

# **CITY OF ELBOW LAKE, MINNESOTA**

## **CODE OF ORDINANCES**

Contains 2012 S-3 Supplement, current through  
Ordinance passed 10-1-12

**AMERICAN LEGAL PUBLISHING CORPORATION**

432 Walnut Street Cincinnati, Ohio 45202-3909 (800) 445-5588  
**Elbow Lake - Index**

ALCOHOLIC BEVERAGES (Cont=d)  
Licensing Provisions (Cont=d)

- Suspension and revocation, 112.26
- Term and expiration, 112.16
- Transfer, 112.22
- Penalty, 112.99

## ANIMALS

- Definitions, 94.01
- Farm animals, 94.03
- General Conditions
  - Animals as nuisance, 94.33
  - Confinement of certain animals, 94.32
  - Impoundment, 94.34
  - Rabies; violation, 94.35
  - Restraint of dogs, 94.31
  - Tag and collar, 94.30
- Licensing Provisions
  - Application, 94.16
  - Dogs and cats not requiring licenses, 94.19
  - Fee, 94.17
  - License required, 94.15
  - Revocation of license or permit, 94.20
  - Term, 94.18
- Non-domestic animals, 94.02
- Number of animals restricted, 94.36
- Violation, 94.04

## ANNEXATIONS, T.S.O. I

### ANTI-BLIGHT REGULATIONS

- Definitions, 154.03
- Exceptions, 154.04
- Findings, 154.02
- Location of sexually oriented businesses, 154.05
- Penalty, 154.99
- Purpose, 154.01
- Sign restrictions for sexually oriented businesses, 154.06

### BUILDING REGULATIONS; CONSTRUCTION

- Moving buildings, 150.02
- Overhangs, signs and pillars, 150.01

### CABLE TELEVISION

- Administration and Enforcement
  - Franchise Administrator, 113.46
  - Policy and procedure manual, 113.45
  - Programming Board, 113.47
- Definitions, 113.01

**CABLE TELEVISION (Cont=d)**

## Grant of Authority

- Abandonment, 113.30
- Access channels, 113.32
- Access to financial records, 113.19
- Channel capacity, 113.23
- City authority, 113.15
- Compliance with state and federal law; codes, 113.16
- Description of system; construction and repair, 113.24
- Franchise term; non-exclusivity, 113.17
- Indemnification and liability insurance, 113.21
- Non-voice return capability, 113.28
- Operating standards, 113.34
- Pirating of signals, 113.35
- Program equipment, 113.33
- Public hearing regarding city=s credentials, 113.22
- Relocation of wires and the like, 113.25
- Removal of equipment; termination; forfeiture, 113.31
- Sale or transfer, 113.18
- Special testing, 113.27
- Subscriber charges, 113.20
- Subscriber privacy; complaints, 113.29
- Technical standards, 113.26

**CATS (See ANIMALS)****CHIEF OF POLICE, 30.16****CITY POLICIES**

- Election dates, 33.01

**CLERK-ADMINISTRATOR-TREASURER; DUTIES, 30.02****CODE OF ORDINANCES; GENERAL PROVISIONS**

- Adoption of statutes and rules by reference, 10.19
- Application to future ordinances, 10.03
- Captions, 10.04
- Copies of code, 10.18
- Definitions, 10.05
- Effective date of ordinances, 10.14
- Enforcement, 10.20
- Errors and omissions, 10.09
- General penalty, 10.99
- Notice of code violation, Ch. 10, App.II
- Official time, 10.10
- Ordinances repealed, 10.12
- Ordinances unaffected, 10.13
- Ordinances which amend or supplement code, 10.16
- Preservation of penalties, offenses, rights and liabilities, 10.17

## CODE OF ORDINANCES; GENERAL PROVISIONS (Cont=d)

- Reasonable time, 10.11
- Reference to offices, 10.08
- Reference to other sections, 10.07
- Repeal or modification of ordinance, 10.15
- Resolution to adopt a schedule of offenses and voluntary administrative penalties, Ch. 10, App. I
- Rules of interpretation, 10.02
- Severability, 10.06
- Supplemental administrative penalties, 10.98
- Title of code, 10.01

COMMERCIAL A (CA) DISTRICT, 153.33

COMMERCIAL B (CB) DISTRICT, 153.34

COMMERCIAL-INDUSTRIAL (CI) DISTRICT, 153.36

CONSTRUCTION; IMPROVEMENTS, T.S.O. III

COUNCIL; RULES OF PROCEDURE, 30.01

## CTY GOVERNMENT; OFFICIALS

- Clerk-Administrator-Treasurer; duties, 30.02
- Council; rules of procedure, 30.01
- Mayor; term, 30.03
- Police Department
  - Chief of Police, 30.16
  - Duties of police, 30.17
  - Police Department continued, 30.15
  - Police Department policies manual adopted, 30.20
  - Reserve officers, 30.19
  - Uniform and badge, 30.18

CURFEW, 130.01

DOGS (See ANIMALS)

DUMPSTERS; DISPOSAL REQUIRED, 50.03

ELECTION DATES, 33.01

## EMERGENCY MANAGEMENT

- Definitions, 32.02
- Emergency management a government function, 32.07
- Emergency regulations, 32.06
- Establishment of emergency management organization, 32.03
- Local emergencies, 32.05
- Participation in labor disputes or politics, 32.08
- Penalty, 32.99

## EMERGENCY MANAGEMENT (Cont=d)

Policy and purpose, 32.01

Powers and duties of Director, 32.04

## FARM ANIMALS, 94.03

## FIREARMS; DISCHARGING, 130.02

## FIREWORKS, 130.03

## FRANCHISE ADMINISTRATOR, 113.46

## FRANCHISE AGREEMENTS, T.S.O. II

## GAMBLING; GAMES OF SKILL

Adoption of state law by reference, 114.01

Applicability, 114.05

Application and local approval of premises permits, 114.08

City may be more restrictive than state law, 114.02

Contribution of net profits to fund administered by city, 114.13

Council approval, 114.07

Definitions, 114.04

Designated trade area, 114.14

Hours of operation, 114.16

Lawful gambling permitted, 114.06

License and permit display, 114.11

Local permits, 114.09

Notification of material changes to application, 114.12

Penalty, 114.99

Purpose, 114.03

Records and reporting, 114.15

Revocation and suspension of local permit, 114.10

Severability, 114.17

## GARBAGE

Accumulation; litter, 50.02

Authority and power, 50.06

Containers, 50.04

Definitions, 50.01

Disposal required; dumpsters, 50.03

Hauling, 50.07

Rates and charges, 50.05

## GOLF CARTS

Definitions, 76.01

Insurance required, 76.03

Mechanical condition, 76.04

Occupants, 76.05

Operation, 76.02

## GOLF CARTS (Cont=d)

- Penalty, 76.99
- Permits, 76.03
- Rear view or side mirror, 76.06
- Restrictions, 76.06
- Slow moving vehicle emblem, 76.06
- Suspension or revocation of permits, 76.07

## GOVERNMENT; OFFICIALS (See CITY GOVERNMENT; OFFICIALS)

## HEALTH AND SANITATION; NUISANCES

- Assessable current services, 90.01

## Nuisances

- Abatement, 90.20
- Duties of city officers, 90.19
- Public nuisance; blighting factors, 90.15
- Public nuisances affecting peace and safety, 90.18
- Public nuisances affecting morals and decency, 90.17
- Public nuisances affecting health, 90.16
- Recovery of cost, 90.21

## Open Burning

- Burning ban or air quality alert, 90.69
- Definitions, 90.60
- Denial of open burning permit, 90.68
- Permit application for open burning; permit fees, 90.64
- Permit holder responsibility, 90.66
- Permit process for open burning, 90.65
- Permit required for open burning, 90.62
- Prohibited materials, 90.61
- Purposes allowed for open burning, 90.63
- Revocation of open burning permit, 90.67
- Rules and laws adopted by reference, 90.70

## Tree diseases, 90.02

## Weeds

- Abatement by city, 90.42
- Appeals, 90.41
- Definitions; exclusions, 90.37
- Filing complaint, 90.39
- Jurisdiction, 90.36
- Liability, 90.43
- Notice of violations, 90.40
- Owners responsible for trimming, removal and the like, 90.38
- Short title, 90.35

## IMPROVEMENTS, T.S.O. III

INDUSTRIAL (I) DISTRICT, 153.35

LIBRARY BOARD, 31.01

LIQUOR REGULATIONS (See ALCOHOLIC BEVERAGES)

LITTER; ACCUMULATION, 50.02

MAYOR; TERM, 30.03

NON-DOMESTIC ANIMALS, 94.02

NUISANCES (See HEALTH AND SANITATION; NUISANCES)

OFFENSES GENERALLY

Curfew, 130.01

Discharging firearms, 130.02

Fireworks, 130.03

Penalty, 130.99

OFFICIALS (See CITY GOVERNMENT; OFFICIALS)

OPEN BURNING (See HEALTH AND SANITATION; NUISANCES)

ORDINANCES (See ORDINANCES)

PARKING REGULATIONS (See TRAFFIC CODE)

PARKING SCHEDULES

Restricted parking, Sch. 75, Sch. I

PARKS AND RECREATION

Bathing and bathing beaches, 91.03

Boats, boating and water skiing, 91.04

General rules for parks, parkways, campgrounds and other properties, 91.01

Traffic regulations, 91.02

Violations; authority, 91.05

PEDDLERS, TRANSIENT MERCHANTS AND SOLICITORS

Definitions, 110.01

Exceptions to definitions, 110.02

Exclusion by placard, 110.09

License ineligibility, 110.04

License suspension and revocation, 110.05

License transferability, 110.06

Licensing; exemptions, 110.03

Prohibited activities, 110.08

Registration, 110.07

PLANNED UNIT DEVELOPMENTS (See SHORELAND MANAGEMENT)

PLANNING COMMISSION, 31.03

POLICE DEPARTMENT

Chief of Police, 30.16

Duties of police, 30.17

Police Department continued, 30.15

Police Department policies manual adopted, 30.20

Reserve officers, 30.19

Uniform and badge, 30.18

POLICIES (See CITY POLICIES)

PROGRAMMING BOARD, 113.47

PUBLIC UTILITIES COMMISSION, 31.04

RECREATION (See PARKS AND RECREATION)

RESIDENTIAL A (RA) DISTRICT, 153.31

RESIDENTIAL B (RB) DISTRICT, 153.32

RESTRICTED PARKING, Sch. 75, Sch. I

SEWERS

Definitions, 52.01

Inspectors; authority, 52.02

Penalty, 52.99

Use Regulations

Building sewers and connections, 52.17

General usages, 52.15

Main and lateral sewer construction, 52.18

Private sewage disposal, 52.16

Protection from damage, 52.19

SEXUALLY ORIENTED BUSINESSES

Conditions of license, 115.11

Definitions, 115.03

Exceptions, 115.04

Fees, 115.09

Findings, 115.02

Granting of licenses, 115.10

License application, 115.08

License required, 115.05

Penalty, 115.99



## SEXUALLY ORIENTED BUSINESSES (Continued)

- Person ineligible, 115.06
- Places ineligible, 115.07
- Purpose, 115.01
- Resolution adopting findings of Report of Att. General's Working Group on Regulation of Sexually Oriented Businesses, Ch. 115, Appendix
- Restrictions and regulations, 115.12
- Suspensions and revocation of license, 115.13

## SHORELAND MANAGEMENT

- Abrogation and greater restrictions, 151.07
- Administration, 151.09
- Classification and Land Use Districts
  - Classification system, 151.20
  - District descriptions, 151.21
- Compliance, 151.04
- Definitions, 151.08
- Enforcement, 151.05
- Interpretation, 151.06
- Jurisdiction, 151.03
- Nonconformities
  - Additions or expansions to structures, 151.57
  - Construction on lots of record, 151.56
  - General, 151.55
  - Sewage treatment systems, 151.58
- Planned Unit Developments
  - Application, 151.87
  - Conversion, 151.91
  - Maintenance and design criteria, 151.90
  - Processing, 151.86
  - Residential and commercial density evaluation, 151.89
  - Site suitability area evaluation, 151.88
  - Types permissible, 151.85
- Policy, 151.02
- Statutory authorization, 151.01
- Subdivision/Platting Provisions
  - Consistency with other controls, 151.71
  - Controlled access or recreational lots, 151.75
  - Dedications, 151.73
  - Information requirements, 151.72
  - Land suitability, 151.70
  - Platting, 151.74
- Zoning and Water Supply/Sanitary Provisions
  - Commercial, industrial and the like; extractive uses and mining, 151.40
  - Conditional uses, 151.41
  - Lot area and width standards, 151.35
  - Placement and design of roads and the like, 151.38

## SHORELAND MANAGEMENT (Cont=d)

## Zoning and Water Supply/Sanitary Provisions (Cont=d)

Placement, design and height of structures, 151.36

Shoreland alterations, 151.37

Stormwater management, 151.39

Water supply; sewage treatment, 151.42

## SIDEWALKS

Obstructions, 92.01

## SNOWMOBILES (See TRAFFIC CODE)

## SOLICITORS (See PEDDLERS, TRANSIENT MERCHANTS AND SOLICITORS)

## STOP STREETS, Ch. 74, Sch. I

## TOBACCO REGULATIONS

Basis for denial of license, 111.05

Compliance checks and inspections, 111.09

Definitions and interpretations, 111.02

Fees, 111.04

License, 111.03

Other illegal acts, 111.10

Penalty, 111.99

Prohibited sales, 111.06

Purpose, 111.01

Responsibility, 111.08

Vending machines; self-service sales, 111.07

Violations, 111.11

## TRAFFIC CODE

Adoption of state regulations, 70.01

Erratic acceleration, 71.01

General prohibitions, 72.01

Parking schedules

Restricted parking, Sch. 75, Sch. I

Penalty, 70.99

Restricted parking, Sch. 75, Sch. I

Snowmobiles

Responsibility, 73.02

Restricted operations, 73.01

Stop streets, Ch. 74, Sch. I

Time periods; authority to tow and the like, 72.02

Traffic schedules

Stop streets, Ch. 74, Sch. I

Use of highways, 71.02

## TRAFFIC SCHEDULES

- Stop streets, Ch. 74, Sch. I

TRANSIENT MERCHANTS (See PEDDLERS, TRANSIENT MERCHANTS AND SOLICITORS)

TREE DISEASES, 90.02

UTILITIES COMMISSION; PUBLIC, 31.04

## UTILITY BILLING AND COLLECTION

- Authority and purpose, 53.01

- Billing; collections of accounts; adjustments, 53.05

- Definitions, 53.02

- Delinquent accounts; utility shut-off; cancellation of service, 53.06

- Procedures for appeal of proposed utility shut-offs, 53.07

- Service agreements, 53.03

- Utility rate schedule, 53.04

## WATER

- Administration and Enforcement

  - Authorized employees to turn water on and off, 51.73

  - Discontinuance of service, 51.72

  - Liability for expense, loss or damage, 51.74

  - Powers and authority of inspectors, 51.71

  - Supervision by Utilities Superintendent; licensing, 51.70

- Connection to system required; use of private wells, 51.06

- Connections beyond city boundaries, 51.05

- Damage to water system, 51.04

- General operation, 51.01

- Rates and Charges

  - Payment of charges; late payment; collection, 51.54

  - Rates, fees and charges generally, 51.51

  - Water rates, 51.53

  - Water service billing; change of address, 51.52

  - Water unit, 51.50

- Use of water from fire hydrants; temporary connections, 51.08

- Use of water for air conditioning; permits, 51.07

- Use of water service, 51.02

- Use to circumvent chapter prohibited, 51.03

- Water deficiency, shut off and use restrictions, 51.09

- Water Regulations

  - Abandoned or unused services, 51.28

  - Connection to other water supplies restricted, 51.32

  - Disconnection permit, 51.29

  - Excavation and construction requirements, 51.31

  - Location of curb stop box, 51.34

  - Repairs, 51.27

## WATER (Cont=d)

## Water Regulations (Cont=d)

- Service pipes, 51.30
- Supply from one service, 51.25
- Tapping of mains restricted, 51.26
- Water connections; applications and charges, 51.33
- Water meters, 51.35

## WEEDS (See HEALTH AND SANITATION; NUISANCES)

## ZONING

## Absorption Area Requirements for Private Residences and Other Establishments, Ch. 153, App. C

## District Requirements

- Agricultural (A), (AS), 153.030
- Commercial (CA), 153.033
- Commercial (CB), 153.034
- Commercial-Industrial (CI), 153.036
- Industrial (I), 153.035
- Residential A (RA), (RAS), 153.031
- Residential B (RBS), 153.032

## General Provisions

- Definitions, 153.005
- Compliance, 153.004
- Legal authority, 153.003
- Purpose, 153.002
- Title, 153.001

## General Requirements - All Districts

- Abandonments, 153.059
- Camp sites, 153.058
- Exemptions, 153.060
- Landscaping, 153.053
- Loading and unloading, 153.055
- Mobile homes, 153.057
- Non-conforming uses, 153.056
- Parking, 153.054
- Refuse, 153.051
- Residential yard storage, 153.050
- Screening, 153.052

## General Requirements - Shoreland Area

- Exemptions, 153.079
- Non-conforming uses, 153.077
- Planned unit development, 153.078
- Sanitation standards, 153.075
- Shoreland alterations, 153.076

## On-Site Loading and Unloading Requirements, Ch. 153, App B

## On-Site Parking Requirements, Ch. 153, App. A

## ZONING (Cont=d)

### Subdivision Regulations - Administration

- Administrator, 153.155
- Amendments and changes, 153.160
- Appeals, 153.157
- Building permits, 153.156
- Enforcement and penalties, 153.161
- Metes and bounds description, 153.162
- Special use permits, 153.159
- Variance, 153.158

### Subdivision Regulations - Design Standards

- Blocks, 153.117
- Easements, 153.116
- Lots, 153.118
- Natural features, 153.119
- Planned unit development, 153.120
- Streets, 153.115

### Subdivision Regulations - General Provisions

- General requirements, 153.087
- Legal authority, 153.086
- Purpose, 153.085

### Subdivision Regulations - Presentation Requirements

- Final plat, 153.106
- Preliminary plat, 153.105

### Subdivision Regulations - Procedures

- Final plat, 153.097
- Pre-application meeting, 153.095
- Preliminary plat, 153.096

### Subdivision Regulations - Required Improvements

- Dedications, 153.144
- Financing, 153.143
- Monuments, 153.136
- Requirements, 153.135
- Sanitary sewage, 153.139
- Specifications, 153.142
- Storm drainage, 153.140
- Street name signs, 153.141
- Streets, 153.137
- Water supply facilities, 153.138

### Zoning use districts

- Boundaries, 153.016
- Description, 153.015
- Interpretation, 153.017

## ZONING MAP CHANGES, T.S.O. IV

## ZONING; AIRPORT (See AIRPORT ZONING)

**ELBOW LAKE, MINNESOTA  
CODE OF ORDINANCES  
TABLE OF CONTENTS**

Chapter

**TITLE I: GENERAL PROVISIONS**

10. General Provisions

**TITLE III: ADMINISTRATION**

30. City Government; Officials  
31. Boards and Commissions  
32. Emergency Management  
33. City Policies

**TITLE V: PUBLIC WORKS**

50. Garbage  
51. Water  
52. Sewers  
53. Utility Billing and Collection

**TITLE VII: TRAFFIC CODE**

70. General Provisions  
71. Traffic Rules  
72. Parking Regulations  
73. Snowmobiles  
74. Traffic Schedules  
75. Parking Schedules  
76. Golf Carts

**TITLE IX: GENERAL REGULATIONS**

90. Health and Sanitation; Nuisances  
91. Parks and Recreation  
92. Sidewalks  
93. Fire Limits; Prevention  
94. Animals

## **TITLE XI: BUSINESS REGULATIONS**

- 110. Peddlers, Transient Merchants and Solicitors
- 111. Tobacco Regulations
- 112. Alcoholic Beverages
- 113. Cable Television
- 114. Gambling; Games of Skill
- 115. Sexually Oriented Businesses

## **TITLE XIII: GENERAL OFFENSES**

- 130. General Offenses

## **TITLE XV: LAND USAGE**

- 150. Building Regulations; Construction
- 151. Shoreland Management
- 152. Airport Zoning
- 153. Zoning
- 154. Anti-Blight Regulations

## **TABLE OF SPECIAL ORDINANCES**

Table

- I. Annexations
- II. Franchise Agreements
- III. Construction; Improvements
- IV. Zoning Map Changes

## **PARALLEL REFERENCES**

References to Minnesota Statutes  
 References to Minnesota Rules  
 References to Ordinances

## **INDEX**

## CHAPTER 10: GENERAL PROVISIONS

- 10.01 Title of code
- 10.02 Rules of interpretation
- 10.03 Application to future ordinances
- 10.04 Captions
- 10.05 Definitions
- 10.06 Severability
- 10.07 Reference to other sections
- 10.08 Reference to offices
- 10.09 Errors and omissions
- 10.10 Official time
- 10.11 Reasonable time
- 10.12 Ordinances repealed
- 10.13 Ordinances unaffected
- 10.14 Effective date of ordinances
- 10.15 Repeal or modification of ordinance
- 10.16 Ordinances which amend or supplement code
- 10.17 Preservation of penalties, offenses, rights and liabilities
- 10.18 Copies of code
- 10.19 Adoption of statutes and rules by reference
- 10.20 Enforcement
  
- 10.98 Supplemental administrative penalties
- 10.99 General penalty
- Appendix I: Resolution to adopt a schedule of offenses and voluntary administrative penalties
- Appendix II: Notice of code violation

### **§ 10.01 TITLE OF CODE.**

(A) All ordinances of a permanent and general nature of the city, as revised, codified, rearranged, renumbered, and consolidated into component codes, titles, chapters, and sections, shall be known and designated as the “city code,” for which designation “code of ordinances,” “codified ordinances” or “code” may be substituted. Code title, chapter, and section headings do not constitute any part of the law as contained in the code.

(B) All references to codes, titles, chapters, and sections are to the components of the code unless otherwise specified. Any component code may be referred to and cited by its name, such as the “Traffic Code.” Sections may be referred to and cited by the designation “§” followed by the number, such as “§ 10.01.” Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.



## § 10.02 RULES OF INTERPRETATION.

(A) *Generally.* Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

(B) *Specific rules of interpretation.* The construction of all ordinances of this city shall be by the following rules, unless that construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(1) **AND or OR.** Either conjunction shall include the other as if written “and/or,” whenever the context requires.

(2) *Acts by assistants.* When a statute, code provisions or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, that requisition shall be satisfied by the performance of the act by an authorized agent or deputy.

(3) *Gender; singular and plural; tenses.* Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(4) *General term.* A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

## § 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation shall apply to ordinances hereafter adopted which amend or supplement this code unless otherwise specifically provided.

## § 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

## § 10.05 DEFINITIONS.

(A) *General rule.* Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

(B) *Definitions.* For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**CITY.** The area within the corporate boundaries of the city as presently established or as amended by ordinance, annexation or other legal actions 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.

**CODE, THIS CODE or THIS CODE OF ORDINANCES.** This city code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

**COUNTY.** The county or counties in which the city is located.

**MAY.** The act referred to is permissive.

**MONTH.** A calendar month.

**OATH.** An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the words **SWEAR** and **SWORN** shall be equivalent to the words **AFFIRM** and **AFFIRMED**. All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

**OFFICER, OFFICE, EMPLOYEE, COMMISSION, or DEPARTMENT.** An officer, office, employee, commission, or department of this city unless the context clearly requires otherwise.

**PERSON.** Extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms **PERSON** or **WHOEVER** as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.

