum speed limits within the development shall be posted at 15 mph.
11. No on-street parking shall be allowed within the development, and No Parking sign shall be posted within the development.
12. Additional off-street parking shall be provided for guests of occupants. One space per three units in the development shall be provided in clustered locations throughout the development, to the satisfaction to the Planning Commission.
13. Recreational amenities shall be provided on site for use by occupants of the units within the development, and may satisfy park dedication requirements, if found by the city.
14. The city may impose additional requirements in order to comply with criteria for issuance of a conditional use permit for the PUD.
15. All manufactured homes shall be anchored in compliance with the State Building Code.
16. Each lot shall have a minimum of two (2) ten feet (10') by twenty feet (20') off street paved or compacted gravel parking spaces located in the front or side of the home. Parking of vehicles or boats in the lawn or rear yard is prohibited.

SECTION VIII – SUBDIVISION STANDARDS

Section 8.8-1. Title

This title shall be known and may be cited as the Subdivision Ordinance of the City of East Gull Lake

PURPOSE. The regulations contained in this section shall apply in the City of East Gull Lake and shall apply to any combination of lots and division of land into two or more parcels for the purpose of transfer of ownership, building development or tax assessment purposes by platting, replatting, registered land survey, conveyance, sale, contract for sale or other means by which a beneficial interest in land is transferred. All subdivisions of land hereafter submitted for approval shall comply in all respects with the regulations set forth herein. It is the purpose of these regulations to:

1. Encourage well-planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction.
2. Provide for the health and safety of residents by requiring properly designed streets and adequate sewage and water service.
3. Place the cost of improvements against those benefiting from their construction.
4. Secure the rights of the public with respect to public lands and waters.
5. Set the minimum requirements necessary to protect the public health, safety, comfort, convenience and general welfare
6. Compliance Required. After the effective date of this Ordinance:
 - A. No land shall be subdivided or platted nor shall any plat or deed be recorded except as provided in this section and approved by the city as having fulfilled the requirements of this Section, the other Sections of the East Gull Lake Land Use, Zoning and Subdivision ordinance.
 - B. To the extent this Ordinance requires the combination of parcels, or portions of land, on the same deed for recording purposes, such combination shall result in the recording with the County of a single deed with a single legal description for the combined properties. A combination of tax parcels alone shall not be sufficient. Unless the combination of parcels on the same deed is expressly required by this Ordinance, or by the City Council as a condition of a permit or variance, the combination of parcels into a single tax parcel in accordance with the process established by the County shall be deemed sufficient for the purposes of determining compliance with this Ordinance based upon the combined parcel. The City Council shall not approve the separation of the tax parcel unless the parcels, once separated, will each be in full compliance with the requirements of this Ordinance.
 - C. Any parcel of land, either platted or unplatted, that has been combined for tax purposes, or for any other reason, cannot be re-separated without prior written approval of the City Council and compliance with the applicable requirements of this Section.
 - D. No registered land survey shall be recorded with the Registrar of Titles until the registered land survey shall have been approved by the city as having fulfilled the requirements of this Ordinance and the East Gull Lake Land Use, Zoning and Subdivision ordinance.

Section 8.8-2. Authority

1. The effective date of this Section is May 6, 2025. This section hereby supersedes and replaces in its entirety Section VIII of the East Gull Lake ordinance on the effective date hereof.
2. The authority to adopt the section within the City of East Gull Lake is derived from M.S. Chapter 462, including but not limited to M.S 462.357 and 462.358, as well as other applicable state statutes and rules. Whenever other applicable city, state, or federal laws or rules referenced in this section have been amended or superseded, this title shall also be amended accordingly.
3. The City Council shall be the platting authority.
4. The Zoning Administrator, or the Zoning Administrator's designee, shall administer and enforce the provisions of this title and shall have said authority to:
 - A. Enter upon the land during reasonable working hours as found necessary to fulfill his/her duties as administrator of this section.
 - B. Conduct inspections of the use of land to determine compliance with the terms of this section.
 - C. Maintain permanent and current records of this section, including, but not limited to, maps, amendments, bonds, variances, waivers, plats, development agreements, and applications thereto.
 - D. Institute in the name of East Gull Lake appropriate citations or proceedings against a violator as provided by law.
5. This title shall apply to the subdivision of land in the city.
6. Subdivisions which meet the following circumstances are exempt from the regulations of this title:
 - A. Where all the resulting parcels, tracts, lots, or interests will be twenty (20) acres or larger in size and five hundred (500) feet in width for agricultural or residential uses;
 - B. Where all the resulting parcels, tracts, lots, or interests will be five (5) acres or larger in size for commercial and industrial uses;
 - C. Subdivisions resulting from court orders or the adjustment of a lot line by the relocation of a common boundary.

Section 8.8-3. Subdivision Administration

1. Pursuant to Section One of the East Gull Lake City Ordinance, the East Gull Lake City Council or its designee shall be the Planning and Zoning Administrator of these regulations.
2. Minimum Standards. Whenever there is a difference between the minimum standards or dimensions required in this section and any other standards or dimensions in other sections of the East Gull Lake City Ordinance, the most restrictive standards or dimensions shall apply.
3. Environmental Review. Subdivision review shall be coordinated with the requirements and procedures for Environmental Assessment and Impact Statements. Any mandatory Environmental Assessment Worksheet or Impact Statement as required by the Minnesota Environmental Quality Board Regulations shall be submitted as part of the application for preliminary plat approval.
4. County Review. Subdivision Review shall be coordinated with Cass County.

5. Improvements Completed. No structure shall be built or placed on a lot in a new plat until the road and drainage improvements are substantially completed, except model homes as allowed in the development agreement. With regard to road improvements, substantially complete shall mean that the gravel base and bituminous base course have been installed and approved by the City Engineer.
6. Outlots. Any lot or parcel of land designated as an "outlot" shall not be buildable unless the property is replatted to create a buildable lot.
7. Consent. Consent for subdivision of property shall be required from the owner of the property.
8. Security Interests. Creation of a security interest in a portion of a parcel less than the entire parcel does not entitle the property to be subdivided even in the event of foreclosure of the security interest unless the parcel is in conformance with this section and the East Gull Lake Land Use, Zoning and Subdivision Ordinance.
9. Variances. Variances to the dimensional standards contained in this section shall be heard by the East Gull Lake Board of Adjustment and East Gull Lake City Council and governed by the regulations contained in section 8.10-8 of the East Gull Lake Land Use, Zoning and Subdivision Ordinance.
10. Financial Security. The Planning and Zoning Administrator shall approve any letters of credit or other financial security required under the provisions of this Chapter.
11. Penalties. In addition to any other remedies set forth in the East Gull Lake Land Use, Zoning and Subdivision Ordinance, any person who violates any provisions of this section or who sells, leases or offers for sale or leases any lot, or tract of land regulated by this section before all requirements of the regulations of this section have been complied with shall forfeit to the city two thousand dollars (\$2,000.00) for each lot or part of a lot so disposed of, leased or offered.
12. Fees. The East Gull Lake City Council shall establish fees for services rendered under this section.
13. Concept Plan Review (Optional). A sketch plan of the proposed Open Space Design, Major Subdivision, or Minor Subdivision may be prepared for Council and/or staff review prior to preparation of the preliminary plat. If an applicant wishes to consult with staff and have the concept discussed by the Planning Commission and City Council at this stage in the process, the appropriate escrow fee shall be deposited. The intent of the sketch plan is to enable the subdivider to save time and expense in reaching general agreement with the city as to the form of the development and the objectives of these regulations. The City Council and Planning Commission will take no formal or informal action at this stage of review and discussion that occurs at this meeting cannot be construed as approval or denial of the proposed plat. The sixty (60) day timelines set forth in Minn Stat. Section 15.99 and/or the one hundred twenty (120) daytime period as set forth in Minn. Stat. § 462.358 shall not begin to run while the city is reviewing a concept plan, unless the applicant has also filed a complete application for preliminary subdivision approval
14. Lot Area Minimums. For the purposes of determining compliance with the minimum lot area required by this Ordinance regarding a proposed division of property, the City Council may grant a waiver to the minimum lot area requirement if it determines no resulting parcel will deviate from the required minimum lot area by more than five percent and all resulting parcels will otherwise fully comply with this Ordinance. The purpose of this waiver is to recognize and allow for minor errors, corrections, or other deviations in parcel sizes that may have occurred through no fault of the owner, and which resulted in a parcel containing slightly less acreage than required by this Ordinance to allow it to be divided. If the City Council grants a waiver, such reduced lot size shall be, to the greatest extent possible, limited to a single resulting parcel so that the other resulting parcel or parcels contain the minimum lot area. The resulting

undersized parcel allowed by City Council waiver shall be treated for the purposes of this Ordinance as a conforming parcel with respect to minimum lot area. This process is not intended, and a waiver shall not be granted, to allow the division of property into one or more undersized parcels when compliance with the minimum lot area could have otherwise been reasonably achieved.

Section 8.8-4. Lot Line Adjustment

1. Lot Line Adjustment. The division of land made for the purpose of adjusting the boundary lines of parcels of land to an abutting lot or to otherwise exchange property between adjacent lots which does not create any new lots, tracts, parcels or sites; nor does a boundary adjustment create any lot, tract, parcel or site which contains insufficient area and dimensions to meet minimum requirements for width, lot size, and area for building as required by the East Gull Lake City Land Use, Zoning and Subdivision Ordinance. The newly acquired land must be combined on the same deed for recording purposes as the remainder of the owner's property.
 - A. Review Process: The Planning Commission and City Council must approve a Lot Line Adjustment. An applicant shall submit to the City Clerk an application for the Lot Line Adjustment along with certain other submittals as required by the city. The applicant shall pay in advance the appropriate application fees and deposit funds in escrow as found in the city approved fee schedule, to cover all expenses of the city, which are necessary to process the request. The City Planning and Zoning Administrator or their designee will review the application and make a recommendation to the Planning Commission who will make a recommendation to the City Council for final action. Upon approval of the application by the City Council, the City Attorney shall draft a Development Agreement for the City Council to review, if necessary. Once approved, the City stamps and signs the surveys and the applicant submits the documents to Cass County for recording. The applicant is responsible for all fees charged by Cass County.
 - B. Submittals for Lot Line Adjustments:
 - a. Completed application with fee and escrow deposit.
 - b. Legal description of the original parcel(s) and the new lot line adjustment parcel(s).
 - c. A certificate of survey showing the original parcel(s) and the new lot line adjustment parcel(s) and the lot dimensions.
 - d. NOTE: All improvements (buildings, fences, septic, well, etc.) on the property shall be shown on the certificate of survey and buildable areas on the proposed lots, total impervious surfaces on each lot and any easements.

Section 8.8-5. Lot Split

1. Subdivision by Metes and Bounds shall be approved by the Planning Commission and Council if either of the resulting parcels is less than 20 acres and 500 feet of width for residential lots of 5 acres and 300 feet of width for commercial lots, and shall be limited to no more than one split of a parcel into two parcels in a three year period of time. An additional parcel for right of way or commonly owned driveway access may also be allowed. The proposed legal description for subdivision of land by Metes and Bounds shall be prepared and certified by a Registered Land Surveyor. Approval by the City Council shall be indicated by the stamp of approval affixed by the City Clerk to said legal description. The County recorder or Registrar of Deeds may accept each such Certificate for filing and recording upon compliance with these provisions.

- A. Metes and Bounds Lot Split Approval. Where appropriate, under the provisions of this Ordinance, the subdivider shall submit documents containing the essential information of a proposed plat or plan and including dimensions computed to one hundredth (1/100th) of a foot and bearing computed to equivalent accuracy to the Planning Commission for approval. The review of the Planning Commission need not include a public hearing.
- B. Application and Review Process: The subdivider shall submit the following materials to the Planning and Zoning Administrator 30 days prior to the normal Planning Commission meeting:
 - a. Completed application with fee and escrow deposit.
 - b. Legal description of the original parcel(s) and the new lot(s).
 - c. A certificate of survey showing the original parcel(s) and the new lot(s) and the lot dimensions and the buildable area on the new lots. The certificate of survey should also identify the driveway access points, wetlands, flood plain, steep slopes, easements and impervious surface on each lot(s). All improvements (buildings, fences, septic, well, etc.) on the property shall be shown on the certificate of survey.
 - d. Proof that the real estate taxes for the entire year have been paid in full.
 - e. A title commitment or title opinion that establishes ownership of the original parcels.
 - f. Aerial photograph.
 - g. Soil testing for the installation of an on-site sewage disposal system for a primary and secondary site, if applicable.
 - h. Deeds which will be used to convey the new lots.
2. The Planning and Zoning Administrator shall review the proposed lot split for compliance with the Zoning Ordinance including a field review at their discretion.
3. The Planning Commission make a recommendation to the City Council on approval of the lot split within a reasonable time based on the resulting lots complying with the Ordinance, the feasibility of the resulting lots for their intended purpose, and the provision for access to adjacent properties. Conditions may be attached to an approval requiring appropriate improvements. No more than one (1) split into two (2) parcels shall be allowed in a three (3) year period of time. An additional parcel for right of way or commonly owned driveway access may also be allowed.
4. The City Council shall review the recommendation of the Planning Commission and make the final determination.
5. The resulting land descriptions shall be prepared and signed by a Registered Land Surveyor and shall comply with all provisions of this Ordinance.
6. Failure of the subdivider to act after an approval of a Metes and Bounds subdivision within one (1) year shall void the approval unless extended by the Planning Commission. A second extension shall require a new public hearing.