**PRECEDING or FOLLOWING.** Next before or next after, respectively.

**SHALL.** The act referred to is mandatory.

**SIGNATURE or SUBSCRIPTION.** Includes a mark when the person cannot write.

**STATE.** The State of Minnesota.

**SUBCHAPTER.** A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

**WRITTEN.** Any representation of words, letters, or figures, whether by printing or otherwise.

**YEAR.** A calendar year, unless otherwise expressed.

## **§ 10.06 SEVERABILITY.**

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

## **§ 10.07 REFERENCE TO OTHER SECTIONS.**

Whenever in one section reference is made to another section hereof, that reference shall extend and apply to the section referred to as subsequently amended, revised, recodified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

#### **§ 10.08 REFERENCE TO OFFICES.**

Reference to a public office or officer shall be deemed to apply to any 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.

#### **§ 10.09 ERRORS AND OMISSIONS.**

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word 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.

#### **§ 10.10 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.

#### **§ 10.11 REASONABLE TIME.**

(A) 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 or notice shall be deemed to mean the time which is necessary for a prompt performance of the act or the giving of the notice.

(B) 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.

#### **§ 10.12 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.

#### **§ 10.13 ORDINANCES UNAFFECTED.**

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

implication.

#### **§ 10.14 EFFECTIVE DATE OF ORDINANCES.**

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided.

#### **§ 10.15 REPEAL OR MODIFICATION OF ORDINANCE.**

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the publication of the ordinance repealing or modifying it when publication is required to give effect to it, unless otherwise expressly provided.

(B) 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.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

#### **§ 10.16 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.**

(A) If the City Council shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of the chapter or section. In addition to this indication as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

#### **§ 10.17 PRESERVATION OF 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. In particular, any agreement granting permission to utilize highway right-of-ways, contracts entered into or franchises granted, the acceptance, establishment or vacation of any highway, and the election of corporate officers shall remain valid in all respects, as if this code had not been enacted.

### **§ 10.18 COPIES OF CODE.**

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

### **§ 10.19 ADOPTION OF STATUTES AND RULES BY REFERENCE.**

It is the intention of the City Council that, when adopting this code, all future amendments to any state or federal rules and statutes adopted by reference in this code or referenced in this code are hereby adopted by reference or referenced 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.

### **§ 10.20 ENFORCEMENT.**

(A) Any Licensed Peace Officer of the city's Police Department, or the County Sheriff, or any Deputy Sheriff shall have the authority to enforce any provision of this code.

(B) As permitted by M.S. § 626.862, as it may be amended from time to time, the City Clerk-Administrator-Treasurer shall have the authority to administer and enforce this code. In addition, under that statutory authority, certain individuals designated within the code have the authority to administer and enforce the provisions specified. All and any person or persons designated by the Clerk-Administrator-Treasurer may issue a citation in lieu of arrest or continued detention to enforce any provision of the code.

(C) The City Clerk-Administrator-Treasurer 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.

(D) If the licensee, owner, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the City Clerk-Administrator-Treasurer, Peace Officer, or any employee or official charged with the duty of enforcing the provisions of this code may, upon a showing that probable cause exists for the issuance of a valid search warrant from a court of competent jurisdiction, petition and obtain 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 probable cause to issue the warrant. Probable cause occurs if the search is reasonable. Probable cause does not depend on specific knowledge of the condition of a particular property.

(E) Every licensee, owner, resident or other person in control of property within the city shall permit at reasonable times inspections of or entrance to the property by the City Clerk-Administrator-Treasurer or any other authorized city officer or employee 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-Administrator-Treasurer to object to the termination before it occurs, subject to appeal of the Clerk-Administrator-Treasurer's decision to the City Council at a regularly scheduled or special meeting.

(F) 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.

## **§ 10.98 SUPPLEMENTAL ADMINISTRATIVE PENALTIES.**

(A) In addition to those administrative penalties established in this code and the enforcement powers granted in § 10.20, the City Council is authorized to create by resolution, adopted by a majority of the members of the Council, supplemental administrative penalties. The resolution may be in the form established in Appendix I of this chapter.

(B) These administrative penalty procedures in this section are intended to provide the public and the city with an informal, cost effective and expeditious alternative to traditional criminal charges for violations of certain provisions of this code. The procedures are intended to be voluntary on the part of those who have been charged with those offenses.

(C) Administrative penalties for violations of various provisions of the code, other than those penalties established in the code or in statutes that are adopted by reference, may be established from time to time by resolution of a majority of the members of the City Council. In order to be effective, an administrative penalty for a particular violation must be established before the violation occurred.

(D) In the discretion of the peace officer, City Clerk-Administrator-Treasurer, or other person giving notice of an alleged violation of a provision of this code, in a written notice of an alleged violation, sent by first class mail to the person who is alleged to have violated the code, the person giving notice may request the payment of a voluntary administrative penalty for the violation directly to the City Treasurer within 14 days of the notice of the violation. A sample notice is contained in Appendix II of this chapter. In the sole discretion of the person giving the notice of the alleged violation, the time for payment may be extended an additional 14 days, whether or not requested by the person to whom the notice has been given. In addition to the administrative penalty, the person giving notice may request in the notice to the alleged violator to adopt a compliance plan to correct the situation resulting in the alleged violation and may provide that if the alleged violator corrects the situation resulting in the alleged violation within the time specified in the notice, that the payment of the administrative penalty will be waived.

(E) At any time before the payment of the administrative penalty is due, the person who has been given notice of an alleged violation may request to appear before the City Council to contest the request for payment of the penalty. After a hearing before the Council, the Council may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Council.

(F) At any time after the date the payment of the administrative penalty is due, if the administrative penalty remains unpaid or the situation creating the alleged violation remains uncorrected, the City, through its Attorney, may bring criminal charges in accordance with state law and this code. Likewise, the City, in its discretion, may bring criminal charges in the first instance, rather than requesting the payment

of an administrative penalty, even if a penalty for the particular violation has been established by Council resolution. If the administrative penalty is paid, or if any requested correction of the situation resulting in the violation is completed, no criminal charges shall be initiated by the City for the alleged violation.

#### **§ 10.99 GENERAL PENALTY.**

(A) 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.

(B) 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.

(C) In either the case of a misdemeanor or a 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.

(D) 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.

(E) In addition to any penalties provided for in this section or in § 10.98, 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 III: ADMINISTRATION**

#### **Chapter**

#### **30. CITY GOVERNMENT; OFFICIALS**

#### **31. BOARDS AND COMMISSIONS**

#### **32. EMERGENCY MANAGEMENT**

#### **33. CITY POLICIES**





## **City Government; Officials**

### **CHAPTER 30: CITY GOVERNMENT; OFFICIALS**

#### Section

#### ***General Provisions***

- 30.01 Council; rules of procedure
- 30.02 Clerk-Administrator-Treasurer; duties
- 30.03 Mayor; term

#### ***Police Department***

- 30.15 Police Department continued
- 30.16 Chief of Police
- 30.17 Duties of police
- 30.18 Uniform and badge
- 30.19 Reserve officers
- 30.20 Police Department policies manual adopted

### ***GENERAL PROVISIONS***

#### **§ 30.01 COUNCIL; RULES OF PROCEDURE.**

(A) Regular meetings of the City Council shall be held on the first Monday of each month. The first meeting in January of each year shall be the annual meeting. The Council, at this time, shall elect an acting Mayor, designate an official paper, select an official depository, review Council by-laws and review committee appointments.

(B) All Council meetings shall be held in the Council chambers unless changed by a majority vote of the Council. Public notice shall be given of all meeting place changes.

(C) At all Council meetings, the following order of business and rules of procedure shall be adhered to unless suspended by a majority vote of the members:

- (1) Call to order by the Mayor or acting Mayor;
- (2) Approval of minutes of the previous meeting;
- (3) Presentation of petitions or complaints by Council members or citizens;
- (4) (a) Reports of officers and committees;

## **City Government; Officials**

- (b) Report of standing committees;
  - (c) Report of special committees; and
  - (d) Report of City Clerk-Administrator-Treasurer.
- (5) Notice of communications;
  - (6) Old business;
  - (7) Presentation of claims;
  - (8) New business;
  - (9) Announcements; and
  - (10) Adjournment.

(D) The presiding officer shall provide an agenda for each regular meeting, shall maintain order at all times and shall apply the rules of procedure, according to *Roberts Rules of Order*, unless contradicted by the laws of the state. All Council members or persons wishing to speak to the Council must be recognized by the presiding officer.

(E) All ordinances or amendments to ordinances shall be reduced to writing and kept on file in the office of the City Clerk-Administrator-Treasurer upon passage.

(F) The Council shall approve any change of regular meeting date or place by a majority vote of the members.

(Ord. 144, passed 11-3-75)

### **§ 30.02 CLERK-ADMINISTRATOR-TREASURER; DUTIES.**

(A) (1) The Office of Clerk-Administrator-Treasurer shall be hereafter known as the Clerk-Administrator-Treasurer. The duties of the Clerk-Administrator-Treasurer shall include those of the Clerk and of the Treasurer. The Clerk-Administrator-Treasurer shall perform all statutory duties of the Clerk and of the Treasurer and shall give the required notice of each regular and special election, record the proceedings thereof, notify officials of their elections or appointments to office, certify to the County Auditor all appointments and the results of all municipal elections.

- (2) He or she shall keep:
  - (a) A minute book, noting therein all proceedings of the Council;
  - (b) An ordinance book, in which he or she shall record, at length, all ordinances passed by the Council;
  - (c) An account book, in which he or she shall enter all money transactions of the municipality, including the dates and amounts of all receipts and the person from whom the money was

### **City Government; Officials**

received and all orders drawn upon the Treasurer with their payee and object; and

(d) Ordinances, resolutions and claims considered by the Council need not be given in full in the minutes book if they appear in other permanent records of the Clerk-Treasurer-Administrator and can be accurately identified from the description given in the minutes.

(3) (a) The Clerk-Administrator-Treasurer shall act as the Clerk and Bookkeeper of the municipality, shall be the custodian of its seal and records, shall sign its official papers, shall post public notices, ordinances and resolutions as may be required and shall perform such other appropriate duties as may be imposed upon him or her by the Council.

(b) For certified copies and for filing and entering, when required, papers not relating to municipal business, he or she shall receive the fees allowed by law to city clerks; but the Council may require the Clerk-Administrator-Treasurer to pay the fees to the general fund.

(c) With the consent of the Council, he or she may appoint a deputy for whose acts he or she shall be responsible and whom he or she may remove at pleasure.

1. In case of the Clerk-Administrator-Treasurer's absence from the municipality or disability, the Council may appoint a Deputy Clerk-Administrator-Treasurer if there is none, to serve during the absence or disability.

2. The Deputy may discharge any of the duties of the Clerk-Administrator-Treasurer, except that he or she shall not be a member of the Council.

(B) In addition to all of the foregoing, the Clerk-Administrator-Treasurer shall:

(1) Direct the administration as provided by Council action, state and federal statutes and coordinate, with the Council, in administering municipal affairs;

(2) Prepare reports and summaries relating to contemplated municipal projects and/or improvements and submit them with recommendations as may be required to the Council for study and subsequent action;

(3) Prepare an annual fiscal budget and capital improvements plan for submission to the Council and maintain financial guidelines for the municipality within the scope of the approved budget and capital program;

(4) Prepare an annual financial statement and perform other duties as required in M.S. § 412.141, as it may be amended from time to time;

(5) Attend and participate in all Council meetings and attend, at his or her discretion or by invitation, other committee and commission meetings;

(6) Coordinate municipal programs and activities as authorized by the Council;

(7) Submit quarterly reports to the Council of the financial condition of the municipal accounts;

(8) Supervise the conduct of local elections in accordance with the prescribed laws and

## **City Government; Officials**

regulations;

(9) Supervise the activities of all city department heads and staff in the administration of city policy with authority to effectively recommend their employment or removal;

(10) Work in cooperation with the Council's appointed attorney and engineer;

(11) Prepare news releases, develop and discuss public relations material with all concerned, as required, and maintain good public relations with the general public;

(12) Consult with appointed officials and with other public or private agencies as may be required;

(13) Be fully informed regarding federal, state and county programs which affect the municipality; and

(14) Perform all duties required of him or her by ordinances or resolutions adopted by the Council.

(C) The Clerk-Administrator-Treasurer shall have:

(1) Considerable knowledge of municipal government operations, proper procedures, public relations, finances, purchasing and all administrative requirements for proper municipal operation;

(2) Knowledge of or ability to acquire full knowledge of all laws affecting the municipality;

(3) Ability to provide harmonious relations with municipal employees and general public; and

(4) Ability to plan development, to collect material and analyze for reporting and to conduct and implement studies of procedures, operations and organizations.

(D) The Clerk-Administrator-Treasurer shall have a high school diploma or its equivalent and experience in public administration and accounting, with a minimum of five years experience in municipal administration or equivalent education.

(E) The Clerk-Administrator-Treasurer is appointed by a majority of the Council for an indefinite term, with removal only by a majority of the Council.

(Ord. 181, passed 10-7-96)

### **§ 30.03 MAYOR; TERM.**

The term of Mayor of the city shall be four years.

(Ord. 173, passed 3-4-91)

## ***POLICE DEPARTMENT***

### **§ 30.15 POLICE DEPARTMENT CONTINUED.**

(A) If the city has a Police Department at the time this code is adopted, then the Department of the city

### **City Government; Officials**

is hereby continued. If the city does not have a Police Department at the time of the adoption of this code, then at any time after the code is adopted, the City Council may by resolution create a Police Department, which shall be organized and administered as provided for by this code. The City Council may at any time determine by resolution to discontinue the existence of a Police Department and provide for the enforcement of state laws and city ordinances by other means. The head of the Police Department shall be known as the Chief of Police and the number of additional members of the Police Department, together with their ranks and titles, shall be determined by the City Council by resolution. The compensation to be paid to members of the Police Department shall be fixed by the City Council. Members of the Police Department shall be appointed by the City Council.

(B) All police officers shall meet the minimum standards for licensing as a peace officer as established by the Minnesota Peace Officers Standards and Training Board and have a current and valid peace officer license at the time of appointment. All police officers shall retain this license during their employment as a police officer with the city and will be subject to discharge if the license is suspended, revoked or becomes invalid for any reason. In addition, all police officers must have a valid Minnesota vehicle operator's license and must be insurable as a vehicle driver by the city's automobile insurance carrier.

#### **§ 30.16 CHIEF OF POLICE.**

The Chief of Police shall have supervision and control of the Police Department and its members. The Chief of Police shall be responsible for the proper training and discipline of the members of the Police Department. The Chief of Police shall be responsible for the keeping of adequate records and shall report to the City Council on the needs of the Police department and its work. Every member of the Police department is subordinate to the Chief of Police and shall obey the instructions of the Chief of Police and any superior officer. The City Council may designate one of the police officers as Acting Chief, who shall have all the powers and duties of the Chief of Police during the absence or disability of the Chief of Police.

#### **§ 30.17 DUTIES OF POLICE.**

Members of the Police Department shall enforce the laws applicable to the city, bring violators before the court, and make complaints for offenses coming to their knowledge. Members of the Police Department shall serve processes on behalf of the city and shall serve those notices as may be required by the City Council or other authority. When the city is not a party to the proceedings involved in the process or notice, the officer shall collect the same fees as provided by law. All fees shall be paid into the city treasury.

#### **§ 30.18 UNIFORM AND BADGE.**

Each member of the Police Department shall, while on duty, wear a suitable badge and uniform furnished by the city, except that the Chief of Police may authorize the performance of specific duties while not in uniform. When a member terminates membership in the Police Department, the member shall immediately deliver to the city the badge, uniform and all other property of the city.

#### **§ 30.19 RESERVE OFFICERS.**

### **City Government; Officials**

The Chief of Police may appoint, for a specified time, as many reserve officers as may be necessary. Reserve officers shall be subordinate to the Chief of Police. Under the provisions of M.S. § 626.84, Subd. 1(g), as it may be amended from time to time, a **RESERVE OFFICER** is an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control, and administrative or clerical assistance. A reserve officer's duties shall not include enforcement of the general criminal laws of the state, and the reserve officer does not have full powers of arrest or authorization to carry a firearm on duty.

### **§ 30.20 POLICE DEPARTMENT POLICIES MANUAL ADOPTED.**

The Police Department Manual, as amended, containing the general policies, procedures and rules for operation of the Police Department of the city is hereby adopted as the official departmental policy manual of the Police Department.

## Boards and Commissions

### CHAPTER 31: BOARDS AND COMMISSIONS

#### Section

- 31.01 Library Board
- 31.02 Airport Board
- 31.03 Planning Commission
- 31.04 Public Utilities Commission

#### § 31.01 LIBRARY BOARD.

(A) The city hereby creates the Library Board to be made up of five members.

(B) (1) *Qualification for office.* All Library Board members will be city residents of voting age. No more than one City Council member shall, at any time, be a member of the Library Board.

(2) *Appointment.* Library Board members will be appointed by the Mayor with approval of the City Council.

(3) *Terms of office.*

(a) The term of office for the Library Board will be three years beginning the first day of a city's fiscal year and ending with the last day of the city's fiscal year.

(b) Library Board terms will alternate so that no more than two will become vacant at the end of any fiscal year.

(c) No Library Board member will be eligible to serve more than three consecutive three-year terms.

(4) *Removal of members.* The Mayor, with the approval of the Council, may remove any Library Board member for misconduct or neglect.

(5) *Vacancies.* The Council will fill any vacancies by appointment for the unexpired term.

(6) *Compensation.* The Library Board members will receive no compensation for their services, but may be reimbursed for expenses incurred in the discharge of Library Board duties and activities.

(C) (1) The Library Board will elect the President, Secretary and any other officers it deems necessary.

(2) The Library Board shall adopt by-laws and regulations for the governance of the library.

## **Boards and Commissions**

(3) The Library Board shall have exclusive control of the expenditure of all monies collected for or placed to the credit of the Library Fund and of all interest earned on money within the Library Fund.

(4) The Library Board shall have control of the room provided for library purposes.

(5) The Library Board shall appoint a capable library director, establish the compensation of employees and remove any of them for cause.

(6) With the approval of the Council, the Library Board may purchase grounds and erect a library building thereon.

(7) The Library Board may accept any gift, grant, devise or bequest made by any person without further approval from the city, except in those cases where gifts are granted with conditions which the Library Board has no power to fulfill. Approval for the acceptance of such gifts must be made by the City Council.

(Ord. 168, passed 2-6-84)

### **§ 31.02 AIRPORT BOARD.**

(A) (1) There is hereby created a board to be known as the Airport Board, which shall consist of four members, one of whom shall, at all times, be a member of the City Council.

(2) The members of this Board shall serve without compensation. The members of this Board shall be appointed by a majority vote of the members of the City Council. The members appointed shall be for a term of three years; all appointments shall terminate on the date of the annual meeting of the Airport Board, as hereinafter provided. All members shall hold office until their respective successors are appointed and qualified.

(3) A vacancy in the office of any member shall be filled in the same manner as the original appointment but only for the unexpired terms.

(4) All members shall file their acceptance with the City Council within five days after notice of their appointment.

(B) (1) The Airport Board shall meet within one week after members have filed their notices of acceptance of appointment and at the meetings shall organize and elect officers from their members as they may determine.

(2) The Board shall organize in the same manner at their meeting to be held in the month of January in each calendar year. The Board to determine the date during the month when the meeting shall be held and the Board shall meet at such other times as they shall determine it to be necessary, the meeting to be called by the President of the Board by giving oral or written notice one day in advance of the meeting.

(3) The presiding officer of the Board shall be the President and he or she shall preside at all meetings and, in the event of his or her absence, the Vice President shall preside. All contracts, orders and other documents to be executed in behalf of the Board shall be signed by the presiding officer and the



## **Boards and Commissions**

Secretary thereof.

(C) (1) The Board shall have charge of the administration, maintenance and control of the Municipal Airport. The Board shall have such traditional powers, duties and responsibilities as shall, by resolution of the City Council from time to time, be granted to the Board. The Board shall have power to receive and accept, according to their terms, all donations for airport purposes; to collect all license fees and other airport income; to establish rules relating to its own procedure and to the administration, maintenance and control of the airport.

(2) Nothing in this section shall be construed to vest any power in the Board to construct any additional airport facilities or structures, the powers to be in the City Council subject to prior approval and recommendation of the Planning Commission. No money shall be expended by the Board without prior approval of the City Council. The Board shall from time to time report to and confer with the City Council on all matters of legislative or administrative character and shall keep a record of its own proceedings. Reports are to be made annually to the Council or more often if required by the Council, an annual report to be made to the Council at its regular meeting in the month of December of each year.

(D) Whenever a majority of the City Council deems, for the best interests of the airport and its affairs, it may remove any member of the Board.

(E) The City Council reserves the right, at all times, to cancel or change any orders or decisions the Board may make in respect to any affairs of the airport.  
(Ord. 117, passed 4-1-68)

### **§ 31.03 PLANNING COMMISSION.**

(A) The Planning Commission for the city is hereby established.

(B) (1) The Planning Commission shall consist of seven members. Four members shall be appointed by the City Council and may be removed by a four-fifths vote of the Council. The City Engineer and the City Attorney shall be members ex officio and the Council shall select one member of the Commission from among its own members.

(2) (a) Members shall be appointed for terms of four years, holding their offices until their successors are appointed and qualified.

(b) The terms of ex officio members shall correspond to their respective official tenures. Vacancies during the term shall be filled by the Council for the unexpired portion of the term. Every appointed member shall before entering upon the discharge of his or her duties take an oath that he or she will faithfully discharge the duties of his or her office. All members shall serve without compensation.

(C) (1) The Commission shall elect a Chairperson from among its appointed members for a term of one year and the Commission may create and fill other offices as it may determine. The Clerk-Administrator-Treasurer shall act as Secretary of the Planning Commission, but he or she shall not be a member.

(2) The Commission shall hold at least one regular meeting each month. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions and findings, which record shall be a public record. On or before January 1 of each year, the Commission shall submit to the

### **Boards and Commissions**

City Council a report of its work during the preceding year. Expenditures of the Commission shall be within amounts appropriated for the purpose by the City Council.

(D) (1) Upon the appointment and organization of the Commission, it shall proceed with the preparation and adoption of resolution of a program of work outlining activities proposed to be undertaken in the exercise of its powers and the performance of its duties.

(2) The program will include:

- (a) An outline of data and information to be assembled as a basis for the city plan;
- (b) An outline of subjects to be covered by the city plan; and
- (c) An outline of types of procedure necessary to make the city plan effective.

(3) The Planning Commission may, by resolution, revise its program of work from time to time.

(E) It shall be the function and duty of the Planning Commission to prepare and adopt a comprehensive city plan for the physical development of the city, including proposed public buildings, street arrangements and improvements, public utility services, parks, playgrounds and other similar developments and the use of property, the density of population and other matters relating to the physical development of the city. The plan may be prepared in sections each of which shall relate to a major subject of the plan, as outlined in the Commission's program of work.

(F) (1) Before adopting the city plan for any section of it or any substantial amendment thereof, the Commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given by publication in a newspaper of general circulation at least ten days before the day of the hearing. The adoption of the city plan or of any section or amendment thereof shall be by resolution of the Commission, approved by the affirmative votes of not less than four-fifths of its total membership.

(2) The Commission may from time to time amend or add to the city plan or section thereof as herein provided for the adoption of the original plan whenever changed conditions or further studies by the Commission indicate that the amendment or addition is necessary.

(3) An attested copy of the plan or of any section, amendment or addition to the city plan adopted by the Planning Commission shall be certified by the City Council.

(G) (1) Upon the adoption of the city plan or any section thereof, it shall be the duty of the Planning Commission to recommend to the City Council reasonable and practical means for putting into effect the plan or section thereof in order that the same will serve as a pattern and guide for the orderly physical development of the city and as a basis for the efficient expenditure of the funds thereof relating to the subjects of the plan.