Section 8.8-6. Minor Subdivision

1. Minor Subdivision. Any subdivision containing three (3) or fewer lots fronting on an existing public street, or approved private driveway, not involving any new street or road, or the extension of municipal facilities, or the creation of any public improvements. A minor subdivision must be consistent with the Comprehensive Plan, Official Map, Zoning Regulations or these regulations.

2. Review Process: A Minor Subdivision is reviewed by the Planning Commission and approved by the City Council. An applicant shall submit to the City Clerk an application for the Minor Subdivision along with certain other submittals required by the city. The applicant may elect, but is not required, to plat a Minor Subdivision and any such plat shall be in accordance with the requirements of Minnesota Statutes, chapter 505. The applicant shall pay in advance the appropriate application fees and deposit funds in escrow, as found in the city approved fee schedule, to cover the costs incurred by the city in processing the request. The applicant may be required to pay a Park Dedication fee for each additional lot being created. The approval process will consist of review by city staff for compliance with the East Gull Lake City Land Use, Zoning and Subdivision Ordinance, a public hearing in front of the Planning Commission, and final approval/denial by the East Gull Lake City Council.
3. Submittals for a Minor Subdivision:
 - A. Completed application, fee and escrow deposit.
 - B. Legal description of the original parcel and the new lots.
 - C. A certificate of survey showing the original parcel(s) and the new lot(s) and the lot dimensions and the buildable area on the new lots. The certificate of survey should also identify the driveway access points, wetlands, flood plain, steep slopes, easements and impervious surface on each lot(s). All improvements (buildings, fences, septic, well, etc.) on the property shall be shown on the certificate of survey.
 - D. Proof that the real estate taxes for the year have been paid in full.
 - E. A title commitment or title opinion that establishes ownership of the original parcels.
 - F. Map showing the location of two soil borings on each lot and a summary report indicating the suitability of each lot for septic systems, if applicable. Boring location and results shall be submitted to the Cass County Department of Health, Environment and Land Management. If it appears that soil may not be suitable on any lot for the installation of an on-site septic system, additional borings and percolation tests may be required at the discretion of the Department.
 - G. Drainage, grading, and erosion control plans.
 - H. Wetland delineation report and map.
 - I. Topographic data at ten (10) foot contour intervals. Data at two (2) foot contour intervals and floodplain information may be required if deemed necessary by City Staff.
 - J. Buildable area on the parcels.
 - K. Driveway access points.
 - L. Application fee.
 - M. Additional Requirements. All requirements of Sections 8.8-8, 8.8-9, 8.8-10, 8.8-11 and 8.8-12 of this section must be met where applicable. Additional requirements are as follows:
 - a. Prior to approval of a minor subdivision, the city reserves the right to require the dedication of streets, utility and drainage easements, or public park land or cash in lieu of land.
 - b. All wetland areas and DNR protected waters shall be protected with a drainage easement up to the 100-year flood elevation or the wetland boundary, whichever is more restrictive.
 - c. A maximum subdivision of three (3) lots in a five-year period is permitted utilizing the minor subdivision procedure.
 - d. A development agreement may be entered into and approved by the East Gull Lake City Council, if appropriate.
 - e. Driveway permits or letter of intent must be approved by Cass County or

- MNDOT if access to a County or State Road is required
 - f. Drainage easements must be dedicated as necessary.
 - g. Road right-of-way must be dedicated as necessary.
- 4. Exceptions to Platting Requirement. Platting is not required for Lot Line Adjustments, Administrative Minor Lot Splits, or Minor Subdivisions.

Section 8.8-7. Major Subdivision

1. Major Subdivision. All subdivisions not classified as Lot Line Adjustments, Lot Split, or Minor Subdivision including, but not limited to, subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of an existing street. The general development process for Major Subdivisions shall consist of:
 - A. Concept Subdivision Plan Review (Optional): A sketch plan of the proposed Major Subdivision may be prepared for City Council, Planning Commission and/or staff review prior to preparation of the preliminary plat, as specified in Section 8.8-3.10. The sketch plan shall be drawn to scale and include at least the following information:
 - a. Application and appropriate escrow, if indicated.
 - b. Tract boundaries and approximate dimensions.
 - c. Significant topographical and physical features on the property to be platted and within 200 ft of all property lines.
 - d. Storm water management concept.
 - e. Significant topographic and physical features on the property to be platted and within 200 feet of all property lines.
 - f. Proposed general street and lot layout with lot sizes of individual parcels designated. General drainage plan.
 - g. An explanation of the proposed subdivision and its purpose.
2. Required Submittals. The following information shall be submitted for Major Subdivision including Preliminary Plat or Preliminary Condominium Plat review. The appropriate escrow deposit shall accompany the application. Graphic scale for any maps shall not be more than one hundred (100) feet to one (1) inch.
 - A. Identification and Description:
 - a. Proposed name of the subdivision.
 - b. Legal description of the property.
 - c. Name and address of the record owner and any agent having control of the land; the name and address of the subdivider, land surveyor, engineer and designer of the plan.
 - d. North point and vicinity map of area showing well-known geographical points for orientation within a one-half (½) mile radius.
 - e. Date of preparation.
 - B. Existing Conditions:
 - a. Boundary lines shall be shown clearly and to such a degree of accuracy that conforms to the subdivision/plat in that no major changes are necessary in preparing said plat.
 - b. Existing zoning classifications for land in and abutting the subdivision.
 - c. Total acreage.
 - d. Location, right-of-way width, and names of existing or platted streets or other public ways, parks and other public lands, significant physical features/natural resources including wetlands, flood plain and steep slopes, locations of mature trees, permanent buildings and structures, easements, geographic boundaries and school district lines within the plan and to a distance of three hundred (300) feet beyond

- e. Location and size of existing culverts, wells, septic systems, drain tile, or other underground facilities within the preliminary plat area and to a distance of one hundred (100) feet beyond. Such data as grades and location of catch basins, manholes, hydrants, and street pavement width and type shall also be shown.
 - f. Boundary lines of adjoining unsubdivided or subdivided land within one hundred (100) feet, identified by name and ownership, and including all contiguous land owned or controlled by the subdivider.
 - g. All wetlands shall be field delineated by a certified wetlands delineator and shown appropriately on the preliminary plat. A copy of the wetland delineation report shall be submitted. Mapping must show surveyed location of all wetland boundary markers.
 - h. Topographic data, including contours at vertical intervals of not more than two (2) feet, except in those areas where the slope is less than one percent (1%) a one (1) foot vertical interval shall be shown. Watercourses, marshes, wooded areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown. National Geodetic Vertical Datum 1929 Adjustment or North American Vertical Datum of 1988 shall be used for all topographic mapping, except where benchmarks are not available within ½ mile of site. Benchmarks shall be established on-site and shown on a map. At the discretion of the Planning and Zoning Administrator, spot elevations may substitute for the one-foot contour intervals.
 - i. A copy of all proposed private restrictions.
 - j. Map showing the location of two soil borings on each lot and a summary report indicating the suitability of each lot for septic systems, if applicable. Boring location and results shall be submitted to the Cass County. If it appears that soil may not be suitable on any lot for the installation of an on-site septic system, additional borings and percolation tests may be required at the discretion of the County.
 - k. Soil types and location of limits of each soil type as shown in the Soil Survey of Cass County. If severe soil limitations for the intended use are noted in the Soil Survey on file in the Cass Soil and Water Conservation District Office, a plan or statement indicating the soil conservation practice or practices to be used to overcome said limitation shall be submitted as part of the application.
 - l. For lands proposed to be platted In Shoreland Districts, all slopes over eighteen percent (18%), with a horizontal distance of 50 feet or greater, shall be delineated. Slopes in excess of twenty-five percent (25%) shall be delineated on all properties.
 - m. On all lakes, ponds and wetlands, all water surface elevations, Ordinary High-Water Elevation and 100-year flood elevations shall be denoted unless deemed unnecessary by the Planning and Zoning Administrator.
 - n. The applicant shall document the path of each drainage way from the proposed development to the first DNR Protected Water within 300 feet of the project.
- C. Subdivision Design Features:
- a. Layout of proposed streets showing right-of-way widths and proposed names of streets. The name of any street shall be found acceptable by Cass County.
 - b. Locations and widths of proposed, trails, pedestrian ways, drainage and utility easements.
 - c. Lot and block numbers, preliminary dimensions of lots and blocks and area of each lot. The buildable area of each lot shall be shown.
 - d. Required front, side and rear building setbacks as well as setbacks from

- water bodies.
- e. Location of a suitable house pad, driveway and size and location of proposed primary and secondary septic sites or the lot is adjacent to public sanitary sewer.
 - f. Gradients of proposed streets and storm sewer. Plans and profiles showing locations and typical cross-sections of street pavement including curbs, gutters, sidewalks, drainage easements, rights-of-way, and catch basins when required.
 - g. Areas (other than streets, pedestrian ways and utility easements) intended to be dedicated or reserved for public use including the size of such area(s) in acres.
 - h. Grading and drainage plan for entire subdivision. If any fill or excavation is proposed in a wetland or lake, approval may be required from the Minnesota Department of Natural Resources, Army Corps of Engineers, RGU for the Wetlands Conservation Act, Local Governmental Unit and/or Watershed District.
 - i. Erosion and sediment control plan.
 - j. Impervious surface calculation of each lot and the total impervious surface calculation for the entire subdivision.
- D. Other Information:
- a. Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units; so as to reveal the effect of the development on traffic, fire hazards and congestion of population.
 - b. Source of water supply.
 - c. Provisions for sewage disposal, surface water drainage, and flood control.
 - d. Where the subdivider owns property adjacent to that which is being proposed for the subdivision, the city may require the subdivider to submit a sketch plat of the remainder of the property so as to show the possible relationships between the proposed subdivision and future subdivision. In any event, all subdivisions must be shown to relate well with existing or potential adjacent subdivisions and land use. If the plat contains either a temporary or permanent cul-de-sac, a plan showing the potential for development of adjacent property may also be required. The Planning and Zoning Administrator, the City Engineer or the Planning Commission may request such other information as it deems appropriate.
- E. Other requirements:
- a. Prior to preliminary plat approval for property located in a Shoreland District, the proposed subdivision must be submitted for review by the Minnesota Department of Natural Resources. The Applicant shall be responsible for forwarding copies of the proposed plat to the DNR.
 - b. If required, approval from Cass County Soil and Water Conservation District must be obtained as part of the preliminary plat process. The applicant shall take whatever steps are necessary to obtain approval from the Cass County SWCD.
 - c. If the property proposed to be subdivided abuts the right-of-way of a State or County highway, a copy of the preliminary plat shall be sent to the Minnesota Department of Transportation or Cass County for their review and consideration.
- F. Public Hearing and Planning Commission Review:
- a. Upon receipt of a complete preliminary plat application a public hearing will be scheduled before the Planning Commission. City staff will review the proposed subdivision plat and will prepare a report for the Planning

Commission public hearing. A recommendation for action shall be made by the Planning Commission to the City Council.

- b. If the preliminary plat is not recommended for approval by the Planning Commission, the reasons for such action shall be recorded in the proceedings and transmitted to the applicant and the City Council.