(2) The means shall consist of a zoning plan, the control of subdivision plats, a plan of future streets, coordination of the normal public improvements of the city, a long term program of capital expenditures and other matters as will accomplish the purpose hereof.

(H) The Planning Commission, upon its own motion, may and, upon instructions by the City Council, shall prepare a revised zoning plan for the city. Before recommending the plan to the City Council, the

### **Boards and Commissions**

Planning Commission shall hold at least one public hearing thereon after a notice similar to that required by division (F) above. The same procedure shall apply for the preparation of any plan of proposed right-of-way for future streets or highways or the future widening of existing streets or highways, or for the reservation of lands for other purposes.

(I) (1) The Planning Commission, with the assistance of the City Engineer, may and, upon the instruction by the City Council, shall prepare an official map of the platted and unplatted portions of the city and adjoining territory or portions thereof indicating upon the map the proposed future extension or widening of streets of the city within the existing platted and developed, territory or across the unplatted territory.

(2) After the map has been prepared and a hearing on it has been held, as provided in division (H) above, it shall be submitted to the Council, which shall thereupon consider the map and may adopt it or any part of it with the amendments as it deems advisable.

(3) Before adoption by the Council, a public hearing shall be held upon the proposal at least ten days after a notice thereof has been published in a newspaper published in the city.

(4) After the map has been adopted by the Council and filed with the Register of Deeds whenever any existing street or highway is widened or improved, or any new street is opened, or lands for other public purpose are acquired by action of the city, it shall not be required of the proceedings to pay for any building or structure placed without a permit or in violation of conditions of a permit after the filing of a map within the limits of the mapped street or outside of any building line that may have been established upon the existing street, or within any area, thus reserved for public purposes.

(J) (1) Every proposed plat of land within the city or within two miles of the units of the city and not within a town which itself requires the approval of plats shall be submitted to the City Council before being filed and no plat of land shall be filed unless and until the same shall first have been approved by the City Council.

(2) Any person who violated this provision or who sells land or offers land for sale or contracts for the sale of land by reference to or her other use of any plat before the plat has been approved by the Planning Commission and the City Council in accordance with the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine. Before acting on the plat, the City Council shall submit the same to the Planning Commission for its recommendations.

(3) The Planning Commission, within 40 days after any such plat has been referred to it by the City Council, shall act on the same and shall make its recommendations with respect thereto. The recommendations may consist of:

(a) Recommendation that the City Council approve the plat;

(b) Recommendation that the City Council disapprove the plat, in which case the recommendation shall include a statement of the specific reasons of the recommendation; or

(c) Recommendation that the City Council approve the plat after specified changes for revisions are made therein, which recommendation may include the condition that a revised plat containing the changes or provisions be submitted to the Planning Commission in which case the revised plat shall be so submitted to the Planning Commission for its further consideration and recommendations before action

### **Boards and Commissions**

thereon by the City Council. The City Council must either approve or deny an application for a preliminary plat within 120 days after a complete application for a preliminary plat has been received, unless a longer time has been agreed to in writing by the applicant. The City Council must either approve or deny an application for a final plat within 60 days after a complete application for a final plat has been received, unless a longer time has been agreed to in writing by the application.

(K) No change shall be made in the zoning plan, future street and public lands plan or regulations governing the platting of land after the plans or regulations have been adopted by the City Council until the proposed change has been referred to the Planning Commission for report thereon and an attested copy of the report has been filed with the Council and the ordinance or resolution or establishment of any of the plans or specifications shall be adopted by the City Council until the ordinance or resolution has been referred in the Planning Commission for a report thereon and an attested copy of the report has been filed with the Council. Failure of the Planning Commission so to report within 40 days or such longer period, as may be designated by the Council, after the reference shall be deemed to be approved of the proposed change.

(L) (1) Each officer, department, board or commission of or in the city whose functions include recommending, preparing plans for or constructing public works shall, at least three months before the end of each fiscal year, submit to the Planning Commission a list of the proposed works recommended by the officer, department, board or commission for planning, initiation or constructing during the ensuing fiscal year. The Planning Commission shall request from the local school district a similar list of its proposed public works. The Planning Commission shall list and classify all such proposed public works and shall prepare a coordinated program of proposed public works for the ensuing fiscal year.

(2) The program shall be recommended by the Commission to the Council and to such other officers, departments, boards or public bodies as have jurisdiction over the recommending, planning or constructing of public works. A copy of the recommended program of public works shall be included in the annual report of the Planning Commission provided for in division (C) above.

(Ord. 109, passed 2-17-66)

### **§ 31.04 PUBLIC UTILITIES COMMISSION.**

(A) There is hereby established the Public Utilities Commission of the city, as authorized by M.S. §§ 412.321 to 412.391, as it may be amended from time to time. The Commission shall consist of three members appointed by the Council for three-year overlapping terms commencing on October 15 of each year. The provisions of M.S. § 412.341, as it may be amended from time to time shall apply to the composition, terms, appointment qualifications and removal of members of the Commission. The President of the Commission shall receive the same salary as the Mayor and the other members of the Commission shall receive the same salary as the City Council members.

(B) (1) The Public Utilities Commission shall have jurisdiction over the light and power system.

(2) With respect to the public utilities enumerated in division (A), the Public Utilities Commission shall have the powers and duties prescribed by law.

(Ord. 107, passed 10-4-65)

## **Boards and Commissions**



## **Emergency Management**

### **CHAPTER 32: EMERGENCY MANAGEMENT**

#### **Section**

- 32.01 Policy and purpose
- 32.02 Definitions
- 32.03 Establishment of emergency management organization
- 32.04 Powers and duties of Director
- 32.05 Local emergencies
- 32.06 Emergency regulations
- 32.07 Emergency management a government function
- 32.08 Participation in labor disputes or politics
  
- 32.99 Penalty

#### **§ 32.01 POLICY AND PURPOSE.**

Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps of catastrophic measure; and in order to insure that preparations of this city will be adequate to deal with those disasters, and generally, to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this city, it is hereby found and declared to be necessary:

(A) To establish a city emergency management organization responsible for city planning and preparation for emergency government operations in time of disasters.

(B) To provide for the exercise of necessary powers during emergencies and disasters.

(C) To provide for the rendering of mutual aid between this city and other political subdivisions of this state and of other states with respect to the carrying out of emergency-preparedness functions.

(D) To comply with the provisions of M.S. § 12.25, as it may be amended from time to time, which requires that each political subdivision of the state shall establish a local organization for emergency management.

#### **§ 32.02 DEFINITIONS.**

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

## **Emergency Management**

***DISASTER.*** A situation which creates an immediate and serious impairment to the health and safety of any person, or a situation which has resulted in or is likely to result in catastrophic loss to property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

***EMERGENCY.*** An unforeseen combination of circumstances which calls for immediate action to prevent from developing or occurring.

***EMERGENCY MANAGEMENT.*** The preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters caused by fire, flood, tornado, and other acts of nature, or from sabotage, hostile action, or from industrial hazardous material mishaps. These functions include, without limitation, fire-fighting services, police services, emergency medical services, engineering, warning services, communications, radiological, and chemical, evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out the foregoing functions. Emergency management includes those activities sometimes referred to as “civil defense” functions.

***EMERGENCY MANAGEMENT FORCES.*** The total personnel resources engaged in city-level emergency management functions in accordance with the provisions of this chapter or any rule or order thereunder. This includes personnel from city departments, authorized volunteers, and private organizations and agencies.

***EMERGENCY MANAGEMENT ORGANIZATION.*** The staff responsible for coordinating city-level planning and preparation for disaster response. This organization provides city liaison and coordination with federal, state, and local jurisdictions relative to disaster preparedness activities and assures implementation of federal and state program requirements.

### **§ 32.03 ESTABLISHMENT OF EMERGENCY MANAGEMENT ORGANIZATION.**

There is hereby created within the city government an emergency management organization which shall be under the supervision and control of the City Emergency Management Director, called the Director. The Director shall be appointed by the City Council for an indefinite term and may be removed by the Council at any time. The Director shall serve with a salary as established by the City Council and shall be paid his or her necessary expenses. The Director shall have direct responsibility for the organization, administration and operation of the emergency preparedness organization, subject to the direction and control of the Council.

### **§ 32.04 POWERS AND DUTIES OF DIRECTOR.**

(A) The Director shall represent the city on any regional or state conference for emergency management. The Director shall develop proposed mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present these agreements to the Council for its action. These arrangements shall be consistent with the State Emergency Plan.

(B) The Director shall make studies and surveys of the human resources, industries, resources, and



### **Emergency Management**

facilities of the city as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency or disaster. The Director shall establish the economic stabilization systems and measures, service staffs, boards, and sub-boards required, in accordance with state and federal plans and directions subject to the approval of the Mayor.

(C) The Director shall prepare a comprehensive emergency plan for the emergency preparedness of the city and shall present the plan to the Council for its approval. When the Council has approved the plan, it shall be the duty of all city agencies and all emergency preparedness forces of the city to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The Director shall coordinate the emergency management activities of the city to the end that they shall be consistent and fully integrated with the emergency plans of the federal government and the state and correlated with emergency plans of the county and other political subdivisions within the state.

(D) In accordance with the State and City Emergency Plan, the Director shall institute training programs, public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the City Emergency Plan when a disaster occurs.

(E) The Director shall utilize the personnel, services, equipment, supplies, and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all city departments and agencies shall, to the maximum extent practicable, cooperate with and extend services and facilities to the city's emergency management organization and to the Governor upon request. The head of each department or agency in cooperation with the Director shall be responsible for the planning and programming of those emergency activities as will involve the utilization of the facilities of the department or agency.

(F) The Director shall, in cooperation with those city departments and agencies affected, assist in the organizing, recruiting, and training of emergency management personnel, which may be required on a volunteer basis to carry out the emergency plans of the city and state. To the extent that emergency personnel are recruited to augment a regular city department or agency for emergencies, they shall be assigned to the departments or agencies and shall be under the administration and control of the department or agency.

(G) Consistent with the state emergency services law, the Director shall coordinate the activity of municipal emergency management organizations within the city and assist in establishing and conducting training programs as required to assure emergency operational capability in the several services as provided by M.S. § 12.25, as it may be amended from time to time.

(H) The Director shall carry out all orders, rules, and regulations issued by the Governor with reference to emergency management.

(I) The Director shall prepare and submit reports on emergency preparedness activities when requested by the Mayor.

### **§ 32.05 LOCAL EMERGENCIES.**

(A) A local emergency may be declared only by the Mayor or his or her legal successor. It shall not be continued for a period in excess of three days except by or with the consent of the Council. Any order,

### **Emergency Management**

or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed in the office of the City Clerk-Administrator-Treasurer.

(B) A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable local or inter-jurisdictional disaster plans, and may authorize aid and assistance thereunder.

(C) No jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an inter-jurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions.

Penalty, see § 32.99

### **§ 32.06 EMERGENCY REGULATIONS.**

(A) Whenever necessary, to meet a declared emergency or to prepare for an emergency for which adequate regulations have not been adopted by the Governor or the Council, the Council may by resolution promulgate regulations, consistent with applicable federal or state law or regulation, respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding of essential public services, emergency health, fire, and safety regulations, drills or practice periods required for preliminary training, and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

(B) Every resolution of emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the office of the City Clerk-Administrator-Treasurer. A copy shall be kept posted and available for public inspection during business hours. Notice of the existence of these regulations and their availability for inspection at the City Clerk-Administrator-Treasurer's Office shall be conspicuously posted at the front of the city hall or other headquarters of the city or at other places in the affected area as the Council shall designate in the resolution. By resolution, the Council may modify or rescind a regulation.

(C) The Council may rescind any regulation by resolution at any time. If not sooner rescinded, every regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule, or regulation inconsistent with an emergency regulation promulgated by the Council shall be suspended during the period of time and to the extent conflict exists.

(D) During a declared emergency, the city is, under the provisions of M.S. § 12.31, as it may be amended from time to time and notwithstanding any statutory provision to the contrary, empowered, through its Council, acting within or without the corporate limits of the city, to enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of a disaster. The city may exercise these powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds, including, but not limited to, publication of resolutions, publication of calls for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirement for bids.

Penalty, see § 32.99

## **Emergency Management**

### **§ 32.07 EMERGENCY MANAGEMENT A GOVERNMENT FUNCTION.**

All functions and activities relating to emergency management are hereby declared to be governmental functions. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this resolution or under the worker's compensation law, or under any pension law, nor the right of any person to receive any benefits or compensation under any act of Congress.

### **§ 32.08 PARTICIPATION IN LABOR DISPUTES OR POLITICS.**

The emergency management organization shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes, nor shall it be employed in a labor dispute.

### **§ 32.99 PENALTY.**

Any person who violates any provision of this chapter or any regulation adopted thereunder relating to acts, omissions, or conduct other than official acts of city employees or officers is guilty of a misdemeanor.

## **Emergency Management**

## **City Policies**

### **CHAPTER 33: CITY POLICIES**

#### **Section**

#### **33.01 Election dates**

#### **§ 33.01 ELECTION DATES.**

The regular city election shall be held on the first Tuesday after the first Monday in November in even numbered years.

(Ord. 104, passed 7-1-63)

**City Policies  
APPENDIX I**

**RESOLUTION TO ADOPT A SCHEDULE OF  
OFFENSES AND VOLUNTARY ADMINISTRATIVE PENALTIES**

WHEREAS, the City Council has adopted the provisions of § 10.98, establishing a procedure for requesting the voluntary payment of administrative penalties for certain violations of the code; and

WHEREAS, the provisions of § 10.98 authorize the City Council, by a resolution adopted by a majority of its members, to identify administrative offenses and establish penalties for these offenses;

NOW THEREFORE, be it resolved by the City Council as follows:

<i>Offense</i>	<i>Code Section</i>	<i>Amount of Administrative Penalty</i>
All offenses for which an administrative penalty may be established under this code, other than those specified below:		\$500.00

EFFECTIVE DATE: The effective date of the resolution is the date of its passage by a majority of the members of the City Council. Passage of this resolution implements the provisions of § 10.98.

Mayor: \_\_\_\_\_

Attest: \_\_\_\_\_  
City Clerk-Administrator-Treasurer

**City Policies**  
**APPENDIX II**

**NOTICE OF CODE VIOLATION**

To: (Name and address of person who is alleged to have violated the code)

From: (Name and title of city official giving the notice)

Re: Alleged violation of Section of the City Code, relating to (give title of section)

Date: (Date of notice)

I hereby allege that on (date of violation) you violated § \_\_\_\_\_ of the City Code relating to

---

The City Council has by resolution established an administrative penalty in the amount of \$500 for this violation.

Payment of this administrative penalty is voluntary, but if you do not pay it the city may initiate criminal proceedings for this alleged violation.

Payment is due within 14 days of the date of this notice. Before the due date, you may request an additional 14-day extension of the time to pay the administrative penalty.

As an alternative to the payment of this administrative penalty, if the situation that gave rise to this alleged violation is corrected by \_\_\_\_\_ (establish date), then the payment of the administrative penalty will be waived.

Even if the administrative penalty is paid, the city reserves the right to institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

Before the due date, you may request to appear before the City Council to contest the request for payment of the penalty. After a hearing before the Council, the Council may determine to withdraw the request for payment or to renew the request for payment. Because the payment of the administrative penalty is voluntary, there shall be no appeal from the decision of the Council.

If you pay the administrative penalty, the city will not initiate criminal proceedings for this alleged violation. However, 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.

Payment of the administrative penalty may be made by check, cash or money order to the City Treasurer.

Signed: \_\_\_\_\_  
(Name and Title of Person Giving Notice)

## **TITLE III: ADMINISTRATION**

### **Chapter**

#### **30. CITY GOVERNMENT; OFFICIALS**

#### **31. BOARDS AND COMMISSIONS**

#### **32. EMERGENCY MANAGEMENT**

#### **33. CITY POLICIES**





## **City Government; Officials**

### **CHAPTER 30: CITY GOVERNMENT; OFFICIALS**

#### **Section**

#### ***General Provisions***

- 30.01 Council; rules of procedure
- 30.02 Clerk-Administrator-Treasurer; duties
- 30.03 Mayor; term

#### ***Police Department***

- 30.15 Police Department continued
- 30.16 Chief of Police
- 30.17 Duties of police
- 30.18 Uniform and badge
- 30.19 Reserve officers
- 30.20 Police Department policies manual adopted

### ***GENERAL PROVISIONS***

#### **§ 30.01 COUNCIL; RULES OF PROCEDURE.**

(A) Regular meetings of the City Council shall be held on the first Monday of each month. The first meeting in January of each year shall be the annual meeting. The Council, at this time, shall elect an acting Mayor, designate an official paper, select an official depository, review Council by-laws and review committee appointments.

(B) All Council meetings shall be held in the Council chambers unless changed by a majority vote of the Council. Public notice shall be given of all meeting place changes.

(C) At all Council meetings, the following order of business and rules of procedure shall be adhered to unless suspended by a majority vote of the members:

- (1) Call to order by the Mayor or acting Mayor;
- (2) Approval of minutes of the previous meeting;
- (3) Presentation of petitions or complaints by Council members or citizens;
- (4) (a) Reports of officers and committees;

## **City Government; Officials**

- (b) Report of standing committees;
  - (c) Report of special committees; and
  - (d) Report of City Clerk-Administrator-Treasurer.
- (5) Notice of communications;
  - (6) Old business;
  - (7) Presentation of claims;
  - (8) New business;
  - (9) Announcements; and
  - (10) Adjournment.

(D) The presiding officer shall provide an agenda for each regular meeting, shall maintain order at all times and shall apply the rules of procedure, according to *Roberts Rules of Order*, unless contradicted by the laws of the state. All Council members or persons wishing to speak to the Council must be recognized by the presiding officer.

(E) All ordinances or amendments to ordinances shall be reduced to writing and kept on file in the office of the City Clerk-Administrator-Treasurer upon passage.

(F) The Council shall approve any change of regular meeting date or place by a majority vote of the members.

(Ord. 144, passed 11-3-75)

### **§ 30.02 CLERK-ADMINISTRATOR-TREASURER; DUTIES.**

(A) (1) The Office of Clerk-Administrator-Treasurer shall be hereafter known as the Clerk-Administrator-Treasurer. The duties of the Clerk-Administrator-Treasurer shall include those of the Clerk and of the Treasurer. The Clerk-Administrator-Treasurer shall perform all statutory duties of the Clerk and of the Treasurer and shall give the required notice of each regular and special election, record the proceedings thereof, notify officials of their elections or appointments to office, certify to the County Auditor all appointments and the results of all municipal elections.

- (2) He or she shall keep:
  - (a) A minute book, noting therein all proceedings of the Council;
  - (b) An ordinance book, in which he or she shall record, at length, all ordinances passed by the Council;
  - (c) An account book, in which he or she shall enter all money transactions of the municipality, including the dates and amounts of all receipts and the person from whom the money was

### **City Government; Officials**

received and all orders drawn upon the Treasurer with their payee and object; and

(d) Ordinances, resolutions and claims considered by the Council need not be given in full in the minutes book if they appear in other permanent records of the Clerk-Treasurer-Administrator and can be accurately identified from the description given in the minutes.

(3) (a) The Clerk-Administrator-Treasurer shall act as the Clerk and Bookkeeper of the municipality, shall be the custodian of its seal and records, shall sign its official papers, shall post public notices, ordinances and resolutions as may be required and shall perform such other appropriate duties as may be imposed upon him or her by the Council.

(b) For certified copies and for filing and entering, when required, papers not relating to municipal business, he or she shall receive the fees allowed by law to city clerks; but the Council may require the Clerk-Administrator-Treasurer to pay the fees to the general fund.

(c) With the consent of the Council, he or she may appoint a deputy for whose acts he or she shall be responsible and whom he or she may remove at pleasure.

1. In case of the Clerk-Administrator-Treasurer's absence from the municipality or disability, the Council may appoint a Deputy Clerk-Administrator-Treasurer if there is none, to serve during the absence or disability.

2. The Deputy may discharge any of the duties of the Clerk-Administrator-Treasurer, except that he or she shall not be a member of the Council.

(B) In addition to all of the foregoing, the Clerk-Administrator-Treasurer shall:

(1) Direct the administration as provided by Council action, state and federal statutes and coordinate, with the Council, in administering municipal affairs;

(2) Prepare reports and summaries relating to contemplated municipal projects and/or improvements and submit them with recommendations as may be required to the Council for study and subsequent action;

(3) Prepare an annual fiscal budget and capital improvements plan for submission to the Council and maintain financial guidelines for the municipality within the scope of the approved budget and capital program;

(4) Prepare an annual financial statement and perform other duties as required in M.S. § 412.141, as it may be amended from time to time;

(5) Attend and participate in all Council meetings and attend, at his or her discretion or by invitation, other committee and commission meetings;

(6) Coordinate municipal programs and activities as authorized by the Council;

(7) Submit quarterly reports to the Council of the financial condition of the municipal accounts;

(8) Supervise the conduct of local elections in accordance with the prescribed laws and

## **City Government; Officials**

regulations;

(9) Supervise the activities of all city department heads and staff in the administration of city policy with authority to effectively recommend their employment or removal;

(10) Work in cooperation with the Council's appointed attorney and engineer;

(11) Prepare news releases, develop and discuss public relations material with all concerned, as required, and maintain good public relations with the general public;

(12) Consult with appointed officials and with other public or private agencies as may be required;

(13) Be fully informed regarding federal, state and county programs which affect the municipality; and

(14) Perform all duties required of him or her by ordinances or resolutions adopted by the Council.

(C) The Clerk-Administrator-Treasurer shall have:

(1) Considerable knowledge of municipal government operations, proper procedures, public relations, finances, purchasing and all administrative requirements for proper municipal operation;

(2) Knowledge of or ability to acquire full knowledge of all laws affecting the municipality;

(3) Ability to provide harmonious relations with municipal employees and general public; and

(4) Ability to plan development, to collect material and analyze for reporting and to conduct and implement studies of procedures, operations and organizations.

(D) The Clerk-Administrator-Treasurer shall have a high school diploma or its equivalent and experience in public administration and accounting, with a minimum of five years experience in municipal administration or equivalent education.

(E) The Clerk-Administrator-Treasurer is appointed by a majority of the Council for an indefinite term, with removal only by a majority of the Council.

(Ord. 181, passed 10-7-96)

### **§ 30.03 MAYOR; TERM.**

The term of Mayor of the city shall be four years.

(Ord. 173, passed 3-4-91)

## ***POLICE DEPARTMENT***

### **§ 30.15 POLICE DEPARTMENT CONTINUED.**

(A) If the city has a Police Department at the time this code is adopted, then the Department of the city

### **City Government; Officials**

is hereby continued. If the city does not have a Police Department at the time of the adoption of this code, then at any time after the code is adopted, the City Council may by resolution create a Police Department, which shall be organized and administered as provided for by this code. The City Council may at any time determine by resolution to discontinue the existence of a Police Department and provide for the enforcement of state laws and city ordinances by other means. The head of the Police Department shall be known as the Chief of Police and the number of additional members of the Police Department, together with their ranks and titles, shall be determined by the City Council by resolution. The compensation to be paid to members of the Police Department shall be fixed by the City Council. Members of the Police Department shall be appointed by the City Council.

(B) All police officers shall meet the minimum standards for licensing as a peace officer as established by the Minnesota Peace Officers Standards and Training Board and have a current and valid peace officer license at the time of appointment. All police officers shall retain this license during their employment as a police officer with the city and will be subject to discharge if the license is suspended, revoked or becomes invalid for any reason. In addition, all police officers must have a valid Minnesota vehicle operator's license and must be insurable as a vehicle driver by the city's automobile insurance carrier.