G. City Council Review and Action:

- a. The application and Planning Commission recommendation will be reviewed at the earliest possible scheduled City Council meeting. The City Council will review the application and recommend approval/disapproval or table the application.
- b. If the preliminary plat is approved, such approval shall not constitute final acceptance of the layout. Final plat approval is required as specified in Section 8.8-.7.3 Final Plat. A final plat application must be made within one year after the preliminary plat approval by the City Council or the approval of the preliminary plat shall be considered null and void. The one-year approval of the preliminary plat may be extended if requested by the applicant and approved by the City Council. In the event the property is to be developed in phases, the preliminary plat approval for the undeveloped portion or phase shall be valid for a period of time determined by the City Council.
- c. The city reserves the right to require changes to any subdivision plan when they feel an alternative plan would be more sensitive to environmental resources; or would improve safety or provide for a more efficient flow of traffic; or is more sensitive to site topography; or does not meet the standards contained in the East Gull Lake City Land Use, Zoning and Subdivision Ordinance or Comprehensive Plan.
- d. If the application is approved, the City Attorney will create a Development Agreement which will be reviewed and approved by the City Council in accordance with City Council procedures at the applicants cost. Should the applicant desire to amend the preliminary plat as approved, they may submit an amended preliminary plat which shall follow the same procedure as a new plat.

3. Final Plat or Final Condominium Plat.

A. Approval: Applicant shall submit the final plat to the Planning and Zoning Administrator as required by the policies and procedures of the city with said final plat to include:

- a. Mylars.
- b. The final plat shall be prepared by a land surveyor who is licensed in the State of Minnesota and shall comply with the provisions of Minnesota State Statutes, these regulations, and consistent with the standards for platting in Cass County.
- c. Plans addressing all conditions of approval for the preliminary plat.
- d. The subdivider shall submit, with the final plat, a current title insurance policy or commitment certified to within 30 days of submission of the final plat to the City Council for approval.

B. Application Deadline: Final Plat application must be made within one year after the preliminary plat approval, or the approval of the final plat shall be considered null and void. This one-year time period may be extended if requested by the applicant and approved by the City Council. In the event the property is to be developed in phases, the preliminary subdivision plat approval for the undeveloped portion or phase shall be valid for a period of time determined by the City Council.

C. Prerequisite: Prior to approval of the final plat by the City Council, the applicant

shall have installed all required improvements or executed a development agreement with the city for their installation. Required improvements shall conform to approved engineering standards and be in compliance with these regulations.

- D. Statutory Requirements: The City Council shall consider the final plat for approval in accordance with statutory requirements.
- E. After Approval: If the final plat is approved by the City Council, the owner shall submit the final plat to the Cass County Recorder within 120 days after final plat approval. Such final plat shall be signed by the city and signed and acknowledged by each person owning a legal or equitable interest in the lands platted, including contract purchasers or those holding a security interest such as a mortgage or contract for deed, but excluding judgment or mechanics lien.
- F. Recording Deadline: If the final plat is not presented to the County Recorder within 120 days after approval by the City Council, approval of the final plat shall be considered null and void. An extension to this 120-day time frame may be requested by the applicant and submitted in writing to the City Council. An extension must be approved by the City Council

Section 8.8-8. General Development Standards

- 1. Subdivision Restrictions. No land may be subdivided into buildable lots when it is unsuitable for reasons of flooding, inadequate drainage, soil and rock formations with severe limitation on development, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities or any other feature likely to be harmful to the health, safety or welfare of residents of the city or future residents of the subdivision.
- 2. The city reserves the right to decline approval of a subdivision if due regard is not shown for the preservation of all natural features such as large trees, water courses, scenic points, historical spots and similar city assets which, if preserved, will add attractiveness and stability to the proposed development of the property.
- 3. The subdivider shall consult with the city at the time the concept plan review is under consideration to secure their recommendation as to the location of any property that should be dedicated to the public, such as parks, trails, playgrounds, or other public property.
- 4. The proposed subdivision shall conform to the Comprehensive Plan as adopted by the City Council.
- 5. Where a subdivision abuts or impacts an existing County or City Road or County or State Aid Highway, additional right-of-way may be required to be dedicated so long as the additional right-of-way is reasonably proportional to the impact of the subdivision on the health, safety and welfare of the city.

Section 8.8-9. Minimum Design Standards

- 1. Street Plan.
 - A. Proposed streets shall conform to the state, County, or city.
 - B. Streets shall be logically related to the topography so as to produce usable lots and reasonable grades.
 - C. Access shall be given to all lots and portions of the tract in the subdivision and to adjacent unsubdivided parcels, unless the topography clearly indicates that such connection is not feasible. Reserved strips and land-locked areas shall not be created.
 - D. The arrangement of streets in new subdivisions shall make provisions for the

- appropriate continuation of the existing streets into adjoining areas.
- E. Where adjoining areas are not subdivided, but may be subdivided, the arrangement of streets in a new subdivision shall make provisions for the proper projection of streets into adjoining areas by carrying the new streets to the boundaries of the new subdivision at appropriate locations. Streets must be rough graded or documented that grading can be accomplished within the right-of-way.
 - F. Local streets shall be laid out to discourage their use by through traffic. Thoroughfares shall be reserved for through traffic by providing marginal access streets, interior streets for serving lots, or other means.
 - G. Half or partial streets will not be permitted, except where essential to reasonable subdivision of a tract in conformance with the other requirements and standards of these regulations and where, in addition, reasonable assurance for dedication of the remaining part of the street can be secured.
 - H. Whenever a tract to be subdivided adjoins an existing half or partial street, the part of the street within such tract shall be platted and dedicated if the dedication results in a reasonable subdivision design for the area.
 - I. Dead-end streets shall be prohibited except as stubs to permit future street extension into adjoining tracks or when designed as cul-de-sac streets.
 - J. Where a subdivision abuts or contains an existing or planned principal arterial highway or railroad right-of-way, a street approximately parallel with and on each side of such thoroughfare and right-of-way may be required for adequate protection of residential properties and separation of through and local traffic. Such service streets shall be located at a distance from the major thoroughfare or railroad right-of-way suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial and industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
 - K. The street arrangements shall not be such as to cause hardship to owners of adjoining property in platting their own land and providing convenient access to it
2. Cul-de-Sac Streets.
- A. For the purposes of this Ordinance, whether a new cul-de-sac is proposed or an existing cul-de-sac is to be extended, the beginning of the cul-de-sac road shall be measured from the point at which there is no secondary access. The end is to be measured at the center of the cul-de-sac.
 - B. Lots with frontage at the end of the cul-de-sac shall have a minimum of sixty (60) feet of road frontage and meet the lot width requirement at the standard front building setback line for the zoning district in which the property is located.
 - C. Temporary cul-de-sacs are those in which it can be clearly shown that the road could reasonably continue and would result in a through road at some time in the foreseeable future. A plan showing how the road could be extended into neighboring property shall be submitted.
 - D. Cul-de-sac streets, permanently designed as such, shall not exceed 1,000 feet in length in areas where lots are less than three (3) acres in size.
 - E. Unless future extension is clearly impractical or undesirable, the turnaround right-of-way shall be placed adjacent to a property line and a right-of-way of the same width as the street shall be carried to said property line in such a way as to permit future expansion of the street into the adjoining tract. At such time as a street is extended, the acreage covered by the turnaround outside the boundaries of the extended street shall revert in ownership to the property owner fronting on the temporary turnaround. To assure such streets can be constructed

according to these regulations, the street shall be rough graded or typical sections shall be submitted and approved by the City Engineer and Cass County, is appropriate, to show construction can stay within the right-of-way

3. Street Design.

A. Minimum design standards for each type of public street or road shall be as follows:

a. Rural Roadway Design

i. Collector Streets

- | | |
|-----------------------------------|-----------------------|
| 1. Minimum Right of Way Width: | 66 feet |
| 2. Minimum Driving Surface Width: | 24 feet |
| 3. Minimum Shoulder Width: | 2 feet (each side) |
| 4. In-slope | 4:1 Maximum |
| 5. Clear Zone: | 10 feet from shoulder |
| 6. Minimum Ditch Separation | 1 foot |

ii. Local Streets

- | | |
|-----------------------------------|-----------------------|
| 1. Minimum Right of Way Width: | 66 feet |
| 2. Minimum Driving Surface Width: | 22 feet |
| 3. Minimum Shoulder Width: | 1 foot (each side) |
| 4. In-slope | 4:1 Maximum |
| 5. Clear Zone: | 10 feet from shoulder |
| 6. Minimum Ditch Separation | 1 foot |

B. Where a subdivision abuts or contains an existing street of inadequate width, sufficient additional width shall be provided to meet the above standards.

C. The minimum radius for a cul-de-sac shall be sixty (60) feet with eighty (80) feet of right of way.

D. Additional right-of-way and roadway widths may be required to promote public safety and convenience when special conditions require it or to provide parking space in areas of intensive use. Additional width may also be necessary due to topography in order to provide adequate earth slopes.

E. Access to streets shall be regulated as follows:

- a. Access of streets within the subdivision to other local streets shall meet all requirements of the city.
- b. Access of streets within the subdivision to any public street or highway shall meet all requirements of the access spacing guidelines and shall be subject to all conditions of access permitting requirements of the Cass County Highway Department, the City Engineer or the Minnesota Department of Transportation. At the discretion of the City Engineer, a traffic study including trip generation figures may be required of commercial or industrial subdivisions as well as residential subdivisions of fifty (50) or more dwelling units. Commercial developments or residential developments with more than ten (10) dwelling units may require turn or bypass lanes to be constructed on the County or City Road or County State Aid Highway. Such lanes shall conform to Minnesota Department of Transportation design standards and all costs shall be borne by the developer
- c. Street jogs with centerline offsets of less than one hundred fifty (150) feet shall not be allowed.
- d. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius of not less than two hundred (200) feet.
- e. Centerline gradients shall be at least 0.50 percent (0.50%), and grades shall not exceed eight percent (8%).
- f. Different connecting street gradients shall be connected with vertical curves.

The minimum length of these curves shall meet the requirements of the MnDOT Road Design Manual and Facility Design Guide.

- g. The angle formed by any intersection of streets shall not be less than seventy (70) degrees with ninety (90) degree intersections preferred.
 - h. Intersections having more than four (4) streets converging at a single intersecting point shall be prohibited.
 - i. Roadways of street intersections shall be rounded by a radius of not less than twenty (20) feet. Corners at the entrances of turn-around portions of the cul-de-sacs shall be rounded by a radius of not less than thirty (30) feet. .
4. Easements.
- A. Easements of at least twenty (20) feet wide, centered on rear and other lot lines as required, shall be provided for utilities where necessary. Where underground utilities are being installed, a 10-foot wide front or side yard easement may be required. These easements shall be dedicated on the final plat.
 - B. Drainage easements shall be provided along each side of the centerline of any water course or drainage channel to a sufficient width to provide proper maintenance and protection and to provide for storm water runoff and installation and maintenance of drainage systems. Drainage easements shall be dedicated around wetlands and DNR designated lakes, rivers and streams up to the 100-year flood elevation or delineated boundary, whichever is greater.
 - C. Utility and drainage easements shall be dedicated for the required use.
5. Street Names and Signs.
- A. Names of new streets shall not duplicate existing or platted street names unless a new street is a continuation of or in alignment with the existing or platted street. In that event, it shall bear the same name as the existing or platted street. Street names shall conform to the Cass County Street Naming and Property Numbering system as applicable.
6. All street signs and fire signs shall be provided and installed by the Applicant at their expense in conformity with the typical city street signs.
7. Lot Requirements.
- A. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines or radial to lake or stream shores unless topographic conditions necessitate a different arrangement. Lots proposed with irregular lot lines for the sole purpose of meeting a specific zoning requirement are prohibited.
 - B. Each lot shall have frontage on a paved or improved public street. Access to the lot shall be from the frontage of the lot, unless an approved shared driveway is in place.
 - C. No lot shall have less area or width than is required by zoning regulations applying to the area in which it is located, unless a variance is approved for the individual lot.
 - D. Lots designed for commercial purposes shall provide adequate off-the-street service, loading and parking facilities.
 - E. Through or double frontage lots shall not be permitted except where such lots abut an arterial or highway, have frontage on the lakeshore or as a means to overcome specific disadvantages of topography and orientation.
 - F. Lots with lakeshore frontage shall be designed so that the lot lines extended shall maintain the closest approximation to riparian right.
 - G. All remnants of lots below minimum lot size left over after subdividing a larger tract must be added to adjacent lots or a plan shown for future use, rather than allowed to remain as unusable parcels.
 - H. In the case where the proposed plat is adjacent to a major or minor arterial and

where feasible for existing homes, there shall be no direct vehicular access from individual lots to such streets and roads.

- I. No lot shall extend over a political subdivision boundary. No building shall extend over a school district line.
- J. All lots abutting a lake, river, pond, or wetland shall contain a building site three (3) feet above the OHWL. The lowest floor elevation shall be shown on the face of the final plat, as recorded, and shall be a minimum of three (3) feet above the OHWL.