#### **§ 30.16 CHIEF OF POLICE.**

The Chief of Police shall have supervision and control of the Police Department and its members. The Chief of Police shall be responsible for the proper training and discipline of the members of the Police Department. The Chief of Police shall be responsible for the keeping of adequate records and shall report to the City Council on the needs of the Police department and its work. Every member of the Police department is subordinate to the Chief of Police and shall obey the instructions of the Chief of Police and any superior officer. The City Council may designate one of the police officers as Acting Chief, who shall have all the powers and duties of the Chief of Police during the absence or disability of the Chief of Police.

#### **§ 30.17 DUTIES OF POLICE.**

Members of the Police Department shall enforce the laws applicable to the city, bring violators before the court, and make complaints for offenses coming to their knowledge. Members of the Police Department shall serve processes on behalf of the city and shall serve those notices as may be required by the City Council or other authority. When the city is not a party to the proceedings involved in the process or notice, the officer shall collect the same fees as provided by law. All fees shall be paid into the city treasury.

#### **§ 30.18 UNIFORM AND BADGE.**

Each member of the Police Department shall, while on duty, wear a suitable badge and uniform furnished by the city, except that the Chief of Police may authorize the performance of specific duties while not in uniform. When a member terminates membership in the Police Department, the member shall immediately deliver to the city the badge, uniform and all other property of the city.

#### **§ 30.19 RESERVE OFFICERS.**

### **City Government; Officials**

The Chief of Police may appoint, for a specified time, as many reserve officers as may be necessary. Reserve officers shall be subordinate to the Chief of Police. Under the provisions of M.S. § 626.84, Subd. 1(g), as it may be amended from time to time, a ***RESERVE OFFICER*** is an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control, and administrative or clerical assistance. A reserve officer's duties shall not include enforcement of the general criminal laws of the state, and the reserve officer does not have full powers of arrest or authorization to carry a firearm on duty.

### **§ 30.20 POLICE DEPARTMENT POLICIES MANUAL ADOPTED.**

The Police Department Manual, as amended, containing the general policies, procedures and rules for operation of the Police Department of the city is hereby adopted as the official departmental policy manual of the Police Department.





## Boards and Commissions

### CHAPTER 31: BOARDS AND COMMISSIONS

#### Section

- 31.01 Library Board
- 31.02 Airport Board
- 31.03 Planning Commission
- 31.04 Public Utilities Commission

#### § 31.01 LIBRARY BOARD.

(A) The city hereby creates the Library Board to be made up of five members.

(B) (1) *Qualification for office.* All Library Board members will be city residents of voting age. No more than one City Council member shall, at any time, be a member of the Library Board.

(2) *Appointment.* Library Board members will be appointed by the Mayor with approval of the City Council.

(3) *Terms of office.*

(a) The term of office for the Library Board will be three years beginning the first day of a city's fiscal year and ending with the last day of the city's fiscal year.

(b) Library Board terms will alternate so that no more than two will become vacant at the end of any fiscal year.

(c) No Library Board member will be eligible to serve more than three consecutive three-year terms.

(4) *Removal of members.* The Mayor, with the approval of the Council, may remove any Library Board member for misconduct or neglect.

(5) *Vacancies.* The Council will fill any vacancies by appointment for the unexpired term.

(6) *Compensation.* The Library Board members will receive no compensation for their services, but may be reimbursed for expenses incurred in the discharge of Library Board duties and activities.

(C) (1) The Library Board will elect the President, Secretary and any other officers it deems necessary.

(2) The Library Board shall adopt by-laws and regulations for the governance of the library.

## **Boards and Commissions**

(3) The Library Board shall have exclusive control of the expenditure of all monies collected for or placed to the credit of the Library Fund and of all interest earned on money within the Library Fund.

(4) The Library Board shall have control of the room provided for library purposes.

(5) The Library Board shall appoint a capable library director, establish the compensation of employees and remove any of them for cause.

(6) With the approval of the Council, the Library Board may purchase grounds and erect a library building thereon.

(7) The Library Board may accept any gift, grant, devise or bequest made by any person without further approval from the city, except in those cases where gifts are granted with conditions which the Library Board has no power to fulfill. Approval for the acceptance of such gifts must be made by the City Council.

(Ord. 168, passed 2-6-84)

### **§ 31.02 AIRPORT BOARD.**

(A) (1) There is hereby created a board to be known as the Airport Board, which shall consist of four members, one of whom shall, at all times, be a member of the City Council.

(2) The members of this Board shall serve without compensation. The members of this Board shall be appointed by a majority vote of the members of the City Council. The members appointed shall be for a term of three years; all appointments shall terminate on the date of the annual meeting of the Airport Board, as hereinafter provided. All members shall hold office until their respective successors are appointed and qualified.

(3) A vacancy in the office of any member shall be filled in the same manner as the original appointment but only for the unexpired terms.

(4) All members shall file their acceptance with the City Council within five days after notice of their appointment.

(B) (1) The Airport Board shall meet within one week after members have filed their notices of acceptance of appointment and at the meetings shall organize and elect officers from their members as they may determine.

(2) The Board shall organize in the same manner at their meeting to be held in the month of January in each calendar year. The Board to determine the date during the month when the meeting shall be held and the Board shall meet at such other times as they shall determine it to be necessary, the meeting to be called by the President of the Board by giving oral or written notice one day in advance of the meeting.

(3) The presiding officer of the Board shall be the President and he or she shall preside at all meetings and, in the event of his or her absence, the Vice President shall preside. All contracts, orders and other documents to be executed in behalf of the Board shall be signed by the presiding officer and the

## **Boards and Commissions**

Secretary thereof.

(C) (1) The Board shall have charge of the administration, maintenance and control of the Municipal Airport. The Board shall have such traditional powers, duties and responsibilities as shall, by resolution of the City Council from time to time, be granted to the Board. The Board shall have power to receive and accept, according to their terms, all donations for airport purposes; to collect all license fees and other airport income; to establish rules relating to its own procedure and to the administration, maintenance and control of the airport.

(2) Nothing in this section shall be construed to vest any power in the Board to construct any additional airport facilities or structures, the powers to be in the City Council subject to prior approval and recommendation of the Planning Commission. No money shall be expended by the Board without prior approval of the City Council. The Board shall from time to time report to and confer with the City Council on all matters of legislative or administrative character and shall keep a record of its own proceedings. Reports are to be made annually to the Council or more often if required by the Council, an annual report to be made to the Council at its regular meeting in the month of December of each year.

(D) Whenever a majority of the City Council deems, for the best interests of the airport and its affairs, it may remove any member of the Board.

(E) The City Council reserves the right, at all times, to cancel or change any orders or decisions the Board may make in respect to any affairs of the airport.  
(Ord. 117, passed 4-1-68)

### **§ 31.03 PLANNING COMMISSION.**

(A) The Planning Commission for the city is hereby established.

(B) (1) The Planning Commission shall consist of seven members. Four members shall be appointed by the City Council and may be removed by a four-fifths vote of the Council. The City Engineer and the City Attorney shall be members ex officio and the Council shall select one member of the Commission from among its own members.

(2) (a) Members shall be appointed for terms of four years, holding their offices until their successors are appointed and qualified.

(b) The terms of ex officio members shall correspond to their respective official tenures. Vacancies during the term shall be filled by the Council for the unexpired portion of the term. Every appointed member shall before entering upon the discharge of his or her duties take an oath that he or she will faithfully discharge the duties of his or her office. All members shall serve without compensation.

(C) (1) The Commission shall elect a Chairperson from among its appointed members for a term of one year and the Commission may create and fill other offices as it may determine. The Clerk-Administrator-Treasurer shall act as Secretary of the Planning Commission, but he or she shall not be a member.

(2) The Commission shall hold at least one regular meeting each month. It shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions and findings, which record shall be a public record. On or before January 1 of each year, the Commission shall submit to the

### **Boards and Commissions**

City Council a report of its work during the preceding year. Expenditures of the Commission shall be within amounts appropriated for the purpose by the City Council.

(D) (1) Upon the appointment and organization of the Commission, it shall proceed with the preparation and adoption of resolution of a program of work outlining activities proposed to be undertaken in the exercise of its powers and the performance of its duties.

(2) The program will include:

- (a) An outline of data and information to be assembled as a basis for the city plan;
- (b) An outline of subjects to be covered by the city plan; and
- (c) An outline of types of procedure necessary to make the city plan effective.

(3) The Planning Commission may, by resolution, revise its program of work from time to time.

(E) It shall be the function and duty of the Planning Commission to prepare and adopt a comprehensive city plan for the physical development of the city, including proposed public buildings, street arrangements and improvements, public utility services, parks, playgrounds and other similar developments and the use of property, the density of population and other matters relating to the physical development of the city. The plan may be prepared in sections each of which shall relate to a major subject of the plan, as outlined in the Commission's program of work.

(F) (1) Before adopting the city plan for any section of it or any substantial amendment thereof, the Commission shall hold at least one public hearing thereon, notice of the time and place of which shall be given by publication in a newspaper of general circulation at least ten days before the day of the hearing. The adoption of the city plan or of any section or amendment thereof shall be by resolution of the Commission, approved by the affirmative votes of not less than four-fifths of its total membership.

(2) The Commission may from time to time amend or add to the city plan or section thereof as herein provided for the adoption of the original plan whenever changed conditions or further studies by the Commission indicate that the amendment or addition is necessary.

(3) An attested copy of the plan or of any section, amendment or addition to the city plan adopted by the Planning Commission shall be certified by the City Council.

(G) (1) Upon the adoption of the city plan or any section thereof, it shall be the duty of the Planning Commission to recommend to the City Council reasonable and practical means for putting into effect the plan or section thereof in order that the same will serve as a pattern and guide for the orderly physical development of the city and as a basis for the efficient expenditure of the funds thereof relating to the subjects of the plan.

(2) The means shall consist of a zoning plan, the control of subdivision plats, a plan of future streets, coordination of the normal public improvements of the city, a long term program of capital expenditures and other matters as will accomplish the purpose hereof.

(H) The Planning Commission, upon its own motion, may and, upon instructions by the City Council, shall prepare a revised zoning plan for the city. Before recommending the plan to the City Council, the

### **Boards and Commissions**

Planning Commission shall hold at least one public hearing thereon after a notice similar to that required by division (F) above. The same procedure shall apply for the preparation of any plan of proposed right-of-way for future streets or highways or the future widening of existing streets or highways, or for the reservation of lands for other purposes.

(I) (1) The Planning Commission, with the assistance of the City Engineer, may and, upon the instruction by the City Council, shall prepare an official map of the platted and unplatted portions of the city and adjoining territory or portions thereof indicating upon the map the proposed future extension or widening of streets of the city within the existing platted and developed, territory or across the unplatted territory.

(2) After the map has been prepared and a hearing on it has been held, as provided in division (H) above, it shall be submitted to the Council, which shall thereupon consider the map and may adopt it or any part of it with the amendments as it deems advisable.

(3) Before adoption by the Council, a public hearing shall be held upon the proposal at least ten days after a notice thereof has been published in a newspaper published in the city.

(4) After the map has been adopted by the Council and filed with the Register of Deeds whenever any existing street or highway is widened or improved, or any new street is opened, or lands for other public purpose are acquired by action of the city, it shall not be required of the proceedings to pay for any building or structure placed without a permit or in violation of conditions of a permit after the filing of a map within the limits of the mapped street or outside of any building line that may have been established upon the existing street, or within any area, thus reserved for public purposes.

(J) (1) Every proposed plat of land within the city or within two miles of the units of the city and not within a town which itself requires the approval of plats shall be submitted to the City Council before being filed and no plat of land shall be filed unless and until the same shall first have been approved by the City Council.

(2) Any person who violated this provision or who sells land or offers land for sale or contracts for the sale of land by reference to or her other use of any plat before the plat has been approved by the Planning Commission and the City Council in accordance with the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine. Before acting on the plat, the City Council shall submit the same to the Planning Commission for its recommendations.

(3) The Planning Commission, within 40 days after any such plat has been referred to it by the City Council, shall act on the same and shall make its recommendations with respect thereto. The recommendations may consist of:

(a) Recommendation that the City Council approve the plat;

(b) Recommendation that the City Council disapprove the plat, in which case the recommendation shall include a statement of the specific reasons of the recommendation; or

(c) Recommendation that the City Council approve the plat after specified changes for revisions are made therein, which recommendation may include the condition that a revised plat containing the changes or provisions be submitted to the Planning Commission in which case the revised plat shall be so submitted to the Planning Commission for its further consideration and recommendations before action

### **Boards and Commissions**

thereon by the City Council. The City Council must either approve or deny an application for a preliminary plat within 120 days after a complete application for a preliminary plat has been received, unless a longer time has been agreed to in writing by the applicant. The City Council must either approve or deny an application for a final plat within 60 days after a complete application for a final plat has been received, unless a longer time has been agreed to in writing by the application.

(K) No change shall be made in the zoning plan, future street and public lands plan or regulations governing the platting of land after the plans or regulations have been adopted by the City Council until the proposed change has been referred to the Planning Commission for report thereon and an attested copy of the report has been filed with the Council and the ordinance or resolution or establishment of any of the plans or specifications shall be adopted by the City Council until the ordinance or resolution has been referred in the Planning Commission for a report thereon and an attested copy of the report has been filed with the Council. Failure of the Planning Commission so to report within 40 days or such longer period, as may be designated by the Council, after the reference shall be deemed to be approved of the proposed change.

(L) (1) Each officer, department, board or commission of or in the city whose functions include recommending, preparing plans for or constructing public works shall, at least three months before the end of each fiscal year, submit to the Planning Commission a list of the proposed works recommended by the officer, department, board or commission for planning, initiation or constructing during the ensuing fiscal year. The Planning Commission shall request from the local school district a similar list of its proposed public works. The Planning Commission shall list and classify all such proposed public works and shall prepare a coordinated program of proposed public works for the ensuing fiscal year.

(2) The program shall be recommended by the Commission to the Council and to such other officers, departments, boards or public bodies as have jurisdiction over the recommending, planning or constructing of public works. A copy of the recommended program of public works shall be included in the annual report of the Planning Commission provided for in division (C) above.

(Ord. 109, passed 2-17-66)

### **§ 31.04 PUBLIC UTILITIES COMMISSION.**

(A) There is hereby established the Public Utilities Commission of the city, as authorized by M.S. §§ 412.321 to 412.391, as it may be amended from time to time. The Commission shall consist of three members appointed by the Council for three-year overlapping terms commencing on October 15 of each year. The provisions of M.S. § 412.341, as it may be amended from time to time shall apply to the composition, terms, appointment qualifications and removal of members of the Commission. The President of the Commission shall receive the same salary as the Mayor and the other members of the Commission shall receive the same salary as the City Council members.

(B) (1) The Public Utilities Commission shall have jurisdiction over the light and power system.

(2) With respect to the public utilities enumerated in division (A), the Public Utilities Commission shall have the powers and duties prescribed by law.

(Ord. 107, passed 10-4-65)

## **Boards and Commissions**





## **Emergency Management**

### **CHAPTER 32: EMERGENCY MANAGEMENT**

#### **Section**

- 32.01 Policy and purpose
- 32.02 Definitions
- 32.03 Establishment of emergency management organization
- 32.04 Powers and duties of Director
- 32.05 Local emergencies
- 32.06 Emergency regulations
- 32.07 Emergency management a government function
- 32.08 Participation in labor disputes or politics
  
- 32.99 Penalty

#### **§ 32.01 POLICY AND PURPOSE.**

Because of the existing possibility of the occurrence of disasters of unprecedented size and destruction resulting from fire, flood, tornado, blizzard, destructive winds or other natural causes, or from sabotage, hostile action, or from hazardous material mishaps of catastrophic measure; and in order to insure that preparations of this city will be adequate to deal with those disasters, and generally, to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of this city, it is hereby found and declared to be necessary:

(A) To establish a city emergency management organization responsible for city planning and preparation for emergency government operations in time of disasters.

(B) To provide for the exercise of necessary powers during emergencies and disasters.

(C) To provide for the rendering of mutual aid between this city and other political subdivisions of this state and of other states with respect to the carrying out of emergency-preparedness functions.

(D) To comply with the provisions of M.S. § 12.25, as it may be amended from time to time, which requires that each political subdivision of the state shall establish a local organization for emergency management.

#### **§ 32.02 DEFINITIONS.**

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

## **Emergency Management**

***DISASTER.*** A situation which creates an immediate and serious impairment to the health and safety of any person, or a situation which has resulted in or is likely to result in catastrophic loss to property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.

***EMERGENCY.*** An unforeseen combination of circumstances which calls for immediate action to prevent from developing or occurring.

***EMERGENCY MANAGEMENT.*** The preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters caused by fire, flood, tornado, and other acts of nature, or from sabotage, hostile action, or from industrial hazardous material mishaps. These functions include, without limitation, fire-fighting services, police services, emergency medical services, engineering, warning services, communications, radiological, and chemical, evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out the foregoing functions. Emergency management includes those activities sometimes referred to as “civil defense” functions.

***EMERGENCY MANAGEMENT FORCES.*** The total personnel resources engaged in city-level emergency management functions in accordance with the provisions of this chapter or any rule or order thereunder. This includes personnel from city departments, authorized volunteers, and private organizations and agencies.

***EMERGENCY MANAGEMENT ORGANIZATION.*** The staff responsible for coordinating city-level planning and preparation for disaster response. This organization provides city liaison and coordination with federal, state, and local jurisdictions relative to disaster preparedness activities and assures implementation of federal and state program requirements.

### **§ 32.03 ESTABLISHMENT OF EMERGENCY MANAGEMENT ORGANIZATION.**

There is hereby created within the city government an emergency management organization which shall be under the supervision and control of the City Emergency Management Director, called the Director. The Director shall be appointed by the City Council for an indefinite term and may be removed by the Council at any time. The Director shall serve with a salary as established by the City Council and shall be paid his or her necessary expenses. The Director shall have direct responsibility for the organization, administration and operation of the emergency preparedness organization, subject to the direction and control of the Council.

### **§ 32.04 POWERS AND DUTIES OF DIRECTOR.**

(A) The Director shall represent the city on any regional or state conference for emergency management. The Director shall develop proposed mutual aid agreements with other political subdivisions of the state for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted, and shall present these agreements to the Council for its action. These arrangements shall be consistent with the State Emergency Plan.

(B) The Director shall make studies and surveys of the human resources, industries, resources, and

### **Emergency Management**

facilities of the city as deemed necessary to determine their adequacy for emergency management and to plan for their most efficient use in time of an emergency or disaster. The Director shall establish the economic stabilization systems and measures, service staffs, boards, and sub-boards required, in accordance with state and federal plans and directions subject to the approval of the Mayor.

(C) The Director shall prepare a comprehensive emergency plan for the emergency preparedness of the city and shall present the plan to the Council for its approval. When the Council has approved the plan, it shall be the duty of all city agencies and all emergency preparedness forces of the city to perform the duties and functions assigned by the plan as approved. The plan may be modified in like manner from time to time. The Director shall coordinate the emergency management activities of the city to the end that they shall be consistent and fully integrated with the emergency plans of the federal government and the state and correlated with emergency plans of the county and other political subdivisions within the state.

(D) In accordance with the State and City Emergency Plan, the Director shall institute training programs, public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the City Emergency Plan when a disaster occurs.

(E) The Director shall utilize the personnel, services, equipment, supplies, and facilities of existing departments and agencies of the city to the maximum extent practicable. The officers and personnel of all city departments and agencies shall, to the maximum extent practicable, cooperate with and extend services and facilities to the city's emergency management organization and to the Governor upon request. The head of each department or agency in cooperation with the Director shall be responsible for the planning and programming of those emergency activities as will involve the utilization of the facilities of the department or agency.

(F) The Director shall, in cooperation with those city departments and agencies affected, assist in the organizing, recruiting, and training of emergency management personnel, which may be required on a volunteer basis to carry out the emergency plans of the city and state. To the extent that emergency personnel are recruited to augment a regular city department or agency for emergencies, they shall be assigned to the departments or agencies and shall be under the administration and control of the department or agency.

(G) Consistent with the state emergency services law, the Director shall coordinate the activity of municipal emergency management organizations within the city and assist in establishing and conducting training programs as required to assure emergency operational capability in the several services as provided by M.S. § 12.25, as it may be amended from time to time.

(H) The Director shall carry out all orders, rules, and regulations issued by the Governor with reference to emergency management.

(I) The Director shall prepare and submit reports on emergency preparedness activities when requested by the Mayor.

### **§ 32.05 LOCAL EMERGENCIES.**

(A) A local emergency may be declared only by the Mayor or his or her legal successor. It shall not be continued for a period in excess of three days except by or with the consent of the Council. Any order,

### **Emergency Management**

or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed in the office of the City Clerk-Administrator-Treasurer.

(B) A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable local or inter-jurisdictional disaster plans, and may authorize aid and assistance thereunder.

(C) No jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an inter-jurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions.

Penalty, see § 32.99

### **§ 32.06 EMERGENCY REGULATIONS.**

(A) Whenever necessary, to meet a declared emergency or to prepare for an emergency for which adequate regulations have not been adopted by the Governor or the Council, the Council may by resolution promulgate regulations, consistent with applicable federal or state law or regulation, respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding of essential public services, emergency health, fire, and safety regulations, drills or practice periods required for preliminary training, and all other matters which are required to protect public safety, health, and welfare in declared emergencies.

(B) Every resolution of emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the office of the City Clerk-Administrator-Treasurer. A copy shall be kept posted and available for public inspection during business hours. Notice of the existence of these regulations and their availability for inspection at the City Clerk-Administrator-Treasurer's Office shall be conspicuously posted at the front of the city hall or other headquarters of the city or at other places in the affected area as the Council shall designate in the resolution. By resolution, the Council may modify or rescind a regulation.

(C) The Council may rescind any regulation by resolution at any time. If not sooner rescinded, every regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule, or regulation inconsistent with an emergency regulation promulgated by the Council shall be suspended during the period of time and to the extent conflict exists.

(D) During a declared emergency, the city is, under the provisions of M.S. § 12.31, as it may be amended from time to time and notwithstanding any statutory provision to the contrary, empowered, through its Council, acting within or without the corporate limits of the city, to enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of a disaster. The city may exercise these powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds, including, but not limited to, publication of resolutions, publication of calls for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirement for bids.

Penalty, see § 32.99

## **Emergency Management**

### **§ 32.07 EMERGENCY MANAGEMENT A GOVERNMENT FUNCTION.**

All functions and activities relating to emergency management are hereby declared to be governmental functions. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this resolution or under the worker's compensation law, or under any pension law, nor the right of any person to receive any benefits or compensation under any act of Congress.

### **§ 32.08 PARTICIPATION IN LABOR DISPUTES OR POLITICS.**

The emergency management organization shall not participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes, nor shall it be employed in a labor dispute.

### **§ 32.99 PENALTY.**

Any person who violates any provision of this chapter or any regulation adopted thereunder relating to acts, omissions, or conduct other than official acts of city employees or officers is guilty of a misdemeanor.

## **Emergency Management**

## **Emergency Management**

### **CHAPTER 33: CITY POLICIES**

#### Section

##### 33.01 Election dates

#### **§ 33.01 ELECTION DATES.**

The regular city election shall be held on the first Tuesday after the first Monday in November in even numbered years.