Section 8.8-10. Engineering Standards

- 1. Streets.
 - A. Gravel surfaces are prohibited. All new subdivision streets shall be paved.
 - B. Streets shall be graded in accordance with a plan approved by the City Engineer.
 - C. An obstacle clear free zone shall be provided adjacent to the roadway in accordance with the standards of the Minnesota Department of Transportation Road Design Manual.
 - D. For rural design roadways, the in-slopes of the ditches shall be at a 1:4 (rise over run) and back slopes of the ditch shall be at 1:4 (rise over run). The ditch bottom shall be four (4) feet wide unless suitable erosion control can be provided.
 - E. All local streets shall be designed for a seven-ton minimum loading basis in accordance with all applicable specifications of the Minnesota Department of Transportation at the time of construction. All collector streets shall be designed for a nine-ton minimum loading basis in accordance with all applicable specifications of the Minnesota Department of Transportation at the time of construction. In all cases, the pavement shall consist of the following minimum thicknesses: six (6) inches of class 5, two inches (2") non-wearing course and one and one-half inches (1 1/2") wearing course bituminous mixture. A thicker section may be required to meet the seven-ton, or nine-ton requirement based on subgrade soil classifications and proposed traffic loading. A final pavement section shall be as recommended by a geotechnical engineer and approved by the City Engineer.
 - F. To determine subgrade soil classifications, soil samples shall be collected and analyzed by a qualified testing laboratory. Reports of the soil analysis shall be submitted to the engineer with the pavement plans. Soil samples shall be taken along the centerline of the proposed road at intervals not exceeding five hundred (500) feet.
 - G. All required sidewalks shall be concrete four (4) inches thick placed on a four (4) inch gravel base. Grades shall be as approved by the City Engineer. Sidewalks shall be placed in the public right-of-way. Bituminous walks or alternative paving, such as paving stones, are allowed if approved by the City Engineer. All required trails shall have a pavement section, alignment and grade as approved by the City Engineer.
- 2. Water Supply Standards
 - A. The subdivider shall be responsible to provide the proposed subdivision with adequate spacing between building sites, onsite sewage disposal sites, and potential well locations to allow the well installations in conformance with the Minnesota Department of Health Regulations and City of East Gull Lake City Code requirements, or the subdivider shall provide the lot with a cluster water supply system to be owned and operated by a property owner's association and constructed pursuant to Minnesota Department of Health Regulations and East Gull Lake City Code, or the subdivider shall provide municipal water service to

- the lot.
- B. Onsite wells or cluster water systems shall conform to the Minnesota Department of Health Rules and Regulations, Minnesota Rules 4725 – Water Well Construction Code, East Gull Lake City Code, and the cluster system shall receive the approval of the City Engineer. A redundant system will be required for all systems with 15 or more service connections. All water lines not owned or operated by the City of East Gull Lake shall be located in easements outside of paved areas, except crossings as needed. The Homeowners' Association, if applicable, must require and enforce appropriate conservation measures.
 - C. Municipal water facilities shall be designed by a Licensed Engineer, approved by the City Engineer, approved by the Minnesota Department of Health and installed according to the latest version of the Standard Specifications issued by the City Engineer's Association of Minnesota.
3. Sanitary Provision Standards
- A. No land shall be subdivided for building purposes unless two adequate sites are available on the newly created lot for a conforming onsite sewage treatment system as regulated by Cass County SSTS ordinance 2018-03 , or the subdivider constructs a cluster system serving the lots to be owned and maintained by a property owner's association, or the lot is provided with sanitary service by a municipal sewer system at the expense of the subdivider.
 - B. A municipal sewer system shall be extended to the lot at the subdivider's expense by agreement in a Development Agreement between the subdivider and the City Council if the existing system is adjacent to the parcel being subdivided or reasonably close in the opinion of the City Engineer and Utility Commission or if the density of the proposed development necessitates a municipal sewer connection. At the recommendation of the City Engineer, the sewer may also be oversized and extended to the exterior boundary of the subdivision at locations and sizing recommendations designated by the Engineer. Where a larger size facility is required to serve areas outside the subdivision, the larger facility required must be constructed. Additional cost is to be borne by the benefiting properties and the assessments are to be determined by the City Engineer.
 - C. Onsite systems or cluster onsite systems shall conform to Cass County SSTS ordinance 2018-03. If a cluster onsite system is proposed, it must be approved by Cass County, and a Homeowners' Association shall be established to own and maintain the community sewer system. The Homeowners' Association shall be responsible for all operation, maintenance, and replacement of the system components. All sewer lines not owned or operated by the city shall be located in easements outside of paved areas, except crossings as needed.
 - D. Municipal sewage facilities shall be designed by a Licensed Engineer, approved by the City Engineer, approved by the Minnesota Pollution Control Agency, and installed according to the latest version of the Standard Specifications issued by the City Engineer's Association of Minnesota.
4. Stormwater, Drainage and Grading Standards.
- A. The subdivider shall consider the retention of natural stormwater/snowmelt drainage patterns in the design of his proposed subdivision. The subdivider shall be responsible to provide adequate drainage facilitates for his development and upstream properties.
 - B. All natural drainageways draining properties upstream from the subject property shall be preserved, and no structures shall be less than one (1) foot above the water level in the drainageway and/or ponding area created by a storm of a 100-year, 24-hour rain event. No filling of areas inundated by the 100-year, 24-hour rain event shall be allowed.

- C. All streets, building sites and subsurface sanitary disposal sites shall be drained to a natural drainageway. The applicant shall provide adequate grading or drainage structure to retain runoff from a 25-year, 24-hour storm with no structural flooding.
- D. Natural or manmade storage areas shall be utilized where needed and shall be designated by drainage and utility easement by the applicant. No storage area shall be considered part of the minimum lot area requirement. All storage areas shall be vegetated and designed to lower naturally after a storm.
- E. All drainage structures provided shall be sufficient in size to pass a 5-year, 24-hour storm to a natural drainageway and to pass a 100-year, 24-hour storm along a drainageway.
- F. All areas disturbed by grading, street construction or structure installation shall be covered with a 3-inch natural topsoil and seeded. Drainageways over 2% in gradient shall, at a minimum, be sodded.
- G. All parking areas, heavy use areas, storage areas and impervious area shall be diverted to a basin designed to allow entrapment of silts and nutrients prior to discharge to a natural drainageway or public water.
- H. Erosion control measures are required when any grading activity is proposed. Erosion control measures shall be provided in the proposed grading and drainage plan and shall be installed prior to commencement of any grading work.
- I. There shall be no discharge of untreated stormwater to a water body.
- J. Newly constructed stormwater outfalls to public waters below the public water's Ordinary High Water Level (OHWL) may require additional permitting through the Minnesota Department of Natural Resources.
- K. The following should be submitted for all development requiring stormwater management:
 - a. Grading, Drainage and Erosion Control plan including at a minimum:
 - i. Existing and proposed impervious surfaces.
 - ii. Existing and proposed grading contours at 1' or 2' intervals.
 - iii. Stormwater management features (infiltration basins, ponds, etc.)
 - iv. Erosion control and sediment control practices (silt fence, biologs, inlet protection, etc.)
 - b. Stormwater calculations showing development is designed to retain 1 inch of runoff on all new and/or reconstructed impervious surfaces.
 - c. Stormwater modeling showing the 100-year high water level for drainageways and/or ponding.
 - d. Stormwater modeling showing proposed discharge rates are at or below existing discharge rates for the 2-, 10- and 100-year storm events. Re
 - e. Use National Oceanic and Atmospheric Administration (NOAA) Atlas 14 Precipitation Frequency Estimates with the MSE3 rainfall distribution when using rainfall-runoff models to compute hydrology for the design of hydraulic infrastructure.
 - f. Documentation of adherence with Section 8.6-7.
- L. Development proposing construction activity that results in a land disturbance of 1 acre or more, including projects less than 1 acre that are part of a larger common plan of development or sale, shall adhere to and use permanent structural best management practices in order to achieve the applicable minimum control requirements as specified by the most current version of the Minnesota Pollution Control Agency's Construction Stormwater General Permit (CSW Permit).
- M. Erosion Control during Construction.
 - a. Erosion control shall be performed in accordance with All Best Management

Practices consistent with the Minnesota Construction Site Erosion and Sediment Control Planning Handbook.

- b. The following criteria apply only to construction activities that result in runoff leaving the site:
 - i. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Sheet flow runoff from adjacent areas greater than 10,000 square feet in area shall be diverted around disturbed areas unless shown to have resultant runoff rates of less than .05 feet /sec. across the disturbed area for the one-year storm. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.
 - ii. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time. The limits of grading must be shown on the erosion control plan.
 - iii. All disturbed ground left inactive for fourteen (14) or more days shall be stabilized by seeding or sodding (prior to September 15) or by mulching, covering or other equivalent control measure.
 - iv. For sites with more than ten (10) acres disturbed at one time, or if a channel originates in the disturbed area, one or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one percent (1%) of the area draining to the basin and at least three (3) feet of depth constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of three (3) feet. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.
 - v. For sites with less than ten (10) acres disturbed at one time, silt fences, straw bales, or equivalent control measures shall be placed along all side slopes and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce sediment reaching the channel. The use of silt fences, straw bales or equivalent control measures must include a maintenance and inspection schedule.
 - vi. Any soil storage piles containing more than ten (10) cubic yards of material should not be located with a downslope drainage length of less than twenty-five (25) feet from the toe of the pile to a roadway or drainage channel. If remaining for more than seven (7) days, they shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence for less than seven (7) days shall be controlled by placing straw bales or silt fences barriers around the pile.
 - vii. In-street utility repair or construction soil or dirt storage piles located closer than twenty-five (25) feet to a roadway or drainage channel must be covered with tarps or suitable alternative control if exposed for more than seven (7) days. The storm drain inlet must be protected with straw bales or other appropriate filtering barriers.

Section 8.8-11. Required Improvements

1. Preliminary Approval. No improvement within a subdivision shall take place until final plat approval has been granted by both the city and the County, if needed; a development agreement has been signed outlining what work can be done; and a financial guarantee has been posted with the city in accordance with this Section 8.8-

13. The city may consider commencement of some subdivision improvements with preliminary plat approval and appropriate agreements, financial guarantees and approved plans.
2. Required Improvements. Prior to the approval of a plat, the subdivider shall have agreed, in the manner set forth below, to install in conformity with approved construction plans and in conformity with all applicable standards and ordinances, the following improvements on the site:
 - A. All subdivision boundary corners, block and lot corners and road intersection corners. Points of tangency and curvature shall be marked with survey monuments meeting the minimum requirements of state law. All federal, state, county or official benchmarks, monuments or triangulation stations adjacent to the property shall be preserved in precise precision unless a relocation is approved by the controlling agency. These monuments shall be set prior to any improvements being constructed on individual lots. All lot corner pipes or irons shall be a minimum of one-half ($\frac{1}{2}$) inch in diameter and fourteen (14) inches in length and shall be inscribed with the license number of the land surveyor making the survey. All monumented quarter corners and section corners shall be set by the County Surveyor.
 - B. The full width of the right-of-way of each street dedicated in the plat shall be graded in accordance with approved plans.
 - C. All streets shall be improved with concrete or bituminous surface except as may otherwise be approved by action of the city.
 - D. Along both sides of an urban designed street, curb and gutter shall be installed.
 - E. In the case where a community water system is proposed the wells and distribution system shall be constructed in accordance with approved plans.
 - F. Drainage facilities and easements shall be installed as will adequately provide for the drainage of surface waters in accordance with the approved plan.
 - G. Tree planting, street name signs, fire signs, street lighting, mosquito control, traffic control signs, oversized utility trunk lines, pedestrian ways and other improvements may be required.
 - H. Silt fencing.
 3. Construction Plans. Construction plans for the required improvements shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Minnesota. Construction plans shall contain his or her certificate. These plans, together with the quantities of construction items, shall be submitted to the City Engineer for his or her approval and for an estimate of the total costs of the required improvements. The tracings of the plans approved by the City Engineer plus two (2) prints shall be furnished to the city to be filed as a public record.
 4. Subdivider's Expense. Required improvements are to be furnished and installed at the sole expense of the subdivider.
 5. Development Agreement. Prior to the installation of any required improvements and prior to approval of the plat, the subdivider will be required to enter into a contract, in writing, with the city requiring the subdivider to furnish and construct said improvements at his sole cost and in accordance with plans, specification and usual contract conditions. Included in such contract will be:
 - A. Provisions for supervision of details of construction by the city and granting the city authority to correlate the work to be done under said contract by any subcontractor authorized to proceed there under and with any other work being done or contracted by the city in the vicinity.
 - B. A requirement for the subdivider to make an escrow deposit or, in lieu thereof, to furnish a letter of credit as described in chapter 8.8-13. On request of the subdivider, the contract may provide for completion of part or all of the

- improvements prior to the acceptance of the plat; in such event, the amount of the financial guarantee may be reduced in a sum equal to the estimated cost of improvements so completed prior to the acceptance of the plat.
- C. The time for connection of the work and the several parts thereof. Such time shall be determined by the city upon recommendation of the city and after consultation with the subdivider. The time shall be reasonable with relation to the work to be done, the seasons of the year and proper correlation with construction activities in the plat and subdivision.
 6. Previous Default. No subdivider shall be permitted to start work on any other subdivisions without special approval of the city if he has previously defaulted on work or commitments.
 7. Inspections. All required improvements on the site that are to be installed under the provisions of this regulation shall be inspected during the course of construction by the City Engineer at the subdivider's expense. Acceptance by the city shall be subject to the City Engineer's certificate of compliance with the contract.
 8. Record Drawings. Upon completion of the improvements, the subdivider shall submit construction record drawings signed by a professional engineer registered in the State of Minnesota and/or a licensed surveyor in the State of Minnesota for review and approval by the City Engineer. The record drawings shall indicate any changes in final construction from the approved construction plans. At a minimum, plans shall provide final finished grades for ponds, swales, ditches, road elevations, storm sewers and culverts.