(Ord. 104, passed 7-1-63)

### **TITLE V: PUBLIC WORKS**

#### Chapter

##### **50. GARBAGE**

##### **51. WATER**

##### **52. SEWERS**

##### **53. UTILITY BILLING AND COLLECTION**

## **Emergency Management**



**Emergency Management  
Elbow Lake - Public Works**

## Emergency Management

### CHAPTER 50: GARBAGE

#### Section

50.01	Definitions
50.02	Accumulation; litter
50.03	Disposal required; dumpsters
50.04	Containers
50.05	Rates and charges
50.06	Authority and power
50.07	Hauling

#### ' 50.01 DEFINITIONS.

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

***CONTRACT.*** The contract between the city and a disposal facility. A photocopy of the contract shall remain on file in the office of the City Clerk-Administrator-Treasurer.

***GARBAGE.*** Organic waste resulting from the preparation of food and decayed and spoiled food from any source.

***REFUSE.*** Garbage and rubbish.

***RUBBISH.*** Inorganic solid waste such as tin cans, glass, paper, ashes, sweepings and the like.  
(Ord. 166, passed - -)

#### ' 50.02 ACCUMULATION; LITTER.

(A) Any unauthorized accumulation of refuse on any premises is a nuisance and prohibited.

(B) No person shall place any refuse in any street, alley or public place or upon any private property except in containers for collection. No person shall throw or deposit refuse in any stream or other body of water.

(C) No person shall deposit anywhere within the city any refuse in a manner that it may be carried or deposited by the elements upon any public or private premises within the city.

**Emergency Management  
Elbow Lake - Public Works**

(D) (1) No person shall bury any refuse in the city, except in an approved sanitary landfill, but leaves, grass clippings and easily biodegradable, non-poisonous garbage may be composted on the premises where the refuse has been accumulated.

(2) Garbage may be composted only in a rodent proof structure and in an otherwise sanitary manner and after the Council gives its approval to the composting after it finds that the composting will be done in accordance with these standards.

(Ord. 166, passed - -) Penalty, see ' 10.99

**' 50.03 DISPOSAL REQUIRED; DUMPSTERS.**

(A) Every person or entity shall, in a sanitary manner, dispose of refuse that may accumulate upon property owned or occupied by him or her. The city, through the waste area district, has contracted disposal services for all city residential and commercial places. Each owner or occupant within the city shall pay a set fee for this service and shall have this service available to him or her.

(Ord. 166, passed - -)

(B) (1) Use of public dumpsters located on public property by private individuals is prohibited unless one of the following sets of circumstances appears:

(a) The individual using the dumpster was disposing of refuse which had accumulated on public property;

(b) The person using the public dumpster was using the public property for the purpose of recreation; or

(c) The person using the public dumpster was depositing litter which had been deposited by persons unknown unto public streets or highways.

(2) A person using public dumpsters to deposit household trash from his or her residence is prima facie evidence of a violation of this division (B).

(Ord. 158, passed 9-8-80)

(C) The dumping and deposit of garbage on city-owned property sites within or without the city limits, other than in waste containers provided for that specific purpose, is hereby prohibited. However, the dumping or deposit of brush, as defined herein, is not included in this prohibition.

(Ord. 156, passed 7-2-79)

Penalty, see ' 10.99

**' 50.04 CONTAINERS.**

(A) (1) No one container may be more than 30 gallons, nor weigh more than 50 pounds.

**Emergency Management  
Garbage**

5

(2) Where plastic bags are used as the container, the minimum strength must be two mils.

(3) Other restrictions as contained in the contract are incorporated herein by reference.

(B) Containers must be placed within five feet of the curb for collection.

(C) The number of containers that residences and commercial places may leave out is unlimited.

(Ord. 166, passed - -) Penalty, see ' 10.99

**' 50.05 RATES AND CHARGES.**

(A) The owner or occupant of any premises within the city shall pay to the city a minimum service charge assessed by ordinance.

(B) The service charge shall be made to the owner or occupant of each building or housing unit served. If the building is served by city water, sewer or electricity, the refuse collection charge shall be billed on the billing.

(C) Service charges shall be payable at the same time as bills for water service and subject to the same conditions of payment.

(D) All service charges shall be deposited in the General Fund of the city.

(Ord. 166, passed - -)

**' 50.06 AUTHORITY AND POWER.**

The City Council shall have the power to establish regulations by resolution for the implementation of this chapter.

(Ord. 166, passed - -)

**' 50.07 HAULING.**

No person shall maintain a regular route for the collection and disposition of garbage and rubbish for hire without first having secured a license therefor from Grant County.

(Ord. 95, passed 4-4-60) Penalty, see ' 10.99

**Emergency Management  
Elbow Lake - Public Works**

## **Emergency Management**

### **CHAPTER 51: WATER**

#### Section

#### ***General Provisions***

- 51.01 General operation
- 51.02 Use of water service
- 51.03 Use to circumvent chapter prohibited
- 51.04 Damage to water system
- 51.05 Connections beyond city boundaries
- 51.06 Connection to system required; use of private wells
- 51.07 Use of water for air conditioning; permits
- 51.08 Use of water from fire hydrants; temporary connections
- 51.09 Water deficiency, shut off and use restrictions

#### ***Water Regulations***

- 51.25 Supply from one service
- 51.26 Tapping of mains restricted
- 51.27 Repairs
- 51.28 Abandoned or unused services
- 51.29 Disconnection permit
- 51.30 Service pipes
- 51.31 Excavation and construction requirements
- 51.32 Connection to other water supplies restricted
- 51.33 Water connections; applications and charges
- 51.34 Location of curb stop box
- 51.35 Water meters

#### ***Rates and Charges***

- 51.50 Water unit
- 51.51 Rates, fees and charges generally
- 51.52 Water service billing; change of address
- 51.53 Water rates
- 51.54 Payment of charges; late payment; collection

**Emergency Management  
Elbow Lake - Public Works**

***Administration and Enforcement***

- 51.70 Supervision by Utilities Superintendent; licensing
- 51.71 Powers and authority of inspectors
- 51.72 Discontinuance of service
- 51.73 Authorized employees to turn water on and off
- 51.74 Liability for expense, loss or damage

***GENERAL PROVISIONS***

**' 51.01 GENERAL OPERATION.**

The city does hereby make provision for the establishment of a municipal water system (hereinafter called the water system) to be operated as a public utility.

**' 51.02 USE OF WATER SERVICE.**

No person other than a city employee shall uncover or make or use any water service installation connected to the city water system except in the manner provided by this chapter. No person shall make or use any installation contrary to the regulatory provisions of this chapter.

Penalty, see ' 10.99

**' 51.03 USE TO CIRCUMVENT CHAPTER PROHIBITED.**

No person shall permit water from the water system to be used for any purpose to circumvent this chapter.

Penalty, see ' 10.99

**' 51.04 DAMAGE TO WATER SYSTEM.**

(A) No unauthorized person shall remove or damage any structure, appurtenance, or part of the water system or fill or partially fill any excavation or move any gate valve used in the water system.

(B) No person shall make any connection of an electrical welder to the city water main, appurtenance or service or use an electric welder for the purpose of thawing frozen water mains, appurtenances or services.

Penalty, see ' 10.99

**' 51.05 CONNECTIONS BEYOND CITY BOUNDARIES.**

Where water mains of the city are in any street or alley adjacent to or outside the corporate limits of the city, the City Council may issue permits to the owners or occupants of properties adjacent or accessible to the water main to make proper water service pipe connections with the water mains of the city and to be supplied with water in conformity with the applicable provisions of this chapter and subject to any contract for the supply of water between the city and any other city.

Penalty, see ' 10.99

**' 51.06 CONNECTION TO SYSTEM REQUIRED; USE OF PRIVATE WELLS.**

(A) Except where municipal water is not available, it shall be unlawful to construct, reconstruct, or repair any private water system which is designed or intended to provide water for human consumption. Private wells, to provide water for other than human consumption, may be constructed, maintained and continued in use after connection is made to the water system; provided, there is no means of cross-connection between the private well and municipal water supply at any time. Hose bibbs that will enable the cross-connection of the two systems are prohibited on internal piping of the well system supply. Where both private and city systems are in use, outside hose bibbs shall not be installed on both systems.

(B) All new homes or buildings shall connect to the municipal water system if water is available to the property. At the time as municipal water becomes available to existing homes or buildings, a direct connection shall be made to the public system within a period of time as determined by the City Council. If the connection is not made pursuant to this chapter, a charge shall be made in an amount established by ' 51.51.

(C) Where new homes or buildings do not have water available to the property, the city shall determine whether and under what conditions the municipal water system will be extended to serve the property.

(D) If the well is not to be used after the time a municipal water connection is made:

(1) The well pump and tank shall be disconnected from all internal piping;

(2) The casing shall be filled with sandy soil from the bottom to a point eight feet from the top;

(3) The remaining eight feet shall be filled with concrete to the floor level and the well casing cut off as close to the floor level as possible;

(4) Within 30 days after the municipal water connection is made, the owner or occupant must advise the City Utilities Superintendent that the well has been sealed.



**Emergency Management  
Elbow Lake - Public Works**

(5) Notwithstanding the foregoing, all well abandonment shall be done in accordance with M.S. " 103I.301 to 103I.345 and Minn. Rules Ch. 4725, Wells and Borings, as it may be amended from time to time.

Penalty, see ' 10.99

**' 51.07 USE OF WATER FOR AIR CONDITIONING; PERMITS.**

(A) All air conditioning systems which are connected directly or indirectly with the public water system must be equipped with water conserving and water regulating devices as approved by the City Engineer or City Utilities Superintendent.

(B) Permits shall be required for the installation of all air conditioning systems to the public water system. The fee shall be established pursuant to ' 51.51.

Penalty, see ' 10.99

**' 51.08 USE OF WATER FROM FIRE HYDRANTS; TEMPORARY CONNECTIONS.**

(A) *Use of fire hydrants.* Except for extinguishment of fires, no person, unless authorized by the Public Works Director or Public Utilities Department, shall operate fire hydrants or interfere in any way with the water system without first obtaining a permit to do so from the city as follows:

(1) A permit to use a fire hydrant shall be issued for each individual job or contract and for a minimum of 30 days and for the additional 30 day period as the city shall determine. The permit shall state the location of the hydrant and shall be for the use of that hydrant and none other.

(2) The user shall make an advance cash deposit to guarantee payment for water used and to cover breakage and damage to the hydrant and meter, which shall be refunded upon expiration of the permit, less applicable charges for use.

(3) The user shall relinquish the use of the hydrant to authorized city employees in emergency situations.

(4) The user shall pay a rental charge as established pursuant to ' 51.51 for each day including Sundays and legal holidays, and a fee as established by ordinance, as that ordinance may be amended from time to time for each 1,000 gallons of water used.

(B) *Temporary connection to fire hydrants.* An owner of a private water system may make a temporary above ground connection to a fire hydrant, subject to the time periods, conditions, and payment specified in ' 51.51. In addition, the method of connection to the private system shall conform to all existing requirements of this chapter and city ordinance and the type of meter used shall meet the approval of the Utilities Superintendent.

Penalty, see ' 10.99

**' 51.09 WATER DEFICIENCY, SHUT OFF AND USE RESTRICTIONS.**

The city shall not be liable for any deficiency or failure in the supply of water to consumers, whether occasioned by shutting the water off for the purpose of making repairs or connections or from any other cause whatsoever. In case of fire, or alarm of fire, or in making repairs or construction of new works, water may be shut off without notice at any time and kept off as long as necessary. In addition, the City Council shall have the right to impose reasonable restrictions on the use of the city water system in emergency situations. For non-payment of charges, water service may be discontinued according to the procedures established in ' 51.72.

***WATER REGULATIONS***

**' 51.25 SUPPLY FROM ONE SERVICE.**

No more than one housing unit or building shall be supplied from one service connection except by permission of City Council. Each unit served shall have a separate water meter.  
Penalty, see ' 10.99

**' 51.26 TAPPING OF MAINS RESTRICTED.**

No person, except persons authorized by the City Council, shall tap any distributing main or pipe of the water supply system or insert stopcocks or ferrules therein.  
Penalty, see ' 10.99

**' 51.27 REPAIRS.**

(A) *Determination of need for repairs.* Based on the information supplied by the property owner or available to the city, the city will make a determination whether a problem exists in that portion of the service which is the city's responsibility. If the problem, appears to exist in the areas for which the city has no responsibility, the private owners will be responsible for correction of the problem.

(B) *Thawing of water services.* The city will attempt to thaw water services on request of the resident. If the problem is found within that portion of the service for which the private owner is responsible, the private owner thereafter will be responsible for thawing the service and correction of the problem.

(C) *Excavation or repair of water service.*

(1) The city will arrange for the investigative digging up and repair of any water service where the problem apparently exists within that area for which the city has responsibility.

**Emergency Management  
Elbow Lake - Public Works**

(2) Unless it is clearly evident, however, that the problem is the responsibility of the city, the excavation and repair will not be made until the property owner requests the city in writing to excavate or repair the service and agrees to pay the cost.

(3) The owner further agrees to waive public hearing and be special assessed the cost of the excavation and repair if the problem is found to be other than the city's responsibility. The city will make the determination for responsibility of the cost of investigation or repair.

(4) The matter of whether the dig up is done by city forces or contracted would depend on the urgency or need of repair and the availability of city forces to do the work. Recovery by the city for faulty construction will depend upon the circumstances and the decision of the City Attorney on the likelihood of recovery.

(D) *Failure to repair.* In case of failure upon the part of any consumer or owner to repair any leak occurring in his or her service pipe within 24 hours after verbal or written notice thereof, the water may be turned off by the city and shall not be turned on until the leak has been repaired and a fee pursuant to ' 51.51 has been paid to the city.

Penalty, see ' 10.99

**' 51.28 ABANDONED OR UNUSED SERVICES.**

(A) If the premises served by water have been abandoned, or if the service has not been used for one year, then the service shall be shut off at the curb stop box by the city and the water meter will be removed.

(B) When new buildings are erected on the site of old ones, and it is desired to increase or change the old water service, no connections with the mains shall be made until all the old service has been removed and the main taps plugged or yoked connections installed by the city at the owner's expense.

Penalty, see ' 10.99

**' 51.29 DISCONNECTION PERMIT.**

A permit must be obtained to disconnect from the existing water service leads at the curb stop box. The fee for the permit shall be set pursuant to ' 51.51.

Penalty, see ' 10.99

**' 51.30 SERVICE PIPES.**

Every service pipe shall be laid so as to allow at least one foot of extra length in order to prevent rupture by settlement. The service pipe must be placed no less than seven feet below the ground and in a manner as to prevent rupture by freezing. Service pipes must extend from the curb stop box to the inside of the building, or if not taken into the building, then to the hydrant or fixtures which it is

intended to supply. Type K copper tubing shall be used. All services over two inches shall be ductile or cast iron. All underground joints are to be mechanical, except joints under floors shall be silver soldered, unless otherwise approved by the Utilities Superintendent. Joints of copper tubing shall be kept, to a minimum, with not more than one joint used for service for each 70 feet in length. Splicing may be approved with three-piece unions only. All joints and connections shall be left uncovered until inspected by the Utilities Superintendent and tested at normal water line pressure. Unions must be three-part type. All services over two inches shall be cast iron. Connections with the mains for domestic supply shall be at least three-quarter inch up to the curb stop box.

Penalty, see ' 10.99

**' 51.31 EXCAVATION AND CONSTRUCTION REQUIREMENTS.**

(A) No excavation shall be made until a permit for the connection has been issued by the city.

(B) No water service pipe or water connection shall be installed in the same trench or closer than ten feet horizontally to a sewer trench or drain laid, or to be laid, either in the street or in private property, except that the water pipe on private property may be in a common trench with a sewer drain which is of a material that is in conformance with the current Minnesota Plumbing Code, Minn. Rules Ch. 4715, as it may be amended from time to time.

(C) Where it is desired to lay the water service pipe and the building sewer pipe in the same trench, or in separate trenches less than ten feet apart, the water service pipe shall be above the sewer pipe unless approved by the City Engineer. It shall be placed at least one foot above the sewer and on a solid shelf excavated at one side of the trench. The sewer pipe shall be of a material that is in conformance with the Minnesota Plumbing Code with tested watertight joints. The water service pipe shall be watertight and corrosion resistant. Copper pipe and ductile or cast iron water pipe with specially protected joints is acceptable for this construction. Cast iron pipe shall conform to the American Water Works Association specifications for this pipe. Bell joint clamps with rubber gaskets are provisionally acceptable as extra protection for the joints on cast iron water pipe. In all cases, precautions shall be taken to assure a firm foundation for the pipes. The intervening space between the pipes shall be backfilled with compacted earth.

(D) In case the installation is on a surfaced street, the following shall apply: All backfill materials shall be mechanically compacted in 12-inch layers to the density of the adjacent material in the roadway area and to the existing street grades in accordance with the Minnesota Department of Transportation Standards. Complete surface restoration shall be made.

Penalty, see ' 10.99

**' 51.32 CONNECTION TO OTHER WATER SUPPLIES RESTRICTED.**

No water pipe of the water system shall be connected with any pump, well, tank, or piping that is connected with any other source of water supply except to service municipal systems.

Penalty, see ' 10.99

**' 51.33 WATER CONNECTIONS; APPLICATIONS AND CHARGES.**

*(A) Connection applications.*

(1) All applications for service installations and for water service shall be made to the City Clerk-Administrator-Treasurer. All applications for service installations and water service shall be made by the owner or agent of the property to be served and shall state the size and location of service connection required. The applicant shall, at the time of making application, pay to the city the amount of fees as established by ordinance, as that ordinance may be amended from time to time or deposit required for the installation of the service connection as hereinafter provided. Applications for services larger than one inch shall be accompanied by two sets of plans or sketches indicating preferred location of service pipe and size of service based on building demand.

(2) The size of the water service connections and meter shall be subject to approval of the City Engineer.

(3) Water billing shall start at the time of installation of the water meter, or in the event the meter is not installed, seven days after completion of outside piping, and shall be calculated upon the minimum quarterly rate, prorated on a semi-monthly basis.

*(B) Connection charges.*

(1) A permit must be obtained to connect to the existing water service leads at the curb stop box. The fee for the permit shall be set pursuant to ' 51.51. The city shall install or have installed all service connections from the water main to the curb stop box including the stop box. Payment for service connections must be made before the work is started and should be based upon **12** times the estimate of costs provided by the City Engineer. Any excess deposit shall be returned to the applicant.

(2) Additional charges shall be paid at the time of making application for tapping and making connections with the water main to where a curb stop box and service lead is not previously installed. The charge shall include the tapping of the water main, corporation cocks, the installation of a service line, the installation of a curb stop box, cost of restoring disturbed areas and all other costs related to the installation.

(3) There shall be a connection charge pursuant to ' 51.51 levied by the city to contribute to the payment of the costs of the Public Water System Facilities. The City Council shall set by resolution the charges to be made for nonresidential installations.

(4) When water services have been stopped because of a violation of this chapter, the city shall collect the fee established pursuant to ' 51.51 before service is recommenced.

(5) If a person desires to connect to the system and service a parcel that has not been assessed for the cost of water main and lateral construction, then before a permit is granted, the city shall collect an amount from the applicant that is established pursuant to ' 51.51.

Penalty, see ' 10.99

#### **' 51.34 LOCATION OF CURB STOP BOX.**

Curb stop boxes will be installed on the right-of-way line or easement limits at a location as determined by the City Engineer to be best suitable to the property and shall be left in a vertical position when backfilling is completed. Curb stop boxes will be installed at an approximate depth of seven feet below the finished ground elevation and the top of the curb stop box shall be adjusted to be flush with the finished ground elevation. Curb stop boxes must be firmly supported by a masonry block. No person shall erect any fence or plant any tree or other landscaping that would obstruct, or place a structure on, park a motor vehicle on, or otherwise obstruct the use of the curb stop box, or cause damage to the same.

Penalty, see ' 10.99

#### **' 51.35 WATER METERS.**

(A) *Generally.* Except for extinguishment of fires, no person, unless otherwise authorized by the City Council or Public Utilities Department, shall use water from the water system or permit water to be drawn therefrom unless the same be metered by passing through a meter supplied or approved by the city. No person not authorized by the City Council or Utilities Superintendent shall connect, disconnect, take apart, or in any manner change or cause to be changed or interfere with any meter or the action thereof, or break any meter or valve seal.

(1) A charge established pursuant to ' 51.51 shall be paid by customers to the city for water meters including installations and check valves and payment for same shall be made at the time of water service application. This payment shall be made only once, subject to the following.

(2) Where a consumer has need for a larger line in addition to his or her domestic line, as in the case of a commercial consumer who needs a one-inch line for normal use and a six-inch or larger line for a fire sprinkler system, he or she will be permitted to run one line into the premises and **AY@** off into two lines at the building. When this is done, the meter will be attached to the small or domestic line and a check valve as well as one-inch detection meter shall be put on the large line.

(3) The city shall maintain and repair all meters when rendered unserviceable through ordinary wear and tear and shall replace them if necessary. When replacement, repair, or adjustment of any meter is rendered by the act, neglect (including damage from freezing or hot water backup) or carelessness of the owner or occupant of the premises, any expense caused the city thereby shall be charged against and collected from the water consumer.

**Emergency Management  
Elbow Lake - Public Works**

(4) A consumer may, by written request, have his or her meter tested by depositing the amount established pursuant to ' 51.51. In case a test should show an error of over 5% of the water consumed, a correctly registering meter will be installed, and the bill will be adjusted accordingly and the testing deposit refunded. This adjustment shall not extend back more than one billing period from the date of the written request.

(5) All water meters and remote readers shall be and remain the property of the city.

(6) Authorized city employees shall have free access at reasonable hours of the day to all parts of every building and premises connected with the water system for reading of meters and inspections.

(7) It shall be the responsibility of the consumer to notify the city to request a final reading at the time of the customer's billing change.

(B) *Water meter setting.* All water meters hereafter installed shall be in accordance with the Minnesota Plumbing Code and any standards established by resolution of the City Council. Penalty, see ' 10.99

***RATES AND CHARGES***

**' 51.50 WATER UNIT.**

A water unit (hereinafter called unit) shall be one residential equivalent connection based on usage of 100,000 gallons per year or portion thereof.

**' 51.51 RATES, FEES AND CHARGES GENERALLY.**

The City Council shall establish a schedule of all water rates, fees and charges for permits or services in the ordinance, as that ordinance may be amended from time to time.

**' 51.52 WATER SERVICE BILLING; CHANGE OF ADDRESS.**

All bills and notices shall be mailed or delivered to the address where service is provided. If non-resident owners or agents desire personal notice sent to a different address, they shall so note on the water service application. Any change or error in address shall be promptly reported to the City Clerk-Administrator-Treasurer.

**' 51.53 WATER RATES.**

(A) The rate due and payable by each user within the city for water taken from the water system shall be established pursuant to ' 51.51.

(B) In case the meter is found to have stopped, or to be operating in a faulty manner, the amount of water used will be estimated in accordance with the amount used previously in comparable periods of the year.

(C) Rates due and payable by each water user located beyond the territorial boundaries of the city shall be determined by special contract.

(D) The minimum rates established pursuant to ' 51.51 shall begin to accrue after connection of the service pipe with the curb stop box.

(E) A meter shall be installed on the water valve in the house and a remote register outside regardless of whether inside piping is connected.

(F) In the event a water customer elects to discontinue the use of the municipal water, the regular or minimum charge shall continue until the date as service is disconnected at the curb box.

Penalty, see ' 10.99

**' 51.54 PAYMENT OF CHARGES; LATE PAYMENT; COLLECTION.**

(A) Any prepayment or overpayment of charges may be retained by the city and applied on subsequent quarterly charges.

(B) If a quarterly service charge is not paid when due, then a penalty of 10% shall be added thereto.

(C) In the event a user fails to pay his or her water user fee within a reasonable time following discontinuance of service (a time period not to exceed 90 days), the fee shall be certified by the City Clerk-Administrator-Treasurer and forwarded to the County Auditor for collection.

Penalty, see ' 10.99

***Cross-reference:***

*Utility billing and collection, see Chapter 53*

***ADMINISTRATION AND ENFORCEMENT***

**' 51.70 SUPERVISION BY UTILITIES SUPERINTENDENT; LICENSING.**

(A) All piping connections from the curb stop box to house supply piping shall be made under the supervision of a licensed plumber subject to inspection by the Utilities Superintendent. The piping



**Emergency Management  
Elbow Lake - Public Works**

connection made to the curb stop box on the house side shall be inspected by the Utilities Superintendent. The water meter installation shall be inspected, tested and the meter sealed by the Utilities Superintendent.

(B) No person, firm or corporation shall engage in the business of altering, repairing, installing or constructing municipal water connections within the city without first obtaining a license to carry on the occupation from the city. A master plumber licensed by the state under the provisions of M.S. ' 326.40, as it may be amended from time to time, is exempt from the provisions of this section. A person in the ditch installing the pipe who has a card showing that they have completed a program of training that incorporates the Plumbing Code installation requirements, issued by either the Associated Builders and Contractors, Laborers-Employers Cooperation Educational Trust, or Minnesota Utility Contractors Association, is not subject to the licensing requirements of this section.

(1) The applicant shall file with the City Clerk-Administrator-Treasurer evidence of public liability insurance, including products liability insurance with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. Evidence of insurance required pursuant to M.S. ' 326.40, Subd. 2, as it may be amended from time to time, shall satisfy this requirement.

(2) The applicant shall file with the City Clerk-Administrator-Treasurer a surety bond guaranteeing the conformance and compliance of work with this chapter. The bond shall be in the amount of \$2,000. The city shall hold the bond for one year following the license period. Failure to comply with provisions and requirements of this chapter shall result in forfeiture of the bond. The applicant may comply with the requirements of M.S. ' 326.40, Subd. 2, as it may be amended from time to time in lieu of these requirements.

(3) Applications for licenses shall be filed with the City Clerk-Administrator-Treasurer and shall be reviewed and subject to approval of the city.

(4) Any installation, construction, alteration of a water connection by a license in violation of any provision of this chapter or refusal on the part of a licensee to correct the defective work shall be cause for revocation of or refusal to renew a license. This license may be revoked or refused for renewal by the city at any time for cause which shall be documented in writing.

(C) All licenses required in this section shall be renewable annually. Applications for licenses shall be made annually on a form furnished by the City Clerk-Administrator-Treasurer. Licenses shall be in effect from January 1 to December 31 of the same year. The license fee shall be established pursuant to ' 51.51.

(D) Before any license issued under the provisions of this section may be revoked or its renewal refused, the licensee shall be given a hearing by the City Council to show cause why the license should not be revoked or refused. Notice of the time, place and purpose of the hearing shall be in writing.

**' 51.71 POWERS AND AUTHORITY OF INSPECTORS.**

The Utilities Superintendent and other duly authorized employees of the city, upon proper identification, are authorized, with the permission of the licensee, owner, resident or other person in control of property within the city, to enter upon all properties for the purpose of inspections, observation and testing in accordance with the provisions of this chapter. If the licensee, owner, resident or other person in control of property within the city does not permit the entrance to the property, the city may obtain an administrative search warrant as provided for in ' 10.20.

**' 51.72 DISCONTINUANCE OF SERVICE.**

Water service may be shut off at any connection.

**' 51.73 AUTHORIZED EMPLOYEES TO TURN WATER ON AND OFF.**

No person, except an authorized city employee, shall turn on or off any water supply at the curb stop box.

Penalty, see ' 10.99

**' 51.74 LIABILITY FOR EXPENSE, LOSS OR DAMAGE.**

Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned by the city by reason of the violation.

**Emergency Management  
Elbow Lake - Public Works**

## Emergency Management

### CHAPTER 52: SEWERS

#### Section

#### ***General Provisions***

- 52.01 Definitions
- 52.02 Inspectors; authority

#### ***Use Regulations***

- 52.15 General usages
- 52.16 Private sewage disposal
- 52.17 Building sewers and connections
- 52.18 Main and lateral sewer construction
- 52.19 Protection from damage
  
- 52.99 Penalty

#### ***GENERAL PROVISIONS***

#### **' 52.01 DEFINITIONS.**

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

***BOD*** or ***BIOCHEMICAL OXYGEN DEMAND***. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C expressed in milligrams per liter. Laboratory procedures shall be in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*.

***BUILDING DRAIN***. The part of the lower horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning five feet outside the inner face of the building wall.

***BUILDING SEWER***. The extension from the building drain to the public sewer or other place of disposal, also called ***HOUSE CONNECTION***.

**Emergency Management  
Elbow Lake - Public Works**

**COD** or **CHEMICAL OXYGEN DEMAND**. The quantity of oxygen utilized in the chemical oxidation of organic matter, expressed in milligrams per liter, as determined in accordance with standard laboratory procedures as set out in the latest edition of *Standard Methods for the Examination of Water and Wastewater*.

**CITY**. The area within the corporate boundaries of the City of Elbow 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 representatives.

**COMBINED SEWER**. A sewer originally designated to receive both surface water runoff and sewage.

**GARBAGE**. Solid waste resulting from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage or sale of meat, fish, fowl, fruit, vegetable or condemned food.

**INDUSTRIAL WASTES**. The solid, liquid or gaseous wastes resulting from an industrial or manufacturing processes, trade or business or from the development, recovery or processing of natural resources.

**INFILTRATION**. Water entering the sewage system, including building drain and pipes, from the ground through such means as defective pipes, pipe joints, connections and manhole walls.

**INFILTRATION/INFLOW** or **I/I**. The total quantity of water from both infiltration and inflow.

**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 waters or drainage.

**MAY**. The act referred to is permissive.

**NPDES PERMIT** or **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT**. The system for issuing, conditioning and denying permits for the discharge of pollutants from point sources into the navigable waters, the contiguous zone and the oceans by the Environmental Protection Agency pursuant to the Federal Water Pollution Control Act of 1972, Sections 402 and 405.

**NATURAL OUTLET**. Any outlet into a watercourse, pond, ditch, lake or other body of surface groundwater.

**NORMAL DOMESTIC STRENGTH WASTES**. Wastes which are characterized by 250 mg per liter BOD and 300 mg per liter suspended solids.

**OTHER WASTES**. Garbage, municipal refuse, decayed wood, sawdust, shavings, bark, lime, sand, ashes, oil tar, chemicals, offal and other substances, except sewage.

**PERSON.** Any individual, firm, company, association, society, corporation, municipal corporation, governmental unit or group.

**pH.** The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

**PROCESS WATER.** Any water used in the manufacturing, preparation or production of goods, materials or food. **PROCESS WATER** is an industrial waste.

**PUBLIC SEWER.** Any sewer owned or operated by a unit or agency of government.

**SANITARY SEWER.** A sewer which carries sewage and to which storm, surface and groundwater are not intentionally admitted.

**SANITARY WASTE.** The liquid and water carried wastes discharged from sanitary plumbing facilities.

**STATE DISPOSAL SYSTEM PERMIT** or **SDS PERMIT.** Any permit, including any terms, conditions and requirements thereof, issued by the MPCA, pursuant to M.S. ' 115.07, as it may be amended from time to time, for a disposal system, as defined by M.S. ' 115.01(8), as it may be amended from time to time.

**SEWAGE** or **WASTEWATER.** The water carried waste products from residences, public buildings, institutions, industrial establishments or other buildings, including the excrement or other discharge from the bodies of human beings or animals, together with ground, surface and stormwater as may be present.

**SEWER.** A pipe or conduit for carrying sewage, industrial wastes or other waste liquids.

**SEWER SYSTEM.** Pipelines or conduits, pumping stations, forcemains and all other devices and appliances appurtenant thereto, used for collecting or conducting sewage, industrial wastes or other wastes to a point of ultimate disposal.

**SHALL.** The act referred to is mandatory.

**SLUG.** Any discharge of water, wastewater or industrial waste which in concentration of any given constituent or in quantity of flow exceeds, for any period of duration longer than 15 minutes, more than five times the average 24-hour concentration of flows during the normal operation.

**STORM SEWER** or **STORM DRAIN.** A sewer which carries storm or surface water and drainage, but excludes sewage and industrial waste, other than unpolluted cooling or process water.

**SUSPENDED SOLIDS.** Solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*.

**Emergency Management  
Elbow Lake - Public Works**

**UNPOLLUTED WATER.** Clean water uncontaminated by industrial wastes, other wastes or any substance which renders the water unclean or noxious or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety or welfare to domestic, commercial, industrial or recreational uses or to livestock, wild animals, birds, fish or other aquatic life.

**WASTEWATER FACILITIES.** The structures, equipment or processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

**WASTEWATER TREATMENT WORKS or TREATMENT WORKS.** An arrangement of sewer devices and structures for treatment of wastewater, industrial waste and sludge. Sometimes used as synonymous for **WASTEWATER TREATMENT PLANT, WASTE TREATMENT PLANT, WATER POLLUTION CONTROL PLANT or SEWAGE TREATMENT PLANT.**

(Ord. 188, passed 7-17-01)

**' 52.02 INSPECTORS; AUTHORITY.**

(A) (1) Duly authorized employees of the city shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter.

(2) Those employees shall have no authority to inquire into processes including metallurgical, chemical, oil, refining, ceramic, paper or their industries, except as is necessary to determine the kind and source of the discharge to the public sewer.

(B) While performing the necessary work on private property as referred to in division (A) above, the authorized employees of the city shall observe all safety rules applicable to the premises as 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 loss or damage to its property by city employees and 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 this chapter.

(C) Duly authorized employees of the city shall be permitted to enter all private properties through which the city holds easements for the purpose of, but not limited to inspection, observation, maintenance and construction of public sewers.

(D) The Utilities Superintendent or other duly authorized employees of the city, bearing proper credentials and identification, are authorized, with the permission of the licensee, owner, resident or other person in control of property within the city, 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 chapter. If the licensee, owner, resident or other person in control of property within the city does not permit the entrance to the property, the city may obtain an administrative search warrant as provided for in ' 10.20.

(Ord. 188, passed 7-17-01)

***USE REGULATIONS***

**' 52.15 GENERAL USAGES.**

(A) It shall be unlawful to discharge to any natural outlet within the city or any area under the jurisdiction of the city any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(B) Except as hereinafter provided, 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 sewage if adequate and feasible city facilities are available.

(C) (1) The owner of any building or property which is located within the city and from which wastewater is discharged shall be required to connect to a public sewer, at his or her expense, within 60 days of the date the public sewer is operational; provided that the public sewer is within 150 feet of the structure generating the wastewater and the public sewer is located in a public right-of-way or easement for sewer purposes adjacent to the property. All future buildings constructed on property adjacent to the public sewer shall be required to immediately connect to the public sewer.

(2) If sewer connections are not being made pursuant to this division (C), an official 60-day notice shall be served instructing the affected property owner to make the connection.

(D) In the event an owner shall fail to connect to a public sewer in compliance with a notice given under division (C) above, the city may undertake to have the connection made and shall assess the cost thereof against the benefitted property. The assessment shall be a lien against the property. The assessment, when levied, shall bear interest at the legal rate for local improvements and shall be certified to the Auditor of the county 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 chapter.

(E) (1) No person shall discharge or cause to be discharged directly or indirectly any stormwater, groundwater, roof runoff, subsurface drainage, waste from on-site disposal systems, unpolluted cooling or processing water to any sanitary sewer. No person may discharge sump pump or footing drain water into the public sanitary sewer.

(2) A monthly surcharge will be incurred by all residents who allow sump pumps, roof drains, drain tile or any other type of connection that allows rain, snow melt or any other non-sewage water to enter the sanitary sewer system which shall be \$25 for the first month; \$50 for the second month; \$75 for the third month; and \$100 per month thereafter.

(3) All sump pumps must be hard plumbed to the outside and no flexible hose, hose clamps, two-way valves or other similar devices will be allowed.



**Emergency Management  
Elbow Lake - Public Works**

(4) This division (E) shall not apply to underground drainage systems constructed outside of the foundation or basement of the improvements where the improvements were constructed prior to August 5, 2001, until the time as further improvements are made to the property which include any modification, repair or alteration to the drainage system or any excavation in or around the drainage system.

(F) Stormwater and all other unpolluted water shall be discharged to a storm sewer, except that unpolluted cooling or process water shall only be so discharged to a storm sewer or natural outlet on approval of the city and upon approval and the issuance of a discharge permit by the MPCA.

(G) No person shall discharge or cause to be discharged, directly or indirectly, any of the following described substances to any public sewer:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either along or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system; (Prohibited materials include, but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.)

(2) Any water or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the wastewater treatment works; (A toxic pollutant shall include, but not be limited to any pollutant identified pursuant to Section 307A of the Clean Water Act.)

(3) Any water or waste having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the wastewater treatment works;

(4) Solid or viscous substances, either whole or ground, in quantities or of a size capable of causing obstruction to the flow in the sewers, or other interference with the proper continuation of the wastewater facilities, but not limited to ashes, cinders, disposable diapers, glass grinding or polishing wastes, stone cuttings or polishing wastes, sand, mud, straw, shavings, metal, glass rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, sanitary napkins, paper dishes, cups, milk containers and other paper products; and/or

(5) Noxious or malodorous liquids, gases or substances which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance or repairs.

(H) (1) No person shall discharge or cause to be discharged, directly or indirectly, the following described substances to any public sewer unless, in the opinion of the city, the discharge will not harm the wastewater facilities, nor cause obstruction to the flow in sewers, nor otherwise endanger life, limb or public property, nor constitute a nuisance.

(2) In forming its opinion as to the acceptability of the wastes, the city may give consideration to such factors as the quantities of the subject wastes in relation to flows and velocities in the sewers, materials or construction of the sewers, nature of the wastewater treatment process, capacity of the wastewater treatment plant, the city's NPDES permit and other pertinent factors.

(3) The city may make such determinations either on a general basis or as to discharges from individual users or specific discharges and may prohibit certain discharges from individual users because of unusual concentrations or combinations which may occur.

(4) The substances prohibited are:

(a) Any liquid or vapor having a temperature in excess of 150°F or 65°C;

(b) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter or containing substances which may solidify or become viscous at temperatures between 32°F and 150°F or 0°C and 65°C;

(c) Any garbage that has not been ground or comminuted to a degree that all particles will be carried freely in suspension under the flows normally prevailing in the public sewers, with no particles greater than one-half inch in any dimension;

(d) Any water or wastes containing strong acid, iron pickling wastes or concentrated plating solutions, whether neutralized or not;

(e) Any water or wastes containing phenols or other taste or odor producing substances which constitute a nuisance or hazard to the structures, equipment or personnel of the wastewater works, or which interfere with the treatment required to meet the requirements of the state or federal government, or any other public agency with proper authority to regulate the discharge from the wastewater treatment plant;

(f) Any radioactive wastes or isotopes of a half-life or concentration that they are not in compliance with regulations issued by the appropriate authority having control over their use or may cause damage or hazards to the treatment works or personnel operating it;

(g) Any water or wastes having a pH in excess of 9.5;

(h) Materials which exert or cause:

1. Unusual concentrations of suspended solids, (such as, but not limited to Fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to sodium chloride or sodium sulfate);

2. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions);

**Emergency Management  
Elbow Lake - Public Works**

3. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the wastewater treatment works; (The BOD discharged to the public sewer shall not exceed 400 mg/l.)

4. Unusual volume of flow or concentration of wastes constituting a slug; and/or

5. Water or water containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the requirements of the NPDES permit or requirements of other governmental agencies having jurisdiction over discharge from the wastewater treatment plant.

(i) Any waters or wastes containing the following substances to such degree that any such material received in the composite wastewater at the wastewater treatment works in excess of limits established by the Wastewater Superintendent: arsenic, cadmium, copper, cyanide, lead, mercury, nickel, silver, total chromium and zinc.

(I) (1) If any water or wastes are discharged or are proposed to be discharged, directly or indirectly, to the public sewers, which water or wastes do not meet the standards set out in or promulgated under this division (I) or which in the jurisdiction of the city may have a deleterious effect upon the treatment works, processes, equipment or receiving waters, or which otherwise create a hazard to life, or constitute a public nuisance, the city may take all or any of the following steps:

(a) Refuse to accept the discharges;

(b) Require control over the quantities and rates of discharge;

(c) Require pretreatment to an acceptable condition for the discharge to the public sewers pursuant to Section 307(b) of the Act and all addenda thereof; and/or

(d) Require payment to cover the added cost of handling or treating the wastes.

(2) The design and installation of the plant and equipment for pretreatment or equalization of flows shall be subject to the review and approval of the city and subject to the requirements of 40 CRF 403, entitled **APretreatment Standards,**@ and the Minnesota Pollution Control Agency.

(J) (1) Grease, oil and mud interceptors shall be provided when they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in division (H) above or any flammable wastes, sand or other harmful ingredients, except that the interceptors shall not be required for private living quarters or dwelling units.

(2) All interceptors shall be a type and capacity approved by the city and shall be located as to be readily and easily accessible for cleaning and inspection.

(K) Where preliminary treatment flow equalization or interceptors are required for any water or waste, they shall be effectively operated and maintained continuously in satisfactory and effective condition by the owner at his or her expense and shall be available for inspection by the city at all reasonable times.

(L) (1) When required by the city, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control structure together with necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes.

(2) The structure and equipment, when required, shall be constructed at the owner's expense in accordance with plans approved by the city and shall be maintained by the owner so as to be safe and accessible at all times.

(M)(1) All measurements, tests and analyses of the characteristics of water and waste to which reference is made in this chapter shall be determined in accordance with 40 CRF 136, **A**Guidelines Establishing Test Procedures for the Analysis of Pollutants, **@** the latest edition of *Standard Methods for the Examination of Water and Wastewater* and shall be determined at the control structure provided or upon suitable samples taken at said control structure.

(2) In the event that no special structure has been required, the control structure shall be considered to be the nearest downstream manhole in the public sewer from the point at which the building sewer is connected.

(3) Sampling shall be carried out by customarily accepted methods to reflect the effluent constituents and their effect upon the treatment works and to determine the existence of hazards of life, health and property.

(4) Sampling methods, locations, times and durations and frequencies are to be determined on an individual basis subject to approval by the city.

(N) (1) The owner of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the city, be required to provide laboratory measurements, tests and analyses of waters or wastes to illustration compliance with this chapter and any special condition for discharge established by the city of regulatory agencies having jurisdiction over the discharge. The number, type and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the city. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with the federal, state and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the city at the times and in a manner as prescribed by the city.

(2) The owner shall bear the expense of all measurements, analyses and reporting required by the city. At such times as deemed necessary, the city reserves the right to take measurements and samples for analysis by an outside laboratory.

**Emergency Management  
Elbow Lake - Public Works**

(O) New connections 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, BOD and suspended solids.

(P) No user shall increase the use of process water or, in any manner, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in divisions (C) and (D) above or contained in the national categorical pretreatment standards or any state requirements.

(Q) No statement contained in this section shall be constructed as preventing any special agreement or arrangements between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefore by the industrial concern, in accordance with applicable ordinance and any supplemental agreements with the city.

(Ord. 188, passed 7-17-01) Penalty, see ' 52.99

**' 52.16 PRIVATE SEWAGE DISPOSAL.**

(A) Where a public sanitary sewer is not available under the provisions of ' 52.15, the building sewer shall be connected to a private wastewater disposal system complying with the rules and regulations Minn. Rules Ch. 7080, as it may be amended from time to time, entitled, **A**Individual Sewage Treatment System Program,**@** or the requirements of the city or other regulatory agencies, whichever is more restrictive.

(B) No new private sewer systems or sewer system extensions shall be constructed within the city without first obtaining written approval of the system plan and materials to be used in the construction of the system.

(Ord. 188, passed 7-17-01) Penalty, see ' 52.99

**' 52.17 BUILDING SEWERS AND CONNECTIONS.**

(A) (1) It is unlawful for any person to engage in the work or business of installing private sewer service lines and appurtenances for others without a license therefor from the city.

(2) Any person desiring to engage in such work shall make application to the city on forms to be supplied by the city together with a fee in the amount of \$25. All licenses issued shall be for one calendar year only and each renewal shall be made by application together with a \$25 annual fee. A plumber licensed by the State Board of Health shall not be required to be licensed by the city.

(3) Each applicant for license shall sign an agreement on such form as may be delivered by the city agreeing to pay the city the actual cost of repair for any damage caused to the city sewer system by the application, or by any of his or her employees or agents. This agreement shall accompany the license application.

(4) Each applicant shall accompany his or her application with a certificate of insurance in a company acceptable to the city showing public liability insurance coverage with limits of at least \$100,000 per person; \$250,000 per occurrence and \$50,000 for property damage. The certificate shall specifically state that the insurance covers underground construction operations and shall contain a provision that the coverage afforded under the policies will not be canceled or materially changed until at least 15 days prior written notice has been given to the city.

(B) No person, unless authorized by a written permit from the city, shall make, install, repair, alter, disturb, uncover, open or break any sewer connection to the sanitary sewer system of the city. Permits for connection of a new sewer service or repairs to an existing service shall be issued by the city after consideration of the application for the permit with regard to compliance with other sections of this chapter. Permits shall be issued in the following manner.

(1) Application for a permit to perform work on a sewer service connection within the city shall be made on a form supplied by the city by the person or firm who will be performing the work to the city for the installation of a new connection. The person or firm performing the work shall be licensed to perform the work by the city.

(2) The City Clerk-Administrator-Treasurer shall issue a permit for the work after the application is approved and the bond is received.

(C) All costs and expenses incidental to the installation and connection of the building sewer or repairs to an existing connection shall be borne by the owner. The owner shall indemnify and hold harmless the city from any loss or damage to the public sewer that may directly or indirectly be occasioned by the installation of the building sewer.

(D) A separate and independent building sewer shall be provided for every building, except where two or more buildings are situated on one parcel such that the parcel may not be subdivided. The joint use private sewer may be extended to the rear building or buildings and the whole considered as one joint use private sewer provided the buildings are the property of a single owner. Special variances will be considered by the city.

(E) Old building sewers may be used in connection with new buildings only when they are found, upon examination and testing by the city, to meet all the requirements of this chapter.

(F) Unused septic tanks, cesspools, leaching pits and similar devices and structures shall be backfilled or made safe and unusable in a manner acceptable to the city.

(G) The size, slope, alignment and materials of construction of a building sewer and the method used in excavating, placing of the pipe, jointing, testing and backfilling the trench shall all conform to the requirements of the Building Code and Plumbing Code; or other applicable rules and regulations. In the absence of code provisions, or in amplifications thereof, the materials and procedures set forth in appropriate specifications of the *Water Pollution Control Federation (W.P.C.F.) Manual of Practice No. 9* and the American Society for Testing Materials (A.S.T.M.) standards shall apply.

**Emergency Management  
Elbow Lake - Public Works**

(H) 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, the building drain shall be provided with a lifting device by an approved means and discharge to the building sewer.

(I) No person shall make connection of roof downspouts, roof drains, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which, in turn, is connected directly or indirectly to a public sanitary sewer.

(J) The construction of the building sewer and its connection into the public sewer shall conform to the requirements of the State Plumbing Code, the sewer specifications included herein and other applicable rules and regulations and procedures adopted by the city. All construction shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the city prior to installation.

(K) (1) Employees of the city shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the city when the work is ready for final inspection and no underground portion shall be covered before the final inspection is complete.

(2) The connection shall be made under the supervision of the city or its representative.

(L) All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazards. Streets, sidewalks, parkways and other public property disturbed during the course of the work shall be restored in a manner satisfactory to the city.