Section 8.8-12. Park Dedication

1. Park Dedication Required.
 - A. All subdivisions which create more than two additional lots (major subdivisions and minor subdivisions) shall either dedicate land for parks and trails or pay a park dedication fee in lieu of land dedication.
 - B. For each subdivision or lot split the city shall determine whether land or cash park dedication is the acceptable means to satisfy city park and recreation needs.
 - C. Park and trail land dedication shall be up to 10% of the land area of the subdivision, as determined by the city prior to final approval, and such dedication is in addition to any property dedicated for utilities, stormwater, streets, or other public ways.
 - D. Land to be dedicated shall be reasonably suitable for its intended use, as determined by the city, based on factors such as size, shape, topography, geology, hydrology, tree cover, access, and location, and shall be at a location convenient to the public to be served. Due consideration shall be given to the amount of open space, recreational, or common areas and facilities open to the public that are proposed for the subdivision.
 - E. Calculation of Cash dedication in lieu of land dedication shall be determined on a case by case basis and shall take into consideration fair market value of the land, evaluated on a per lot basis for new residential lots, which may be included as a part of the city fee schedule.
 - F. Park dedication shall be paid by the subdivider prior to the city signing the final plat and/or development agreement. If the subdivider objects to the city's determination as to the value of the land, the value shall be determined either by negotiation between the city and the subdivider or by the city based on an independent appraisal of the market value of land in a same or similar land use category. If the city elects to have an independent appraisal performed in order to

resolve the objection, the subdivider shall be responsible for reimbursing the city for the appraisal costs.

- G. The park dedication fees the city collects shall be placed in its park fund and shall be used for the acquisition and development, or improvement, of parks, recreational facilities, playgrounds, trails, wetlands, or open space based on the city's park plan.

Section 8.8-13. Financial Guarantee

- 1. Allowed Types.
 - A. The financial guarantee required as part of the subdivision agreement shall be one of the following:
 - a. A Cash Escrow Deposit may be made with the City Treasurer in a sum equal to one hundred twenty-five percent (125%) of the total costs, as estimated by the City Engineer, of all the improvements to be furnished and installed by the subdivider pursuant to the development agreement. The total costs shall include the costs of inspection. The city shall be entitled to reimburse itself out of such deposit for any cost or expense incurred by the city for completion of the work in case of default by the subdivider or for any damages sustained on account of any breach thereof.
 - b. The subdivider may furnish a letter of credit equal to one hundred twenty-five percent (125%) of the total cost, as estimated by the City Engineer, of all the improvements to be furnished and installed by the subdivider pursuant to the subdivision agreement. The total costs shall include costs for inspection by the city.

SECTION IX – IMPROVEMENTS

Section 8.9-1. Development Agreement

Concurrent to the City Council approving a Final Plat or a Metes and Bounds split, the subdivider shall enter into a Development Agreement with the city relating to construction of the required improvements at his expense and give a Letter of Credit or other financial assurance satisfactory to the Council in an amount equal to one hundred twenty-five (125) percent of the estimated cost of the uncompleted improvements except as provided in 8.9-3. The surety shall be released by the City Council upon the recommendation of the City Engineer indicating the improvements are satisfactorily complete.

Section 8.9-2. Improvements and Lighting

The required improvements shall conform to the standards of Sections VIII of this Ordinance and shall include city street signs and lighting in conformance with city standards.

Section 8.9-3. Public Installation of Improvements

The subdivider may request the city to construct municipal sewage facilities or bituminous street surfacing with all costs to be assessed against the benefited properties. If the City Council agrees, the subdivider shall enter into a Development Agreement and give a letter of credit or other financial surety satisfactory to the Council in an amount equal to 50% of the estimated costs. The assessments shall be paid in full upon sale of the property. The bond shall be released with the last twenty-five (25) percent of the assessment payments.

Section 8.9-4. Costs Reimbursement

All costs of the City Engineer, City Attorney, City Planner, Bond Council, financial experts and other professional costs borne by the city in writing and/or executing Development Agreements, estimates of cost, inspectors, financial arrangements, assessments and pursuing legal remedies in event of default by the applicant, shall be borne by the applicant.

SECTION X – ADMINISTRATION

Section 8.10-1. Zoning Administration

- 1. The Planning and Zoning Administrator shall be appointed by the City Council.
- 2. Duties of the Planning and Zoning Administrator:
 - A. Determine if applications are complete and comply with the terms of the Ordinance.
 - B. Direct or conduct inspections of buildings and other uses of the land to determine compliance with the terms of the Ordinance.
 - C. Maintain permanent and current records of the Ordinance including, but not limited to, maps, amendments, Zoning or Use Permits, Conditional Use Permits, Interim Use Permits, Variances, appeals and applications.
 - D. Review, file and forward applications for appeals, Variances, Conditional Uses, Interim Uses, Subdivisions and Zoning amendments.
 - E. Enforce the provisions of this Ordinance. Enforcement activities shall include reviewing complaints and pursuing contacts with any violator in accordance with standard procedures as adopted and modified from time to time and with the approval of the Planning Commission and City Council instituting with the City Attorney in the name of the city any appropriate actions or proceedings against any violator.
 - F. Attend meetings and provide research and findings to the Board of Adjustment /Planning Commission and City Council.
 - G. Issue permitted Land Use Permits upon application for structures on lots conforming to this Ordinance when the conditions of the Ordinance are met; to issue Conditional Use Permits when directed by the City Council; to issue Interim Use Permits when directed by the City Council; to issue notices of a Zoning change when directed by the City Council.
 - H. To file copies of Conditional Use Permits and Variances with the County Recorder.
 - I. To communicate with the DNR where required by the Ordinance or State Law.
 - J. To ensure that the City Council, Planning Commission and Board of Adjustment review Land Use applications or public hearing applications as prescribed by State Statutes.
 - K. Direct or conduct periodic and final inspections of property subject to conditions of approval relating to Variances, conditional use permits, interim use permits and other Land Use applications.
 - L. To issue Land Use Certificates of Compliance.
- 3. The Planning and Zoning Administrator and their duly authorized designees shall have the right to enter and inspect within reasonable hours and after providing notice to the property owner within the City of East Gull Lake in the pursuit of their duties. If the property owner refuses entry, the Planning and Zoning Administrator will work with the City Attorney to obtain an administrative warrant unless emergency circumstances exist that affect the health or safety of the resident or the protection of the premises from damage.

Section 8.10-2. Board of Adjustment

- 1. The Board of Adjustment shall consist of the members of the Planning Commission and shall hold its meetings concurrently with the Planning Commission meetings on a monthly or more frequent basis at the discretion of the Chairperson.
- 2. Duties of the Board of Adjustment.

- A. Interpretation: Hearing appeals where it is alleged that there is an error in a decision or judgment made by the Planning and Zoning Administrator in the interpretation or enforcement of this title or in the interpretation of zoning district boundaries.
- B. Variances: To hold hearings on Variances and to recommend action on Variances based on Minnesota Statutes 462.357, Subdivision 6, as it may be amended from time to time, and Section 8.10 -7 herein. Conditions of approval that are directly related to and bear a rough proportionality to the impact created by the variance may be attached to any variance granted.
- C. To take action within the required time frame to the City Council with complete findings to justify the action.
- D. To keep a record of its proceedings, notifications and justifications for its actions.

Section 8.10-3. Planning Commission

- 1. Organization of the Planning Commission.
 - A. The Planning Commission shall consist of five (5) members and one (1) alternate member appointed by the City Council. A council member shall be a non-voting additional member and shall act as a liaison to the City Council. Each member other than the council liaison shall hold office for four (4) years and terms shall be staggered. The Mayor shall appoint the council liaison on an annual basis with the City Council concurrence. Vacancies shall be filled for the remainder of the term by the City Council.
 - B. The Commission shall elect a chairperson and vice chair from its members for a term of one (1) year.
 - C. The Commission shall meet a minimum of eleven (11) times a year, once each month, excluding the month of December, at a regular meeting unless the docket is empty in which case the Chair can approve suspension of a meeting. Special meetings may be called by the Chair or any two members in the same manner as prescribed in Minnesota Statutes, section 13D.04, subd. 2.
- 2. Duties of the Planning Commission.
 - A. To hold public hearings after proper public notice in the official newspaper and individual notice.
 - B. To decide within the required timeframe the following:
 - a. Recommendations to the City Council regarding requested zoning District boundary changes or amendments to the Ordinance.
 - b. To review and provide recommendations to the City Council on proposed plats or floor plans and to provide recommendations on final plats and site plans, and final floor plans to the City Council.
 - c. To review and recommend all subdivisions within the city.
 - d. To review and provide recommendations to the City Council on requests for Conditional Use Permits with complete findings to justify the decision.
 - e. To review and provide recommendations to the City Council on request for Interim Use Permits with complete finding to justify the decision.
 - f. To periodically review the zoning map and Ordinances and consider their role in shaping the growth of the community and to recommend changes to the of these documents to guide growth and current Land Use toward the goals of the Comprehensive Plan.
 - g. To recommend on a timely basis that the city council review the Comprehensive Plan when appropriate.

- C. It shall be the duty of each individual member to be present at all meetings of the Planning Commission and Board of Adjustment. More than three (3) absences in anyone-year period may be grounds for replacement by the city council.

Section 8.10-4. City Council

- 1. Duties of the City Council.
 - A. Appoint the Planning and Zoning Administrator by a majority vote or terminate the Planning and Zoning Administrator by a simple majority.
 - B. Confirm the appointments of the Mayor to the Board of Adjustment/Planning Commission members by a majority vote, or to remove members by a simple majority vote.
 - C. To consider and decide upon, within the required timeframe, the following:
 - a. Recommendations from the Planning Commission for changes in Zoning District boundaries.
 - b. Recommendations from the Planning Commission for approval of proposed Preliminary Plats, Conditional Use Permits, Interim Use Permits, Final Plats, Lot Line Adjustments, Lot Splits, Minor Subdivisions and Condominium Plans.
 - c. Recommendations from the Board Adjustment for approval of Variances from this Ordinance and the Subdivision Ordinance.
 - D. To hold a public hearing, as required by state law, in instances when the Planning Commission cannot hear a matter in a timely fashion so that a decision can be made within the time prescribed by Minn. Stats. § 15.99.
 - E. To hear appeals from the actions of the Board of Adjustment and the Planning Commission where their action is normally final. Upon receipt of an appeal from a decision of the board of appeals, the city administrator shall schedule the matter to be heard by the City Council. The City Council may rely upon the record before the board of appeals or take such additional oral or written testimony as it may deem appropriate in considering the appeal. The City Council shall make its decision within the time prescribed by Minn. Stats. § 15.99, if applicable, and send a copy of its decision to the appellant by mail.

Section 8.10-5. Conditional Use Permits

Purpose: The purpose of Conditional Use Permits (CUP) is to allow for those uses which are not generally suitable within the zoning district, but which under some circumstances may be suitable. The applicant for a CUP shall have the burden of proof that the use is suitable and that the standards set forth in this section have been met. The Planning Commission may recommend, and the City Council may impose conditions on such uses in order to effect the purpose of this section and to protect the health, safety and welfare of the community and assure harmony with the comprehensive plan of the City.