(Ord. 188, passed 7-17-01) Penalty, see ' 52.99

**' 52.18 MAIN AND LATERAL SEWER CONSTRUCTION.**

(A) No person, unless authorized, shall uncover, make any connection with or opening into, use, alter or disturb any sanitary or storm sewer within the city or any part of the city wastewater facilities.

(B) (1) No sanitary or storm sewers shall be constructed in the city, except house or building service sewers, except by the city or by others in accordance with plans and specifications approved by a professional engineer.

(2) No sewers shall be constructed or considered to be part of the public sewer system unless accepted by the city.

(C) The size, slope, alignment, material of construction, methods to be used in excavation, placing of pipe, jointing, testing, backfilling and other work connected with the construction of sewers shall conform to the requirements of the city.

(Ord. 188, passed 7-17-01) Penalty, see ' 52.99

**' 52.19 PROTECTION FROM DAMAGE.**

No person 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.  
(Ord. 188, passed 7-17-01) Penalty, see ' 52.99

**' 52.99 PENALTY.**

(A) Any person found to be violating any provisions of this chapter 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 time period stated in the notice permanently cease all violation.

(B) Any person who shall continue any violation beyond the time limit provided for in the written notice shall be guilty of a misdemeanor and on conviction thereof shall be fined in the amount not to exceed \$1,000 for each violation. Each day in which any violation shall continue shall be deemed a separate offense.

(C) Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned by the city by reason of the violation.

(D) In addition to all other penalties, the city may impose a administrative penalty not to exceed \$500, in which any violations of this chapter contain as provided in ' 10.98.  
(Ord. 188, passed 7-17-01)



**Emergency Management  
Elbow Lake - Public Works**

## Emergency Management

### CHAPTER 53: UTILITY BILLING AND COLLECTION

#### Section

- 53.01 Authority and purpose
- 53.02 Definitions
- 53.03 Service agreements
- 53.04 Utility rate schedule
- 53.05 Billing; collections of accounts; adjustments
- 53.06 Delinquent accounts; utility shut-off; cancellation of service
- 53.07 Procedures for appeal of proposed utility shut-offs

#### ' 53.01 AUTHORITY AND PURPOSE.

The city provides for the establishment of several utilities, including water, sewer, storm sewer, and garbage. Additionally, the Elbow Lake Public Utilities Commission provides electrical utilities and has transferred to the city, under its Electric Service Regulations, all obligations, responsibilities, requirements and other acts attendant to the billing, collection and enforcement of its fees and charges. All utility rates, fees and charges have been adopted by ordinance or by the Elbow Lake Public Utilities Commission and this chapter has as its purpose to provide for the systematic billing and collection of utility charges and fees and to provide mechanisms for collection and other remedies upon non-payment thereof.  
(Ord. passed 8-4-08)

#### ' 53.02 DEFINITIONS.

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

**ACCOUNT.** A record of utility services used by each property and the periodic cost of those utility services.

**CITY.** The area within the corporate boundaries of the city of Elbow Lake or the City Council and its authorized representatives.

**CUSTOMER.** Any individual, partnership, association, firm, public or private corporation or governmental agency having city utility service.

(1) **RESIDENTIAL CUSTOMER.** A customer using utility service for residential (household) purposes.

## Emergency Management

(2) **CUSTOMER OF RESIDENTIAL RENTAL PROPERTY (SINGLE FAMILY HOME OR DUPLEX).** A landlord or lessor of a single family home or duplex being leased for residential purposes. Tenants and lessees may not, absent compelling circumstances, be customers hereunder.

(3) **CUSTOMER OF RESIDENTIAL RENTAL PROPERTY (MULTIPLE-OCCUPANT PREMISES).** A tenant or lessee of a unit leased for residential purposes in a complex or building in which there are three or more such units shall be considered the customer hereunder. The owner, landlord, or lessor of such property shall not, absent compelling circumstances, be the customer hereunder.

(4) **COMMERCIAL CUSTOMER.** A customer using utility service at a location where the purchaser is engaged in selling, warehousing, or distributing a commodity, in some business activity, in rendering professional service, or in some form of social activity. In borderline cases where the nature of the customer's activities does not differentiate clearly between commercial and industrial, the service is classified as commercial.

(5) **INDUSTRIAL CUSTOMER.** A customer using service at a location where the purchaser is engaged in an industrial activity, such as the operation of factories, mills, machine shops, mines, oil wells, refineries, pumping plants, cleaning and dyeing works, creameries, canning establishments, stockyards, and the like that is in extractive, fabricating or processing activities.

**UTILITY.** Facilities used for providing public utility service owned or operated by city or Elbow Lake Public Utilities Commission or any service of the city, including sewer; storm sewer; water service; garbage, solid waste and recycling service; and electric service.

**UTILITY RATE SCHEDULE.** A schedule of all utility rates and charges set by ordinance of the city, or by the Elbow Lake Public Utilities Commission.  
(Ord. passed 8-4-08)

### ' 53.03 SERVICE AGREEMENTS.

(A) *Form and execution of service agreements.* Each application for general service will be made on the city's standard form, which, when properly executed by customer, becomes binding and along with the applicable rate schedules, rules and regulation, is termed a service agreement. If for any reason an application is not signed by the customer, the providing of service by the city and the accepting of such service by the city shall impose the same obligation on each as if a service agreement had been executed.

(B) *Deposit requirements.* Along with an application for general service, all new customers are required to provide credit references and credit information on the city's standard form. At the time of

### **Emergency Management**

connection, customer will provide a \$200 deposit, which will be returned to customer upon receipt of approved credit and review of the application. If approved credit is not received, the deposit will be held earning the interest rate allowed by state law and will be returned to customer by mailed check after 12 consecutive months of timely payments. If an account is closed, the deposit will be used to retire any outstanding amounts from the final bill and, if funds still remain, they will be refunded to customer. Present or previous customers in good standing with the city are exempt from the deposit requirements.

(C) *Contract period for service agreements.* The term of the service agreement shall be continuous until appropriately terminated under this chapter.

(D) *Termination of service agreement by customer.* Unless otherwise provided in the service agreement or rate schedule, customer may terminate service at any time by notifying the city not less than three days prior to the date termination is desired. Customer will be held responsible for all service supplied to vacated premises until such notice has been received by the city. Notification may be made by writing, by telephone, or by visiting the office of the City Clerk-Administrator-Treasurer during regular business hours. Upon any such termination, the electric meter will be removed. Electric service may be temporarily terminated and billing suspended, upon the request from the customer, for a period of time due to illness, vacation, or seasonal use. Likewise, water service will be terminated. Reconnection fees as provided in the rate schedule apply to reconnects.

(E) *Property not occupied by owner.* Utilities provided to rental or other non-owner occupied premises, including single family homes and duplexes, but excluding other multiple-occupant premises, shall be the responsibility of the property owner, and the owner shall be considered the customer. The city shall not be responsible for enforcing agreements between owners and occupants regarding responsibility for payment of utility charges. All existing accounts in the name of a non-owner occupant shall be transferred to the name of the property owner within one year of the date of these regulations. As this chapter contemplates the landlord/lessor as the customer for these premises, renter shall not have the right to terminate services. The owner's request for voluntary shut-off must contain a statement that the premises will not be occupied at the date of the requested shut-off.

(F) *Multiple-occupant premises.* If multiple units (more than two) within a premises are served by a utility or utilities, the charges related to those utilities shall be billed to the tenant or lessee. If the premises includes any residential property, the customer billed will be the individual tenants or lessees. If the premises does not include any residential property, the customer can be either the property owner or the occupants. If circumstances dictate that only one bill can be provided for any particular utility, the owner shall be the customer, and the city shall not be responsible for allocating charges among multiple occupants, in such cases.

(Ord. passed 8-4-08)

### **' 53.04 UTILITY RATE SCHEDULE.**

The utility rate schedule shall be adopted annually by ordinance of the City Council, except that rates

### **Emergency Management**

and fees for electrical service shall be set by the Elbow Lake Public Utilities Commission, but collected and enforced pursuant to this chapter.

(Ord. passed 8-4-08)

### **' 53.05 BILLING; COLLECTION OF ACCOUNTS; AND ADJUSTMENTS.**

(A) *Accounts.* Except in the case of multiple-occupant premises, all accounts shall be carried in the name of the owner. Except in the case of multiple-occupant premises, the owner shall be liable for all utilities servicing the property, whether he or she is occupying the property or not, and any unpaid charges shall be a lien upon the property.

(B) *Billings, due date, and delinquency.* All utility accounts shall be billed monthly, unless a different period is provided in the fee ordinance, and each billing statement shall designate a due date of ten days from the billing date. An account which is not paid as of the close of business on the due date shall be considered delinquent. After an account has been delinquent for ten days, a penalty shall be added to, and become a part of, the delinquent account, at the rate specified by ordinance or regulation.

(C) *Adjustments and time limitation on utility charges.* When a determination is made that a customer has been overcharged or undercharged for utility service, whether by reason of inaccurate metering, clerical errors, or other unintentional causes, the error shall be remedied as promptly as possible, and an adjustment shall be made for the dollar amount of the overcharge or undercharge for the time period that the erroneous charges occurred, not to exceed one year prior to the date the city became aware of the error for undercharges, and the two years prior to the date that the city became aware of the error for overcharges.

(D) *Refund of overcharges.* When a customer has been overcharged, the overpaid amount will be refunded to the customer by the city within 60 days of the calculation of the amount of overcharge with interest.

(E) *Collection of undercharge.* When a customer has been undercharged, the customer shall be promptly notified of the cause and amount of the adjustment, and the undercharged amount shall be billed to the customer separately. The customer will be offered a payment agreement, which allows for payments of equal installments over a period of time equal to the time over which the undercharge occurred. No interest or delinquency fee will be charged. In the event that the customer has discontinued utility service or does so before full payment of the undercharged amount, the customer shall continue to be responsible for the payment of undercharge on the same payment terms.

(F) *Exceptions.* Refunds for overcharges and collection of undercharges shall not apply to situations in which deliberate or intentional acts of the customer or anyone acting on behalf of or for the benefit of the customer have resulted in the undercharge to the customer for utility service. In such cases, the city reserves all legal rights to collect the full amount of the unpaid utilities without regard to the time limitation and installment payment provision set forth herein.

### **Emergency Management**

(G) *Application of payments to customer accounts.* All customer payments for utility services shall be applied in the order of priority set forth below, with all amounts being applied first to the highest applicable category of priority, any balance being applied to the next lower applicable category of priority, and so on successively until the full amount of payment has been applied. The categories of priority, from highest to lowest, shall be as follows:

- (1) Administrative charges.
- (2) Late payment charges.
- (3) Past-due electric charges.
- (4) Current electric charges.
- (5) Past-due water charges.
- (6) Past-due solid waste charges.
- (7) Past-due sewer charges.
- (8) Current water charges.
- (9) Current solid waste charges.
- (10) Current sewer charges.

(Ord. passed 8-4-08)

### **' 53.06 DELINQUENT ACCOUNTS; UTILITY SHUT-OFF; CANCELLATION OF SERVICE.**

(A) *Penalties.* After an account has been delinquent for ten days, a late payment penalty of 10% shall be assessed on all accounts.

(B) *Procedures for shut-off for nonpayment.* Except as otherwise provided by M.S. ' 216B.097 (The Minnesota Cold Weather Rule) and any other state or federal law or regulation controlling shut-off procedures for municipal utilities, the following procedures shall apply. When a proposed shut-off is the result of non-payment of the utility bill:

(1) A written notice shall be mailed to the customer no more than one day after the utility account becomes delinquent. In the event that the property served by the utility is occupied by someone other than the owner thereof, notices shall be sent to both the owner and the occupant of the property. The notice shall state the total amount due, which may include other utility charges provided by city, the date by which the account must be paid to avoid shut-off (20 days after the account becomes delinquent), and the title, address and phone number of the individual to contact to discuss the situation. The notice shall also state which service(s) will be shut-off. The notice shall also notify the customer of the procedure for

### **Emergency Management**

administrative appeal of the proposed shut-off, as is explained with more specificity hereinafter.

(2) If the account remains unpaid as of the close of business on the shut-off date designated in the notices, the utilities shall be shut-off, unless the customer has filed a timely appeal which is pending or which has resulted in a ruling in favor of the customer. Shut-offs for non-payment shall take place only during business hours on Mondays through Thursdays.

(3) Any notices required by this chapter shall be sent by first-class mail to the last known address of each recipient.

(C) *Nonpayment related shut-off.* City, in addition to all other legal remedies, may terminate the service agreement and discontinue utility services, or suspend delivery of service, for any default or breach of the service agreement or violation of ordinance by customer, but no such termination or suspension will be made by Commission or city without five days written notice, excluding Sundays and legal holidays, to customer, stating with particularity the manner in which the service agreement or ordinance has been violated, except in cases of unlawful or unauthorized use. A standard tampering fee in addition to the cost of repairs to the equipment will be collected. Failure to act pursuant to this section, or to resort to any other legal remedy, shall not affect the Commission's or city's right to resort to any such remedies for the same or any future default or breach by customer.

(D) *Reconnection.* After a shut-off has occurred in accordance with this chapter, the customer may request reconnection of utility services by making payment at the City Clerk-Administrator-Treasurer's Office of all delinquent amounts owed by the customer on all utility accounts (including late payment penalties) and a reconnection fee for utility services to be reconnected. If other city run utility services have been shut-off, additional reconnection fees may apply. In the event that shut-off was for reasons other than delinquency, all circumstances leading to the breach and default shall be remedied and the reconnection fee paid. The reconnection fee shall be set forth in the ordinance establishing the fee schedule. The customer shall also complete a new service application and pay the required deposit.

(E) *The Minnesota Cold Weather Rule.* The Minnesota Cold Weather Rule applies from October 15 to April 15. The rule prevents a municipal utility from disconnecting a residential unit during this time frame if the disconnection affects the primary heat source and if the following conditions are met:

(1) The customer has declared an inability to pay on forms provided by the utility or is receiving energy assistance;

2012 S-3

### **Utility Billing and Collection**

41

(2) The household income of the customer is less than 50% of the state median income; and

(3) The customer's account was current for the billing period immediately prior to October 15 or the customer has entered into a payment schedule that considers the financial resources of the household and is reasonably current with payments under that schedule.

(4) The Commission will comply with all other mandates and requirements of the Minnesota Cold Weather Rule.

### **Emergency Management**

(F) *Waiver of liability.* The city, its agents, employees and representatives shall not be responsible or liable for any damages or claims incurred as a result of the disconnection of services whether voluntary or involuntary.

(G) *Certification for collection with taxes.*

(1) The City Clerk-Administrator-Treasurer shall have the authorization to file utility liens in compliance with all statutes of the state relating to utility liens and collections, including but not limited to the original and amended versions of M.S. " 366.102, 415.01, and 444.075. Except in cases where the City Clerk-Administrator-Treasurer becomes aware of a pending sale of property or other circumstances which make prior approval impracticable, the city and/or Public Utilities Commission shall consider and approve the lien. If the City Clerk-Administrator-Treasurer files a lien for delinquent utilities prior to city or Public Utilities Commission approval, he or she shall notify the city or Commission at its next regular meeting that a lien has been filed. The requirements concerning notice to customer and/or property owner shall be fulfilled at the time of the filing of the lien.

(2) Delinquent utility charges as of October 31 of each year shall be certified by the City Clerk-Administrator-Treasurer, who shall prepare a list of delinquent charges each year. Except as provided hereinabove, unpaid charges on utility accounts shall not be certified to the County Auditor until notice and an opportunity for a hearing has been provided to the owner of the premises involved. The notice shall be sent at least ten days before hearing scheduled before the City Council. The notice shall be sent by first class mail and shall state that if payment is not made before the date of certification, the entire amount unpaid plus penalties will be certified to the County Auditor for collection as other taxes are collected. The notice shall also state that the occupant may, before such certification date, attend or schedule a hearing on the matter to object to certification of unpaid utility charges. The date of the meeting at which the City Council will certify unpaid charges for collection as other the taxes. In the event that the delinquency involves rental property, notice shall be sent to the non-occupying owner and the tenant.

(3) The owner of the property shall have the option of paying the balance due on the account until the date the notice of the certification hearing is mailed. After the date the notice of certification hearing is mailed, payments will be accepted but will include unpaid penalties.

2012 S-3

42

### **Elbow Lake - Public Works**

(4) Before November 14 of each year, a hearing shall be held on the matter by the City Council. Property owners with unpaid utility charges shall have the opportunity to object to the certification of unpaid charges to be collected as taxes are collected. If, after the hearing, the City Council finds that the amount claimed as delinquent are actually due and unpaid and that there is no legal reason why the unpaid charges should not be certified for collection with taxes in accordance with this chapter, the city may certify the unpaid charges to the County Auditor for collection as other taxes collected. Certification shall not preclude the city or its agents from recovering delinquent charges and interest under any other available remedy and shall not preclude the disconnection for late payment provided hereunder.

(H) *Procedure following certification hearing.* For each certification sustained, the property owner shall have the following option after the hearing:



## **Emergency Management**

(1) To pay the delinquent amount listed on the preliminary roll, but without additional interest after the hearing, within ten days of the hearing.

(2) To pay the certified delinquent amount after the hearing date, but before the county certification deadline, with interest at the rate set in the adopted rate schedule, accrued beginning on the eleventh day following the hearing date through the date of payment.

(3) To pay the certified charges as billed to them by Grant County on their property tax statement with a collection term of one year.

(I) *Final certification.* Fifteen days after the hearing, but no later than November 29, the certified roll, minus any payments, shall be delivered to the Grant County Auditor.

(Ord. passed 8-4-08)

### **' 53.07 PROCEDURES FOR APPEAL OF PROPOSED UTILITY SHUT-OFFS.**

(A) *Authority of City Clerk-Administrator-Treasurer.* A customer who disputes the amount of a utility bill, or who is unable to pay all or part of the bill, may on or before the deadline for the filing of a notice of appeal, contact the City Clerk-Administrator-Treasurer, who shall be authorized to make adjustments for errors in bills or to make alternate payment arrangements, such as a Budget Payment Plan, if appropriate, pursuant to the guidelines set forth in ' 53.07 (E) hereof. If adjustments or payment arrangements are agreed to by the customer and the City Clerk-Administrator-Treasurer, the customer's utility services shall not be shut-off on the proposed date; provided, that if payments are not made in accordance with the agreed payment schedule, the customer's utilities may be shut-off upon 48 hours written notice to the customer. Such notice shall be sent by first-class mail, and the 48 hour notice period shall be deemed to begin at noon on the business day following the mailing of the notice.

(B) *Notice of appeal.* Whether or not the City Clerk-Administrator-Treasurer is contacted pursuant to ' 53.07(A) hereof, a customer who disputes the amount of a utility bill, or who is unable to pay all or part of the bill, may appeal the proposed shut-off of utilities to the City Council by delivering written

2012 S-3

## **Utility Billing and Collection**

43

notice of appeal to the City Clerk-Administrator-Treasurer prior to the close of business on the date in which utility services are to be shut-off. The notice of appeal may be made on a form provided by the city, and in any event shall be dated and signed by the customer, and shall contain the following information:

- (1) Name, address, and phone number of customer;
- (2) Utility account number;
- (3) Date of bill and date of proposed shut-off;
- (4) Amount of bill;
- (5) If amount of bill is in dispute, the reasons for customer's belief that the bill is in error, and

## **Emergency Management**

proposed adjustment; and

(6) If customer is unable to pay part or all of bill by shut-off date, reasons for inability to pay and proposed payment arrangements.

(C) *Hearing on appeal.* Upon receipt of a notice of appeal, the City Clerk-Administrator-Treasurer shall schedule a hearing before the City Council. The hearing shall be scheduled as soon as practicable, and no later than 14 days after the date of the notice of appeal. The customer's utilities shall not be shut-off pending the appeal hearing. The customer shall be promptly notified of the date, time, and place of the hearing by telephone, first-class mail, or any other reasonable means. At the hearing, the customer may present any testimony and evidence relevant to the appeal, and the members of the Council and/or their designee may question the customer or other persons about any matter relevant to the appeal. The City Council shall inform the customer of its decision prior to the conclusion of the hearing. If requested by the customer, the City Council shall provide a written summary of its findings and decision within a reasonable time period. The City Council shall in any event maintain such a summary for its own records.

(D) *Decision of City Council.* The City Council may make any of the following decisions, based upon the facts and circumstances of the case:

(1) That the appeal is without merit and that the customer's utilities will be shut-off if full payment of the utility bill is not made within 48 hours after the conclusion of the hearing.

(2) In cases involving a dispute in the amount of the bill, that an adjustment will be made to the bill and that the customer's utility services will be continued unless the customer fails to pay the corrected amount of the bill within 48 hours after the conclusion of the hearing.

**Emergency Management  
Elbow Lake - Public Works**

(3) In cases involving the customer's ability to pay, that payment shall be deferred to a specified date or that a specific payment schedule shall be followed, and that the customer's utility service shall be continued unless the customer fails to make a payment in accordance with the specified arrangements; and that, in the event of such failure, the customer's utilities may be shut-off upon 48 hours written notice to the customer, such notice to be sent by first-class mail and the 48 hour notice period to begin at noon on the business day following the mailing of the notice.

(E) *Guidelines of decision on appeal.* In appeals based on the customer's inability to pay a utility bill, the City Council shall consider the following criteria to determine whether it is appropriate to allow deferred payment as an alternative to shutting off the customer's utility service:

- (1) The customer's history of payment of utility bills;
- (2) The nature and severity of the financial difficulties of the customer;
- (3) The assets of the customer available for payment of the utility bill;
- (4) The likelihood of ability to make deferred payment(s) as scheduled; and
- (5) The efforts made by the customer to obtain public assistance, energy assistance, or other available resources for payment.

(F) *Forgiveness of utility bills.* Except in cases in which it is determined that an error has been made in the customer's utility bill, the City Clerk-Administrator-Treasurer and the City Council shall have no authority to permanently forgive any portion of the customer's utility bill.  
(Ord. passed 8-4-08)

## **Emergency Management**

### **TITLE VII: TRAFFIC CODE**

#### **Chapter**

- 70. GENERAL PROVISIONS**
- 71. TRAFFIC RULES**
- 72. PARKING REGULATIONS**
- 73. SNOWMOBILES**
- 74. TRAFFIC SCHEDULES**
- 75. PARKING SCHEDULES**
- 76. GOLF CARTS**

**Emergency Management  
Elbow Lake - Traffic Code**

## **Emergency Management**

### **CHAPTER 70: GENERAL PROVISIONS**

#### Section

70.01 Adoption of state regulations

70.99 Penalty

#### **' 70.01 ADOPTION OF STATE REGULATIONS.**

M.S. Ch. 169, as it may be amended from time to time, entitled **A**Highway Traffic Regulation Act of the Laws of the State of Minnesota, **@** be and the same is hereby incorporated by reference and adopted as an ordinance relating to the operation of motor vehicles upon the streets, alleys, private roads, public roads and any other places within the city. The same is made a part hereof as if set forth herein in full, except such provisions as are not applicable to the city, which sections are specifically excepted. The penalty for violation of the provisions of the state statute adopted by reference in this section shall be identical with the penalty provided in the state statutes for the same offense.  
(Ord. 139, passed 11-4-74)

#### **' 70.99 PENALTY.**

Any person violating any provision of this traffic code for which no specific penalty is prescribed shall be subject to ' 10.99.

**Emergency Management  
Elbow Lake - Traffic Code**

## **Emergency Management**

### **CHAPTER 71: TRAFFIC RULES**

#### **Section**

71.01 Erratic acceleration

71.02 Use of highways

#### **' 71.01 ERRATIC ACCELERATION.**

(A) Acceleration of a motor vehicle without apparent reason and in a manner as to cause squealing or screeching sounds by the tires or the throwing of sand or gravel by the tires of the vehicle, or both, on any public or private road or way within the city is prohibited.