- 1. Conditional Use Permits shall be issued to the property for structures or other specified uses, as recommended by the Planning Commission after a public hearing and approved by the City Council. All completed applications for a Conditional Use Permit shall be submitted to the Planning and Zoning Administrator thirty (30) days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Planning and Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of the property, as well as a developer applicant if applicable, shall sign the application. The Planning and Zoning Administrator shall notify all property owners

- within a minimum of three hundred fifty (350) feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least ten (10) days before the public hearing. The Planning and Zoning Administrator shall send the same notice ten (10) days in advance of this hearing to the DNR if the proposed CUP is in the shoreland overlay district. At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and with no fee by giving fourteen (14) days' notice thereof to the Planning and Zoning Administrator, meeting time permitted.
2. Submissions for Conditional Use Permits. The applicant shall complete the Conditional Use Permit application. The submitted application shall contain submittal requirements, criteria for approval, procedure for consideration and applicant contact information. The city shall not accept application when the application is deemed incomplete due to the applicants current past due fees or charges.
 3. In addition to providing the information listed in Paragraph 4 below, all applications will be accompanied by an administrative fee as prescribed in the City's fee schedule and will including the following:
 - A. A description of the proposed use;
 - B. A legal description of the property, including property identification number;
 - C. Any other information required by the Planning and Zoning administrator, Planning Commission or City Council.
 4. The Planning and Zoning Administrator shall determine the number, size, type and scale of the copies required for submittal with an application. An electronic file of all application materials shall be submitted. The scale used shall be no smaller than one equals fifty feet (1" = 50') unless it is impractical to illustrate the entire site on a single sheet in which case a smaller scale may be acceptable. The maximum size of plans shall be thirty inches by forty inches (30" x 40"), and the minimum size shall be eleven inches by seventeen inches (11" x 17"). All site plan applications shall be based on a certificate of survey prepared by a licensed land surveyor and contain the information listed below, unless specifically waived by the zoning administrator:
 - A. Existing conditions plan.
 - B. Site plan including information listed below:
 - a. Minimum two (2) foot topography and draining conditions on adjacent properties within a minimum of two hundred (200) feet.
 - b. Natural features.
 - c. Tentative access, circulation and street alignments, both public and private.
 - d. Amenities to be provided such as recreational areas, open space, walkways, and landscaping.
 - e. Location and number of parking stalls.
 - f. Proposed public sanitary sewer, water and storm management.
 - g. A statement showing the proposed density of the project with the method of calculating said density also shown.
 - h. A statement showing the impervious surface calculation on the entire site and the method of calculation also shown.
 - C. Architectural elevations, color drawings or renderings, and sample building materials of all principal and accessory buildings upon request, identifying type and color of materials used on all exterior surfaces.
 - D. Typical floor plan and room plan drawn to scale with a summary of square footage for each use or activity.
 - E. Sign plan including, but not limited to, the type, location and size of all proposed signage.
 - F. Vicinity map showing the property in relation to nearby highways or major street intersection

- G. Any other information deemed necessary by the city to facilitate review.
5. Before any conditional use permit may be granted, the application therefore will be referred to the Planning Commission for study and for its recommendation to the City Council for the granting of such conditional use permit and the conditions thereof, if any, or for the denial of such conditional use permit, based upon the standards set out in the Section.
 6. In permitting a new Conditional Use or alteration of an existing Conditional Use, the Planning Commission may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions that the Planning Commission considers necessary to protect the best interest of the surrounding area or the city as a whole. These conditions may include, but are not limited to the following:
 - A. Increasing the required lot size or yard dimension.
 - B. Limiting the height, size or location of buildings.
 - C. Controlling the location and number of vehicle access points.
 - D. Increasing the street width.
 - E. Increasing or decreasing the number of required off-street parking spaces.
 - F. Limiting the number, size, location or lighting of signs.
 - G. Requiring berming, fencing screening, landscaping or other facilities to protect adjacent or nearby property.
 - H. Designating sites for open space.
 7. The Planning Commission shall recommend a Conditional Use Permit, and the City Council may issue such Conditional Use Permit if it finds that such use at the property location has met the following standards along with any specific to the application found in this section:
 - A. The use or development is an appropriate conditional use in the Land Use zone.
 - B. The use or development, with conditions, conforms to the Comprehensive plan.
 - C. The use with conditions is compatible with the existing neighborhood.
 - D. The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the city.
 - E. The use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity.
 - F. The use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
 - G. The use requirements for public facilities and services will not be detrimental to the economic welfare of the community.
 - H. The use will have vehicular approaches to the property which are so designed as not to create traffic congestion or interference with traffic on surrounding public thoroughfares.
 - I. Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.
 - J. Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result.
 - K. The use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major significance.
 - L. The use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

8. In addition to the Conditional Use Permit standards above, properties located within the Shoreland Overlay District are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:
 - A. The prevention of soil erosion or other possible pollution or public waters, both during and after construction,
 - B. The visibility of structure and other facilities as viewed from public water is limited;
 - C. There is adequate water supply and onsite sewage treatment consistent with Cass County SSTS ordinance 2018-03, and
 - D. The types, uses, and number of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.
9. Issuance. Upon receipt of the recommendation of the Planning Commission, the City Council will consider the application. In considering applications for conditional use permits under this section, the City Council will consider the recommendations and advice of the Planning Commission, and the standards set out in this Section and may grant or deny the permit and may impose conditions and safeguards therein.
10. Denial. An application for a conditional use permit may be denied by motion of the City Council and such motion will constitute a finding and determination by the City Council that the conditions required for approval do not exist.
11. Action without Planning Commission recommendation. If no recommendation is transmitted by the Planning Commission within 60 days after referral of the application for conditional use permit to the commission, the City Council may take action without further awaiting such recommendation.
12. Violation of the conditions of an approved Conditional Use Permit or any other violation of city code provisions, shall constitute sufficient cause for revocation of the CUP by the council following a public hearing.
13. Failure by the owner to act on an approved Conditional Use Permit within twelve (12) months, or failure to complete the work under a Conditional Use Permit within two (2) years, unless extended by the City Council, shall void the permit. A second extension shall require a new public hearing before the City Council.
14. Appeals from the action of the city shall be filed with the District Court in accordance with Minnesota Statutes, section 462.361.
15. The Conditional Use Permit shall be filed with the County Recorder within forty-five (45) days of council approval.
16. No application for a Conditional Use Permit for a particular use or a particular parcel of land shall be resubmitted for a period of six (6) months from the date of the denial of the previous application.

Section 8.10-6. Planned Unit Development (PUD) Procedure and Submissions

1. Application And Review Process:
 - A. All applications for a Planned Unit Development (PUD) shall include a master development plan. Prior to submission of this formal application, an applicant may submit a concept plan for review and comment by the Planning Commission and City Council.
 - B. Upon receipt of a complete application for concept plan or master development plan the Planning and Zoning Administrator shall set a date for a public hearing as outlined in section 8.10-5.1 of this section for formal review of the PUD application.
 - C. The Planning and Zoning Administrator shall have the authority to require the applicant to hold a neighborhood meeting to inform nearby property owners of

the request. If required, this meeting shall take place following the submittal of the formal application to the city but before notices for the public hearing are published.

- D. The applicant shall make a presentation of the applicable PUD application at a public hearing before the commission. The commission shall recommend approval, revision, reapplication, or denial of the applicable plan to the council.
2. PUD Concept Plan:
 - A. In order to receive guidance in the design of a PUD prior to submission of a formal application, an applicant may submit a concept plan for review and comment by the Planning Commission and City Council.
 - B. The comments of the Planning Commission and City Council shall address the consistency of the concept plan with this chapter. The comments of the Planning Commission and City Council shall be for guidance only and shall not be considered binding upon the city regarding approval of the formal PUD application when submitted.
 - C. Submission of a concept plan is optional but is highly recommended for large PUDs.
 3. PUD Master Development Plan And Rezoning:
 - A. Classification Of PUD District:
 - a. All PUD master development plan applications shall include a proposed rezoning to a specific PUD district. The district shall be designated by the letters "PUD" followed by the alphanumeric designation of the underlying zoning district, which may be either the prior zoning classification or a new classification.
 - b. For mixed use PUDs, the City Council shall, whenever reasonably practical, specify underlying zoning classifications for the various parts of the PUD. When it is not reasonably practical to specify the underlying zoning classification, the City Council may rezone the district, or any part thereof, to "PUD-mixed".
 - B. The applicant can formally apply by submitting an application and documents prepared including at a minimum the rezoning application, and plans required for 8.10-5 and further shall contain the following:
 - a. Proposed site plan.
 - b. Proposed plat or floor plan, if applicable.
 - c. Grading and drainage plan
 - d. Proposed recreational amenities.
 - e. Proposed construction timing and phasing.
 - f. Proposed final security.
 - C. Approval of a rezoning to PUD and master development plan shall occur simultaneously and be subject to the procedures outlined in sections 8.10-9 and of this chapter. After rezoning of the property to PUD, nothing shall be constructed on the PUD site except in conformance with the approved plans and this chapter.
 - D. Regulations governing uses and structures in the PUD shall be the same as those governing the underlying zoning district subject to the following:
 - a. Regulations may be modified expressly by conditions imposed by the Planning Commission and City Council at the time of rezoning to PUD.
 - b. In the case of districts rezoned to PUD-mixed, the Planning Commission and City Council shall specify regulations applicable to uses and structures in various parts of the district.

- E. No building or other permits shall be issued for any work on property included within a proposed or approved PUD nor shall any work occur unless such work is in compliance with an approved PUD.
- F. Conditions Of Approval: The city may impose such conditions on approval of a master development plan and rezoning as the council deems necessary to assure compliance with the purposes of this section, including the requirement that the developer execute and record such covenants and restrictions on the PUD property as the city deems necessary to assure that the property is developed and used in accordance with the approved plans.
- G. Basis For Action: The Planning Commission and City Council shall base their recommendations and actions regarding the applicable PUD application on consideration of the items listed below. The Planning Commission and City Council may attach such conditions to their actions as they shall determine necessary to better accomplish the purposes of this chapter.
 - a. Compatibility of the proposed plan with this chapter and the goals and policies of the comprehensive plan.
 - b. Effect of the proposed plan on the neighborhood in which it is to be located.
 - c. Internal organization and adequacy of various uses or densities, circulation and parking facilities, public facilities, recreation areas, open spaces, screening and landscaping.
 - d. Consistency with the standards of section 8.5.8 of this section pertaining to PUD Developments.
 - e. Preservation and consolidation of green space, preservation of sensitive environmental features, high quality of design and architecture, increased screening and landscaping, increased recreational amenities and other significant improvements and design features beneficial to the residents, neighbors and the general public.
 - f. Such other factors as the Planning Commission or City Council deems relevant.
- H. Prior to issuance of final approvals, the applicant shall submit all revised plans that comply with the recommended changes and conditions of the City Council approval. The applicant at a minimum shall provide final documents including:
 - a. Financial security.
 - b. Development Agreement.
 - c. Title opinion.
 - d. Final plat or floor plan.
 - e. Surveyors plat check.
 - f. Final covenants and associated documents.
 - g. Final time schedule.
 - h. Final site plan which will control development.
 - i. MPCA/MNDH approval letter on sewage system & water supply.
- G. No application for a PUD for a particular use or a particular parcel of land shall be resubmitted for a period of six (6) months from the date of the denial of the previous application

Section 8.10-7. Interim Use Permit (IUP)

1. Application, Public Hearing, Notice And Procedure: The application, public hearing, public notice and procedure requirements for interim use permits shall be the same as those for conditional use permits as provided in Section 8.10-5 of this chapter. Specific submissions required to complete an application for an interim use permit shall be specified for each type of interim use allowed.

2. Termination: An IUP shall terminate on the happening of any of the following events, whichever first occurs:
 - A. The date stated in the permit, which may include the occurrence of a particular event.
 - B. Upon violation of any condition under which the permit was issued.
 - C. Upon change in the city's zoning regulation which renders the use nonconforming.
 - D. Upon sale or any change of ownership at the location in which the IUP is located.
3. Standards:
 - A. The interim use must be allowed in the zoning district where the property is located.
 - B. The interim use must meet or exceed the performance standards set forth in this title and other applicable city ordinances.
 - C. The interim use must comply with the specific standards for the use identified in this title and must comply with all conditions of approval which shall be included in an IUP resolution.
4. Conditions: The city may attach conditions to approval of a permit to mitigate anticipated adverse impacts associated with the use, to ensure compliance with the standards of approval, to protect the value of other property, and to achieve the goals and objectives of the comprehensive plan.
5. Findings For Interim Use Permits:
 - A. The extent, location, and intensity of the use will be in substantial compliance with the comprehensive plan.
 - B. The use will provide adequate ingress and egress to minimize traffic congestion in the public streets.
 - C. The use will not be detrimental to the existing character of the development in the immediate neighborhood or endanger the public health, safety, and general welfare.
 - D. The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - E. The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.
6. Modification Of Standards or Conditions: The council, after public hearing, may modify standards or conditions required for the IUP, when strict application of such standards or conditions would unreasonably limit or prevent otherwise lawful use of a property or an existing structure and would result in exceptional undue hardship to the owner of such property or structure; provided, that such modification will not impair the intent and purpose of such standards or conditions and is consistent with reasonable enjoyment of adjacent property.
7. No Application for an Interim Use Permit for a particular use on a particular parcel of land shall be resubmitted for a period of six (6) months from the date of the denial of the previous application.

Section 8.10-8. Variances

1. Purpose: The purpose of this section is to provide for variations from the literal provisions of this Title in instances where practical difficulties due to the uniqueness of the land an unusual hardship exist upon the land.
2. Variances shall not create a use not provided for in a zoning district.
3. Variances shall be issued to the property for structures or other specified ordinance performance standard, as recommended by the Planning Commission acting as the Board of Adjustment, after a public hearing and approved by the City Council. All

- applications for a Variance shall be submitted to the Planning and Zoning Administrator thirty (30) days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Planning and Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of the property shall sign the application. The Planning and Zoning Administrator shall notify all property owners within a minimum of three hundred and fifty (350) feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least ten (10) days ahead of the public hearing. The Planning and Zoning Administrator shall send the same notice ten (10) days in advance of this hearing to the DNR if the proposed is in shoreland. At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and with no fee by giving fourteen (14) days' notice thereof to the Planning and Zoning Administrator, meeting time permitted.
4. Submissions for Variances. The applicant shall complete the Variance application. The application shall contain submittal requirements, criteria for approval, procedure for consideration and applicant contact information. The city shall deem an application incomplete if the applicant has past due fees or charges due to the city.
 - A. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance as set forth in Paragraph D herein. Economic considerations along do not constitute practical difficulties. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance.
 - B. Variances are consistent with the comprehensive plan.
 - C. Variances shall be granted for earth sheltered construction when in harmony with the ordinance.
 - D. Practical difficulties means that:
 - a. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
 - b. The plight of the landowner is due to circumstances unique to the property not created by the landowner; and
 - c. The variance, if granted, will not alter the essential character of the locality.
 - d. Economic considerations alone do not constitute practical difficulties.
 Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
 5. The City Council may impose conditions in the granting of Variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the Variance.
 6. Failure by the owner to act within one (1) year on a Variance unless extended by the City Council shall void the Variance. A second extension shall require a new public hearing before the City Council.
 7. Appeals from the action of the City Council shall be filed with the District Court in compliance with M.S.462.361.
 8. The Variance shall be filed with the County Recorder or Registrar of Titles within forty-five (45) days from City Council approval .
 9. No application for a Variance for a similar request on a particular parcel of land shall be resubmitted for a period of six (6) months from the date of the denial of the previous application.

Section 8.10-9. Amendment

The City Council may adopt amendments by a simple majority of the full City Council. All ordinances require at a minimum, approval by a majority of the full council, not just of a quorum of those present at a meeting to either the Zoning Ordinance, Zoning Map or Overlay Maps in relation to the Land Uses within a District or the boundaries of the District(s). When property is rezoned from residential to commercial or industrial, a 2/3 majority of all members of the City Council is required. Any zoning ordinance amendments shall not be issued indiscriminately but shall only be used as a means to reflect changes in the goals of the community or changes in the conditions of the city.

1. Procedure
 - A. An amendment may be initiated by the City Council, the Planning Commission or by any property owner.
 - B. Proceedings for amendment which are initiated by the petition of the owner or owners of the property will be filed with the Planning and Zoning Administrator. All applications will be accompanied by an administrative fee as prescribed in the city's fee schedule and will include the following information:
 - a. The name and address of the applicant or applicants;
 - b. A description of the area proposed to be rezoned; the names and addresses of all owners of property lying within such area and a description of the property owned by each;
 - c. The present zone classification of the area and the proposed zone classification;
 - d. A description of the present use of each separately owned tract within the area, and the intended use of any tract of land therein;
 - e. A site plan showing the location and extent of the proposed building, parking, loading, access drives, landscaping and any other improvements;
 - f. A statement of how the rezoning would fit in with the general zoning pattern of the neighborhood, and the zoning plan of the entire city;
 - g. A map showing the property to be rezoned, and the present zoning of the surrounding area for at least a distance of 350 feet, including the street pattern of such area, together with the names and addresses of the owners of the lands in each area.
 - C. The Planning and Zoning Administrator shall review the proposed changes. Except in the case of initial recommendation by the Planning Commission, any proposed change will be submitted to the Planning Commission and its recommendation thereon will be submitted to the City Council, before further proceedings are taken. Prior to making a recommendation, the Planning Commission may hold whatever public hearings it deems advisable. If no recommendation is transmitted by the Planning Commission within 60 days after referral of the proposed change to the Planning Commission, the City Council may take action without further awaiting such recommendation.
 - D. The Planning Commission shall make a reasonable attempt to notify all property owners within a minimum of three hundred fifty (350) feet of proposed Zoning District change to be notified by regular mail and shall publish a hearing notice for either a Zoning District change or Zoning Ordinance change in the legal section of the official newspaper and shall provide notice to the DNR at least ten (10) days ahead of the public hearing. The Planning Commission shall hold the hearing and make a timely recommendation to the City Council. Adoption of a new zoning map shall require published notice only. The Planning Commission shall consider the criteria for Land Use categories, Sec 8.5-1, in its decision.

- E. The City Council, upon receipt of the report of the Planning Commission, or at any time after 60 days from the submission thereof to the Planning Commission without a recommendation, the City Council shall review the Planning Commission recommendations and shall make a timely decision. The City Council will hold at least one public hearing on the proposed amendment if one not held in front of Planning Commission. In considering the proposed amendment, due allowance will be made for existing conditions, for the conservation of property values, for the direction of building development to the best advantage of the entire city, and for the uses to which the property affected is being devoted at the time. No change will be recommended unless it is required of the public good, is in the interest of the public health, safety, and welfare, and is compatible with the comprehensive plan of the city. Any denials of the proposed amendment upon motion of the City Council will constitute a finding and determination by the City Council that the conditions required for approval do not exist.
- F. The City Clerk shall publish a summary of the text of the change or description of boundary change or a new zoning map, whichever is appropriate, in the official newspaper within thirty (30) days after action by the Council.

Section 8.10-10. Notices and Public Hearings

- 1. Public hearings regarding zoning matters may be held within the corporate limits of the city by order of the City Council, Planning Commission or board of appeals whenever said bodies deem such hearings necessary or when required by this section.
- 2. Notice of a public hearing will be given by publication at least once in the official newspaper of the city, not less than ten days and not more than 30 days prior to the hearing, stating the time, place and purpose of the hearing together with a description of property affected. Not less than ten days nor more than 30 days prior to said hearing a copy of said notice will be mailed by the Planning and Zoning Administrator to the owner or owners of the property affected and to the owner or owners of property within 350 feet of the property affected. When the property affected is larger than five acres, the City Council may waive the requirement of mailed notice, but if notice is waived, then said notice must be published at least twice in the official newspaper.
- 3. For the purpose of giving mailed notice, the person responsible for the mailing the notice may use any appropriate records to determine the names and addresses of owners. Proof of mailing of notice will be made by affidavit of the person mailing same and will be made a part of the proceedings.
- 4. Failure to receive notice called for by this Ordinance shall not invalidate any action taken by the city so long as the city acted reasonably in its attempt to provide such notice.

Section 8.10-11. Land Use Permits

- 1. Land Use Permits shall be issued for all new structures and any change in structure exterior, plumbing or number of bedrooms, new hard surfacing upon the land, any construction or repair of a sewage system and any grading and filling not exempted by this ordinance. No person shall assemble, install, repair, remodel, remove or construct any structure prior to applying for and receiving a Land Use Permit.
- 2. Where a proposed use requires action of the Board of Adjustment, Planning Commission or Council or posting of financial security, said action shall occur and

- the Conditional Use Permit, Variance, Zoning District change, final plat plan approval, approval of metes and bound division shall be processed, approved and issued or security posted before the Land Use Permit is issued.
3. The Land Use Permit shall contain the parcel number of the property and the signature of the fee or contract owner of the property or his authorized agent.
 4. Unless extended by the Planning and Zoning Administrator, where a Land Use Permit has been issued but no action has occurred within twelve (12) months, the Land Use Permit shall be null and void. Exterior work on the structure shall be complete in eighteen (18) months from issuance of the Land Use Permit. The time limit may be extended by the Planning and Zoning Administrator for good cause. A second extension may be approved by the Planning Commission.
 5. Granting of a Land Use Permit shall occur when all requirements of the Ordinance have been met but shall not be considered a statement of compliance with regional, State or Federal codes, statutes or laws or approval of the design of the structure or accessories, or description of the property. Subsequent actions of the Planning and Zoning Administrator shall not be considered acceptance of structural components or workmanship but rather shall be for the purpose of determining general compliance with the Ordinance.
 6. If the Planning and Zoning Administrator determines that any violation of the permit or other section of the Ordinance has occurred, the permit shall become null and void.

Section 8.10-12. Fees

The Council shall adopt a schedule of fees from time to time for all permits. No permit shall be issued, or request brought before the Board of Adjustment or Planning Commission until all fees are paid.

Section 8.10-13. Financial Requirements

When costs associated with processing or reviewing an application exceed the original application fees, the applicant shall reimburse the city for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the city may need to hire in reviewing permits. Any outstanding fee to the City shall be paid before issuance of the permit and any construction of the project begins.

Section 8.10-14. Appeals

1. Time for appeal. An appeal may be taken to the Board of Adjustment by any person aggrieved by any order, requirement, decision or determination made by the Planning and Zoning Administrator or any other administrative office of the city in the interpretation or enforcement of any provision of the zoning ordinance or subdivision regulations. Written notice of appeal shall state the nature of the appeal, specific decision(s) or action(s) subject to the appeal, and any relevant documentation or material evidence. Appeals of actions of the Planning and Zoning Administrator shall be received by the City Clerk at least 14 days after the date the aggrieved party received actual or constructive notice of the order, requirement, decision or determination made by the Planning and Zoning Administrator.
2. Process for appeal. Upon receipt of a notice of appeal, the Planning and Zoning Administrator will transmit the notice to the Board of Adjustments, together with all papers constituting a record upon which the action appealed was taken and will set a time and place for a hearing on the appeal. Such time will not be less than ten and

not more than 30 days after receipt of the notice. Due notice of the hearing will be given to the appellant and other interested parties reasonably known to the Planning and Zoning Administrator.

3. Decision and review. Within the appropriate time, the board will make its order deciding the matter and send a copy of such order to the applicant by mail. The applicant or any other party aggrieved by the board's decision, including the Planning and Zoning Administrator, may within 30 days thereafter file with the city clerk a written appeal to the City Council from the decision of the board.
4. Appeal of Decision or Action of Board of Adjustment to the City Council. Appeals of an action of the Board of Adjustment may be made to the City Council by notifying the City Clerk, in writing, of the intent to appeal. Written notice of appeal shall state the nature of the appeal, specific decision(s) or action(s) subject to the appeal, and any relevant documentation or material evidence. The city administrator shall schedule the matter to be heard by the City Council. The City Council may rely upon the record before the Board of Adjustment or take such additional oral or written testimony as it may deem appropriate in considering the appeal. The City Council shall make its decision within the time prescribed by Minn. Stats. § 462.361 and send a copy of its decision to the appellant by mail.
5. Appeal of Decision of City Council to the District Court. Appeals of an action by the City Council shall be made to the District Court by filing a complaint with the Court within thirty (30) days of the date of action or decision by the City Council.
6. Fees. All fees for appeals of decisions of the Planning and Zoning Administrator, Board of Adjustment or Planning Commission shall be paid at the time of submission of a notice of intent to appeal to the City Clerk. All fees for appeals of decisions of the Planning and Zoning Administrator, Board of Adjustment or Planning Commission shall be set according to the schedule of fees approved by the City Council.

SECTION XI – ENFORCEMENT

Section 8.11-1. Violations and Penalties

The violation of any provision of this ordinance or the violation of the conditions or provisions of any permit issued pursuant to the Ordinance shall be a misdemeanor, and upon conviction thereof, the violation shall be subject to a fine of not more than five hundred and 00/100 dollars (\$500) or imprisonment for a term not to exceed ninety (90) days or both. Each act of violation and every calendar day on which such violation occurs or continues shall be a separate offense.

Section 8.11-2. Liability of City Officials

The failure of any officer of the city or Council or employees of the city to act pursuant to this Ordinance, except as an individual acting in his own behalf, shall not be an offense and shall not subject the officer, Council or employee to any penalty except those provided under the city personnel policies.

Section 8.11-3. Equitable Relief

In the event of a violation or threatened violation of any provision of this ordinance or the conditions of any permit issued pursuant to the ordinance, the city, in addition to other remedies, may act or institute action to prevent, restrain, correct or abate such violation or threatened violation.

Section 8.11-4. Administrative Citations

PURPOSE. The City Council finds that there is a need for alternative methods of enforcing this code which further public health, welfare and safety. While criminal fines and penalties have been the most frequent enforcement mechanism, there are certain negative consequences for both the city and the accused. The delay inherent in that system does not ensure prompt resolution. Citizens resent being labeled as criminals for violations of administrative regulations. The higher burden of proof and the potential of incarceration do not appear appropriate for most administrative violations. The criminal process does not always regard code violations as being important. Accordingly, the City Council finds that the use of administrative citations and the imposition of civil penalties is a legitimate and necessary alternative method of enforcement. This method of enforcement shall be in addition to any other legal remedy which may be pursued for code violations.

- 1. DEFINITIONS.
 - A. Administrative Offense. A violation of any provision of the City Code is an administrative offense that may be subject to administrative citation and/or civil penalties. Each day a violation occurs constitutes a separate offense.
 - B. Civil Penalty. An administrative offense may be subject to a simple penalty not to exceed the maximum penalty for a misdemeanor violation under state law.
 - C. Property Violation. Upon the reasonable belief that a property related administrative offense has occurred, designated city officials shall serve on the violator an Order to Correct the Violation. If compliance is not achieved by virtue of an Order to Correct, the designated city official is authorized to issue an Administrative Citation. An Administrative Citation shall be presented in person or by mail to the person responsible for the violation. The citation shall state the date, time, and nature of the offense, the name of the official issuing the citation, the amount of the scheduled fine, and the manner for paying the fine or appealing the citation by requesting a hearing. The Planning and Zoning

Administrator, any building officials hired by the city, or any licenses peace officer are authorized to issue a citation for ordinance violations.

- D. Non-Property Offenses. All other City Code violations not specifically designated as property violations.

Section 8.11-5. Administrative Citations

Upon reasonable belief that a property violation or non-property violation has occurred, an administrative citation may be issued and served upon the person responsible for the violation. The administrative citation may be issued by a Police Officer, or by the Planning and Zoning Administrator, or by a building inspector designated by the city. Service shall be in person or by mail. The citation shall state the date, time and nature of the offense, the name of the official issuing the citation, the amount of the scheduled civil fine, and the manner for paying the fine or appealing the citation by requesting an administrative hearing.

Section 8.11-6. Schedule of Civil Fines

The city shall adopt by resolution a Schedule of Civil Fines for administrative offenses for which a citation has been issued. City officials shall adhere to the Schedule of Fines in issuing administrative citations pursuant to the City Code.

Section 8.11-7. Payment of Civil Fine-Request for Administrative Hearing

The person responsible for the violation shall either pay the scheduled fine or request a hearing within twenty (20) days after issuance after the administrative citation. During that period, only the City Attorney has authority to dismiss the citation and/or waive the scheduled civil fine. Upon payment of a fine, the right to appeal is waived.

Section 8.11-8. Mediation

After a violator has made a request for an administrative hearing, the City Administrator may agree to mediate with the violator. The mediation will be conducted by a person agreed upon by the city and the violator. Notice of the date, time and location of the mediation will be mailed to the violator. If the dispute is not resolved through mediation, then the matter will be scheduled for an administrative hearing.

Section 8.11-9. Administrative Hearing Procedures

1. Hearing Officers. The City Council shall periodically approve a list of persons from whom the City Administrator shall randomly select a hearing officer to hear a matter for which a hearing is requested. The person requesting a hearing shall have the right to request, no later than five (5) days before the date of the hearing, that the assigned hearing officer be removed from the case. One request for each case shall be granted automatically by the City Administrator. A subsequent request shall be direct to the assigned hearing officer who will decide whether he or she cannot fairly and objectively review the case. If such a finding is made, the hearing officer shall remove himself or herself from the case, and the City Administrator shall assign another hearing officer. The hearing officer is not considered a judicial officer, but is a public officer as defined by Minnesota Statute, Section 609.415. The hearing officer shall not be a current or former city employee.

2. Notice of Hearing. Notice of Hearing must be served in person or by mail to the person responsible for the violation at least ten (10) days in advance of the scheduled hearing, unless a shorter time is agreed upon by all parties.
3. Pre-payment for Cost of Hearing. An administrative hearing fee of One Hundred and 00/100th Dollars (\$100.00) shall be payable up front to the city at the time of the request for hearing is made. However, in no event will the amount of the administrative hearing fee exceed the total amount of the civil fine. A request for a hearing is not valid until the administrative hearing fee is paid. The city has the authority to reduce the requesting person share the costs when that person cannot demonstrate indigency by clear and convincing evidence. Proof of indigency can be demonstrated by the person's receipt of means tested governmental benefits or a demonstrated lack of assets or current income. Such proof shall be presented to the City Administrator's office for determination of the amount of the prepayment in advance of the hearing. In all cases, when the person requesting an administrative hearing is unable to attend and fails to request a continuance of the hearing at least forty-eight (48) hours in advance of the scheduled hearing, all costs incurred by the city attributable to the requested hearing shall be charged to the requesting party and deducted from any prepayment made. The administrative hearing fee may be refunded if the administrative hearing officer determines that no violation occurred. In the event that the administrative hearing officer determines that violation occurred, then the administrative hearing fee will be applied toward any civil fine imposed.
4. Hearing Procedures. At the hearing, the parties shall have the opportunity to present testimony and question any witnesses, but strict rules of evidence shall not apply. The hearing officer shall tape record the hearing and receive testimony and exhibits and the full record of the hearing shall be kept. The hearing officer shall receive and give weight to evidence, including hearsay evidence, which possesses probative value commonly accepted by reasonable and prudent people in the conduct of their affairs.
 - A. Authority of Hearing Officer. The hearing officer shall have the authority to:
 - B. determine whether a violation occurred;
 - C. dismiss the administrative citation;
 - D. impose the scheduled fine; or
 - E. reduce, stay or waive a scheduled fine either unconditionally or upon compliance with appropriate conditions;
 - F. waive all or part of the administrative hearing application fee.
5. Imposition of Civil Fine by Hearing Officer. When imposing a fine for a violation, the hearing officer may consider any or all of the following factors but, in no case shall the fine exceed one thousand and 00/100 Dollars (\$1,000.00).
 - A. the duration of the violation;
 - B. the frequency or reoccurrence of the violation;
 - C. the seriousness of the violation;
 - D. the history of the violation;
 - E. the violator's conduct after issuance of the notice of hearing;
 - F. the good faith effort by the violator to comply;
 - G. the economic impact of the fine on the violator;
 - H. the impact of the violation upon the community;
 - I. prior record of city code violations; or
 - J. any other factors appropriate to a just result.
6. Fines for Continuing Violations. The hearing officer may exercise discretion to impose a fine for more than one day of continuing violation but only upon a finding that:

7. the violation caused a serious threat of harm to the public health, safety, or welfare; or
8. The accused intentionally and unreasonably refused to comply with the code requirement. The hearing officer's decision and supporting reasons for continuing violations must be in writing.
 - A. Written Report of Hearing Officer. The decision of the hearing officer shall be in writing and contain findings of fact and conclusions of law. The written report shall be served on the parties by mail within twenty (20) days of the last date of the hearing.
 - B. Finality of Decision. The decision of the hearing officer shall be final without any further right of administrative appeal, except as provided herein.

Section 8.11-10. Judicial Review

An aggrieved party may obtain judicial review of the decision of the hearing officer as provided in state law. These procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. The individual may withdraw from participation in this administrative process by submitting a written request for withdrawal to the City Clerk within seven (7) days of the issuance of the administrative citation. Upon receiving this written request, the city may bring criminal or other civil charges according to the City Code and State law. Likewise, nothing in this section shall prohibit the city, in its discretion, to initiate criminal charges or any other remedy in lieu of the administrative procedures herein set forth.

Section 8.11-11. Administrative Review

1. Appeal. Violator may appeal the hearing officer's decision in any of the following matters to the City Council for administrative review:
 - A. an alleged failure to obtain a license, permit or other approval from the City Council as required by an ordinance;
 - B. an alleged violation of a permit, license or other approval, or the conditions attached to the permit, license, or approval that was granted by the city; or
 - C. an alleged violation of regulations governing a person or entity who has received license granted by the city.
2. The appeal under this section would be heard by the City Council. Notice of the hearing must be delivered by the alleged violator or property owner to the City Clerk in person or by first class mail within twenty (20) days after service of the hearing officer's decision. The City Clerk shall schedule the appeal to be heard by the City Council and shall notify the appellant of the date, time and location where the appeal will be heard. The parties to the hearing will have an opportunity to present oral or written arguments regarding the hearing officer's decision.
3. The City Council must consider the record, the hearing officer's decision, and any additional arguments before making a determination. The Council is not bound by the hearing officer's decision but may end up all or part of the officer's decision. The Council's decision will be in writing.
4. In addition to opposing a civil penalty, the Council may suspend or revoke the city issued license, permit, or other approval associated with the violation.

Section 8.11-12. Assessment of Civil Fines for Property-Related Violations

1. Civil Fines Subject to Assessment. Unpaid civil fines imposed for property-related violations may be assessed against:

- A. property which was the subject matter or related to the subject matter of the civil fine; or
 - B. property which was the location of an activity, proposed use, delivery of city services or other circumstances which resulted in the civil fine.
2. **Prior Voluntary Payment.** Prior to any assessment for unpaid fines, the City Administrator or the City Administrator's designate shall seek voluntary payment of the fines by notifying the owner of the property in writing of the fine imposed.
 3. **Assessment Procedure.** On or before the first day of October of each year, the unpaid civil fine and late fees, including the administrative charge due under 8.11-6 of this Section, together with interest thereon at the maximum lawful rate permitted under Minnesota Statutes, Chapter 429, against said lot or parcel of land, together with a description of the premises and the name of the supposed owner, shall be certified to the County Auditor and shall be collected in the same manner as taxes and/or special assessments against the premises. The charge shall be a perpetual lien on the premises until paid. Prior to the certification to the County Auditor, the owner shall be given written notice of the proposed assessment and be provided an opportunity to be heard before the City Council.
 4. **Certification Fee.** A Fifty and 00/100 Dollars (\$50.00) charge will be added to all accounts certified to the County Auditor's office for collection. This fee is to be considered separate and distinct from any penalty or interest that may be charged by the County as a result of the certification.

SECTION XII – SEPARABILITY, SUPREMACY, EFFECTUATION, AMENDMENTS, NOTICES

Section 8.12-1. Separability

Every section, provision or part of this Ordinance or any permit issued pursuant to this Ordinance is declared separable from every other section, provision or part thereof to the extent that if any section, provision or part of this Ordinance or any permit issued pursuant to this Ordinance shall be held invalid by a court of competent jurisdiction, it shall not invalidate any other section, provision, or part thereof.

Section 8.12-2. Supremacy

When any condition implied by this Ordinance on the use of land or buildings is more restrictive or less restrictive than applicable conditions imposed by statute, rules and regulations, other city ordinance or regulation or other jurisdiction, the more restrictive shall apply. The Ordinance does not abrogate any easements, restriction or covenants imposed on the land by private declaration or agreement, but where such provisions are less restrictive than an applicable of this Ordinance, the Ordinance shall prevail.

Section 8.12-3. Effectuation

This Ordinance shall be in full force and effect from and after its passage by the City Council and subsequent publication.

Adopted by the East Gull Lake City Council the 4th day of November, 2025


Mayor

Attest:


City Clerk