(B) Prima facie evidence of the acceleration shall be squealing or screeching sounds emitted by the tires or the throwing of sand or gravel by the tires of the vehicle, or both.  
(Ord. 152, passed 7-5-78) Penalty, see ' 70.99

#### **' 71.02 USE OF HIGHWAYS.**

(A) No person shall operate or halt any vehicles upon a street or highway within the city carelessly or heedlessly in disregard of the rights or safety of others or in a manner so as to endanger or be likely to endanger any person or property.

(B) No person who is an habitual user of narcotic drugs or who is under the influence of narcotics or liquors shall drive or operate a vehicle on any street within the city and no person shall consume liquor while an occupant of a vehicle upon any street in the city.  
(Ord. 83, passed 10-1-51) Penalty, see ' 70.99



**Emergency Management  
Elbow Lake - Traffic Code**

## Emergency Management

### CHAPTER 72: PARKING REGULATIONS

#### Section

- 72.01 General prohibitions
- 72.02 Time periods; authority to tow and the like

#### **72.01 GENERAL PROHIBITIONS.**

(A) Every vehicle parked upon any street with a curb shall be parked parallel thereto, with the right-hand wheel of the vehicle within 12 inches from the curb; provided however, that the Street Commissioner, with the approval, may designate certain streets for diagonal parking. On other streets, a vehicle shall be parked to the right of the main traveled portion thereof, and parallel thereto, and in a manner that it shall not interfere with the free flow of traffic.

(B) This shall not apply however to any disabled vehicle upon any street, but every police officer of the city is authorized to require the person in charge thereof to move it to a place of safety and, upon failure or neglect to do so, or in the case of a vehicle being left alone or abandoned in a position, the officer is authorized to provide for the removal of the vehicle to the nearest convenient garage or other place of safe-keeping.

(C) No person shall park a vehicle or permit it to stand, whether attended or unattended, upon any highway or street within the city, in any of the following places:

- (1) On a sidewalk;
- (2) In front of a public or private driveway;
- (3) Within an intersection;
- (4) Within ten feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within 20 feet of a crosswalk at an intersection;
- (7) Within 50 feet of the nearest rail of a railroad or railroad crossing;
- (8) Within 20 feet of the driveway entrance to any fire station;

**Emergency Management  
Elbow Lake - Traffic Code**

(9) Alongside or opposite any street excavation or obstruction when the stopping or standing or parking would obstruct traffic;

(10) On the roadway side of any vehicle stopped or parked at the edge or curb of a street, except when attended, with the motor running and a driver occupying the drivers seat, but in no case for a period longer than three minutes;

(11) At any place where official signs prohibit stopping;

(12) For camping purposes, leave or park a house trailer on any street or the right-of-way thereof; and/or

(13) For a vehicle of more than one ton capacity or an overall length of more than 18 feet on any of the streets as designated by Council.

(Ord. 80, passed 2-6-50) Penalty, see ' 70.99

**' 72.02 TIME PERIODS; AUTHORITY TO TOW AND THE LIKE.**

(A) No person or persons, copartnership or corporation shall place, store or park any automobiles, machinery or other implements on the public street within the corporate limits of the city for more than 24 consecutive hours.

(B) (1) The police of the city have authority to tow away, by use of a public truck or wrecker, any vehicles or other implements violating this section to the nearest available facility for storage of the vehicle or other implement; the towing and storage to be at the expense of the owner of the vehicle or other implement.

(2) The city, its employees, agents and representatives shall not be legally liable for carrying out the enforcement of this section, nor for damage to the vehicle or other implement caused by its owner or the wrecker or truck towing the vehicle or other implement.

(Ord. 49, passed 6- -26; Am. Ord. 151, passed 2-6-78) Penalty, see ' 70.99

## Emergency Management

### CHAPTER 73: SNOWMOBILES

#### Section

73.01 Restricted operations

73.02 Responsibility

#### **73.01 RESTRICTED OPERATIONS.**

No snowmobile shall be operated within the city limits unless the operation is in compliance with all of the following regulations.

(A) No snowmobile shall be operated on any city street, road or highway in excess of a speed of ten mph.

(B) No person shall operate or ride in or on a snowmobile or any sled attached thereto on any street, road or highway without wearing a safety helmet of suitable construction to withstand head injury in the event of an accident and no operator of a snowmobile shall permit any person to ride without complying with this section.

(C) A complete stop shall be made at all intersections before entering intersection.

(D) No snowmobile shall be operated between the hours of midnight and 6:00 a.m., except on Saturday and Sunday, when no operation shall be permitted from 1:00 a.m. to 6:00 a.m.

(E) No snowmobile shall be operated at or upon any of the following:

(1) On any public sidewalk;

(2) On the private property of another without first obtaining permission therefor from the owner thereof;

(3) Within 100 feet of any skating rink or sliding area, where the operation would conflict with use or endanger other persons or property;

(4) Upon the city airport; or

(5) On the school grounds unless authorized by the School Board.

**Emergency Management  
Elbow Lake - Traffic Code**

(F) There shall be no operation in violation of state law or in violation of any regulation of the Department of Natural Resources.

(Ord. 131, passed 2-5-73; Am. Ord. 154, passed 3-14-79) Penalty, see ' 70.99

**' 73.02 RESPONSIBILITY.**

The operator of any snowmobile shall be deemed the agent of the owner thereof and the owner shall be responsible in the event of any violation of this chapter, if driven with the owner's permission, knowledge or consent, the same as if the owner was operating the machine.

(Ord. 131, passed 2-5-73; Am. Ord. 154, passed 3-14-79)

## Emergency Management

### CHAPTER 74: TRAFFIC SCHEDULES

#### Schedule

##### I. Stop streets

#### **SCHEDULE I. STOP STREETS.**

The following streets are designated **A**stop streets. **@** All vehicles shall come to a full stop before entering the stop street.

<i>Street</i>	<i>Location</i>	<i>Direction(s)</i>	<i>Ord. No.</i>	<i>Date Passed</i>
Main Street (T.H. No. 55)		Both	63	1-18-38

Penalty, see ' 70.99



## **Emergency Management**

### **CHAPTER 75: PARKING SCHEDULES**

#### **Schedule**

##### **I. Restricted parking**

#### **SCHEDULE I. RESTRICTED PARKING.**

For the purpose of snow removal, the following are special parking restrictions for city streets that fall under the jurisdiction of the city:

(A) Parking in regards to snow plowing and/or removal: from November 1 to April 1, it shall be unlawful for the owner and/or driver of a motor vehicle and/or trailer to stop, stand, or park the motor vehicle and/or trailer on any city street or roadway between the hours of 2:00 a.m. and 7:00 a.m. or until the street has been plowed. This restriction shall not apply to city owned or emergency vehicles in the regular performance of their duties.

(B) Any motor vehicle and/or trailer or a part thereof left on a city street or boulevard in the city in such a way as to impede the performance of city, county, and/or state snowplows or snow removal efforts shall be a violation of this chapter, and the owner shall be issued a civil citation in an amount set by the City Council. Any such civil citation shall be payable to the city within seven days from the issuance of the citation. If the civil citation is not paid within seven days, the owner shall be issued a petty misdemeanor citation, which carries a maximum penalty of a \$300 fine.

(Ord. passed 12-7-09)



**Emergency Management  
Elbow Lake - Traffic Code**

## Emergency Management

### CHAPTER 76: GOLF CARTS

#### Section

- 76.01 Definitions
- 76.02 Operation
- 76.03 Permits; insurance
- 76.04 Mechanical condition
- 76.05 Occupants
- 76.06 Restrictions
- 76.07 Suspension or revocation of permits
  
- 76.99 Penalty

#### ' 76.01 DEFINITIONS.

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

***MOTORIZED GOLF CART.*** Any passenger conveyance being driven with three or four wheels with three or four low pressure tires that is limited in engine displacement of less than 800 cubic centimeters and a total dry weight of less than 800 pounds and that is not designed to operate at a speed of more than 25 miles per hour.

***DRIVER.*** The person driving or having physical control over the motorized golf cart.  
(Ord. passed 11-2-09)

#### ' 76.02 OPERATION.

It is unlawful for any person to operate a motorized golf cart on streets in the city without first obtaining a permit for said motorized golf cart as provided herein. A properly permitted motorized golf cart may be operated on city streets within the city.  
(Ord. passed 11-2-09) Penalty, see ' 76.99

#### ' 76.03 PERMITS; INSURANCE.

(A) *Permit issuance.* Prior to issuance of any permit, a permit applicant must supply the following information to the City Clerk-Administrator-Treasurer:

## Emergency Management

- (1) The name and address of the applicant;
- (2) Make, model name, year and serial number of the motorized golf cart;
- (3) Insurance company that insures the motorized golf cart, policy number, expiration date, and insurance agent and telephone number; and
- (4) Such other information as the city may require.

(B) *Permit fee.* An annual permit fee, if any, shall be established from time to time by resolution or ordinance of the City Council. Weekly permits may also be issued, with the fee being established from time to time by resolution or ordinance of the City Council.

(C) *Term of permit.* Permits shall be granted for a period of one year and may be renewed annually.

(D) *Conditions of permit.* No permit shall be granted or renewed unless the following conditions are met:

- (1) The applicant must demonstrate that they currently hold a valid driver's license; and
- (2) Any person authorized to operate a motorized golf cart must have a valid driver's license, proof of insurance, and the proper permit attached to the rear of the motorized golf cart.

(E) *Permit possession.* All permits shall be issued for a specified motorized golf cart. At all times when operating a motorized golf cart pursuant to the permit, an individual authorized to operate such motorized golf cart shall have available for inspection a copy of the permit and a city issued registration or license plate attached to the rear of the motorized golf cart.

(F) *Insurance required.* Before a motorized golf cart permit is issued by the city, and at all times effective during such permit period, the permit holder shall have and maintain public liability and bodily injury insurance in the amount established by Minnesota Statutes.  
(Ord. passed 11-2-09) Penalty, see ' 76.99

### **' 76.04 MECHANICAL CONDITION.**

The motorized golf cart must be in good mechanical condition, thoroughly safe for transportation of passengers, and pose no risk to other vehicles or pedestrians.  
(Ord. passed 11-2-09) Penalty, see ' 76.99

## **Emergency Management**

### **' 76.05 OCCUPANTS.**

The number of occupants in the motorized golf cart may not exceed the design occupant load. In addition, a motorized golf cart may not attach any towing device to a motorized golf cart and have individuals being transported in the towing device.

(Ord. passed 11-2-09) Penalty, see ' 76.99

### **' 76.06 RESTRICTIONS.**

(A) *Designation of roadways.* Motorized golf carts are permitted to be operated only on city street, and may not be operated on county, state or federal streets or highways except to cross at designated intersections.

(B) *Times and operation.* Motorized golf carts may only be operated on designated roadways from sunrise to sunset. They shall not be operated in inclement weather or when visibility is impaired by weather, smoke, fog, or other 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. Motorized golf carts shall not be operated in a negligent manner, so as to endanger any person or property, or to obstruct, hinder or impede the lawful course of travel of any motor vehicle or the lawful use by any pedestrian of public streets, sidewalks, paths, trails, walkways, or parks.

(C) *Application of traffic laws.* Every person operating a motorized golf cart under permit on city streets has all the rights and duties applicable to the driver of any other vehicle under the provisions of any ordinance of the city or Minnesota State Statutes, except when these provisions cannot reasonably be applied to motorized golf carts and except as otherwise specifically provided in M.S. ' 169.045, subd. 7.

(D) *Slow moving vehicle emblem.* Motorized golf carts shall display the slow moving vehicle emblem provided for in M.S. ' 169.522, when operated on city streets.

(E) *Rear view or side mirror.* Motorized golf carts shall be equipped with a rear view or side mirror to provide the driver with adequate vision from behind.

(Ord. passed 11-2-09) Penalty, see ' 76.99

### **' 76.07 SUSPENSION OR REVOCATION OF PERMITS.**

The City Council may suspend or revoke a permit granted hereunder upon a finding that the holder thereof has violated any provision of this chapter, allows an unlicensed driver to operate the motorized golf cart, has violated applicable Minnesota traffic laws, would fail to qualify for a permit at any time, or if there is evidence that the permit holder cannot safely operate the motorized golf cart.

(Ord. passed 11-2-09)

**Emergency Management  
Elbow Lake - Traffic Code**

**' 76.99 PENALTY.**

In addition to the revocation or suspension of the permit, any person violating any of the provisions of this chapter shall be guilty of a misdemeanor.  
(Ord. passed 11-2-09)

## **Emergency Management**

### **TITLE IX: GENERAL REGULATIONS**

#### **Chapter**

- 90. HEALTH AND SANITATION; NUISANCES**
- 91. PARKS AND RECREATION**
- 92. SIDEWALKS**
- 93. FIRE LIMITS; PREVENTION**
- 94. ANIMALS**

**Emergency Management  
Elbow Lake - General Regulations**

## **Emergency Management**

### **CHAPTER 90: HEALTH AND SANITATION; NUISANCES**

#### **Section**

#### ***General Provisions***

- 90.01 Assessable current services
- 90.02 Tree diseases

#### ***Nuisances***

- 90.15 Public nuisance; blighting factors
- 90.16 Public nuisances affecting health
- 90.17 Public nuisances affecting morals and decency
- 90.18 Public nuisances affecting peace and safety
- 90.19 Duties of city officers
- 90.20 Abatement
- 90.21 Recovery of cost

#### ***Weeds***

- 90.35 Short title
- 90.36 Jurisdiction
- 90.37 Definitions; exclusions
- 90.38 Owners responsible for trimming, removal and the like
- 90.39 Filing complaint
- 90.40 Notice of violations
- 90.41 Appeals
- 90.42 Abatement by city
- 90.43 Liability

#### ***Open Burning***

- 90.60 Definitions
- 90.61 Prohibited materials
- 90.62 Permit required for open burning
- 90.63 Purposes allowed for open burning
- 90.64 Permit application for open burning; permit fees
- 90.65 Permit process for open burning
- 90.66 Permit holder responsibility



**Emergency Management  
Elbow Lake - General Regulations**

- 90.67 Revocation of open burning permit
- 90.68 Denial of open burning permit
- 90.69 Burning ban or air quality alert
- 90.70 Rules and laws adopted by reference

***GENERAL PROVISIONS***

**§ 90.01 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.

***CURRENT SERVICE.*** 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.

(B) *Snow, ice, dirt and rubbish.*

(1) *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.

(2) *Removal by city.* The City Clerk-Administrator-Treasurer 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-Administrator-Treasurer or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

(C) *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-Administrator-Treasurer.

(D) *Installation and repair of water service lines.* Whenever the city installs or repairs water service lines serving private property under Chapter 52 of this code, the City Clerk-Administrator-Treasurer shall keep a record of the total cost of the installation or repair against the property.

(E) *Repair of sidewalks and alleys.*

(1) *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-Administrator-Treasurer.

(2) *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.

(3) *Repair by city.* If the sidewalk or alley is not repaired within 30 days after receipt of the notice, the City Clerk-Administrator-Treasurer 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. The City Clerk-Administrator-Treasurer shall keep a record of the total cost of the repair attributable to each lot or parcel of property.

(F) *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-Administrator-Treasurer, 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-Administrator-Treasurer.

(G) *Damage to public property.*

(1) 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.

(2) 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.

**Emergency Management  
Elbow Lake - General Regulations**

(3) 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.

(H) *Assessment.* On or before September 1 of each year, the City Clerk-Administrator-Treasurer 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 benefitted 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.

Penalty, see ' 10.99

**' 90.02 TREE DISEASES.**

(A) *Trees constituting nuisance declared.* The following are public nuisances whenever they may be found within the city:

(1) 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)*;

(2) 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;

(3) Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt fungus *Ceratocystis fagacearum*;

(4) 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; and

(5) Any other shade tree with an epidemic disease.

(B) *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance as defined in division (A) of this section to remain on any premises the person owns or controls within the city. The City Council may by resolution order the nuisance abated. Before action is taken on that resolution, the City Council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to the affected property owner and published once no less than one week prior to the meeting. The notice shall state the time and place of the meeting, the street affected, action proposed, the estimated cost of the abatement, and the proposed basis of assessment, if any, of costs. At such hearing or adjournment thereof, the City Council shall hear any property owner with reference to the scope and desirability of the proposed project. The City Council shall

thereafter adopt a resolution confirming the original resolution with modifications as it considers desirable and provide for the doing of the work by day labor or by contract.

(C) *Record of costs.* The City Clerk-Administrator-Treasurer 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.

(D) *Unpaid charges.* On or before September 1 of each year, the City Clerk-Administrator-Treasurer 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.

Penalty, see ' 10.99

## ***NUISANCES***

### **' 90.15 PUBLIC NUISANCE; BLIGHTING FACTORS.**

(A) 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 " 90.16, 90.17 or 90.18, or any other part of this code to be a public nuisance and for which no sentence is specifically provided.

(B) (1) It is hereby determined that the uses, structures and activities and cause of blight or blighting factors described herein, if allowed to exist, will tend to result in blighted and undesirable neighborhoods so as to be harmful to the public welfare, health and safety. The purpose of this division (B) is to protect the character and stability of the properties within the city and to avoid blight and blighted conditions. The owner and occupant shall comply with the regulations contained herein.

(2) (a) All exterior property areas and vacant areas shall be maintained in a clean and sanitary condition, safe and free from any hazard or dangerous condition, and free from any accumulation of refuse or garbage.

**Emergency Management  
Elbow Lake - General Regulations**

8

(b) All exterior property areas and vacant areas shall be kept free from species of weeds or plant growth, rodents, vermin or other pests, which are noxious or detrimental to the public health. Any weeds or grasses growing upon any lot or parcel of land or boulevard abutting the land; within an area of the city zoned as a residential or commercial in which the weeds or grasses grow to a height greater than 12 inches, or which have gone or about to go to seed, are a nuisance. The owner or occupant shall abate or prevent the nuisance on the property, or on the boulevard abutting the property. (Excluded from grass height limits are all lake and river lots and any lots that are more than 50% forested throughout the entire lot.)

(c) Any junk automobile as defined hereinafter in this section constitutes a hazard to the 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 automobiles containing fluids which, if released into the environment, can and do cause significant health risks. Any such junk automobile shall not be kept, parked, stored, or abandoned within the city.

1. For the purpose of this division (B)(2)(c), the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***JUNK AUTOMOBILES.*** 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. This definition shall 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 a complaint from a resident of the city.

***JUNK EQUIPMENT.*** Equipment such as farm equipment and other machinery, all terrain vehicles, snowmobiles, motorcycles, lawnmowers, snowblowers and all other machinery or equipment powered by a motor and shall include any part of machinery or equipment, stored in the open, which is not currently licensed for use upon the highways of the state or is not required to be so licensed, and is either:

- i. Unusable or inoperable because of lack of or defects in component parts;
  - ii. Unusable or inoperable because of damage from collision, deterioration or having been cannibalized;
  - iii. Beyond repair and therefore not intended for future use as a motor vehicle;
- or
- iv. Being retained on the property for possible use of salvageable parts.

2. These regulations are in addition to any zoning regulations.

(3) (a) The exterior of all structures and accessory structures, including detached garages, shall be maintained in a workman-like state of maintenance and repair.

(b) Every exterior wall shall be free of holes, breaks, loose or rotting boards or timbers, falling or loose stucco.

(c) All doors and windows shall be maintained in good repair, fit reasonably well within their frames and be free of open breaks or holes.

(4) (a) The interior of every structure shall be maintained in clean and sanitary condition, free of accumulations of garbage and refuse.

(b) The interior of every structure shall be maintained free from infestation of noxious insects, rodents and other pests.

(c) All plumbing systems shall be properly installed, connected and maintained in good working order and must be kept free from obstructions, leaks and defects.

(d) The storage of excessive or unreasonable amounts of hazardous, flammable liquids shall be prohibited in areas not zoned for such use.

(Ord. 187, passed - -; Am. Ord. passed 12-7-09) Penalty, see ' 10.99

#### **' 90.16 PUBLIC NUISANCES AFFECTING HEALTH.**

The following are hereby declared to be nuisances affecting health:

(A) Exposed accumulation of decayed or unwholesome food or vegetable matter;

(B) All diseased animals running at large;

(C) All ponds or pools of stagnant water;

(D) Carcasses of animals not buried or destroyed within 24 hours after death;

(E) Accumulations of manure, refuse or other debris;

(F) 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;

(G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;

**Emergency Management  
Elbow Lake - General Regulations**

(H) All noxious weeds and other rank growths of vegetation upon public or private property;

(I) Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities;

(J) All public exposure of people having a contagious disease; and

(K) Any offensive trade or business, as defined by statute, not operating under local license.

(Ord. 187, passed - -) Penalty, see ' 10.99

**' 90.17 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY.**

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

(A) All gambling devices, slot machines and punch boards, except as otherwise authorized by federal, state or local law;

(B) Betting, bookmaking and all apparatus used in those occupations;

(C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;

(D) 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; and

(E) Any vehicle used for the unlawful transportation of intoxicating liquor, for promiscuous sexual intercourse or any other immoral or illegal purpose.

(Ord. 187, passed - -) Penalty, see ' 10.99

**' 90.18 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY.**

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

(A) All snow and ice not removed from public sidewalks 24 hours after the snow or other precipitation causing the condition has ceased to fall;

(B) All trees, hedges, billboards or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;

(C) 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;

**Emergency Management**  
**Health and Sanitation; Nuisances**

10A

(D) 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;

(E) 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 therefrom and complies with all applicable state laws and regulations;

(F) 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



**Emergency Management  
Elbow Lake - General Regulations**

in a distinctly and loudly audible manner so as to disturb the peace, quiet and comfort of any person nearby; (Operation of any device referred to above between the hours of 10:00 p.m. and 7:00 a.m. 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.)

(G) The participation in a party or gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property;

(H) 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;

(I) Radio aerials or television antennae erected or maintained in a dangerous manner;

(J) 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;

(K) 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;

(L) 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;

(M) Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;

(N) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;

(O) Wastewater cast upon or permitted to flow upon streets or other public properties;

(P) 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;

(Q) 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;

(R) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials;

**Emergency Management  
Elbow Lake - General Regulations**

(S) 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;

(T) The depositing of garbage or refuse on a public right-of-way or on adjacent private property; and

(U) All other conditions or things which are likely to cause injury to the person or property of anyone.  
(Ord. 187, passed - -) Penalty, see ' 10.99

**' 90.19 DUTIES OF CITY OFFICERS.**

The Police Department or Sheriff, if the city has at the time no Police Department, shall enforce the provisions relating to nuisances. Any peace officer shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.  
(Ord. 187, passed - -)

**' 90.20 ABATEMENT.**

(A) *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.

(1) *Notice of violation.* Written notice of violation shall be served by a peace officer 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.

(2) *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.

(3) *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.

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

(B) *Procedure.* Whenever a peace officer determines that a public nuisance is being maintained or exists on the premises in the city, the officer shall notify, in writing, the owner of record or occupant of the premises of the 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 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.

(C) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in divisions (A) and (B) 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 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 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 division (A) 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.

(D) *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.

(Ord. 187, passed - -) Penalty, see ' 10.99

## **' 90.21 RECOVERY OF COST.**

(A) *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-Administrator-Treasurer 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-Administrator-Treasurer.

(B) *Assessment.* 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-Administrator-Treasurer shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other the charges as well as other charges for current services to be assessed

**Emergency Management  
Elbow Lake - General Regulations**

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.  
(Ord. 187, passed - -) Penalty, see ' 10.99

***WEEDS***

**' 90.35 SHORT TITLE.**

This subchapter shall be cited as the **A**Weed Ordinance.@

**' 90.36 JURISDICTION.**

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

**' 90.37 DEFINITIONS; EXCLUSIONS.**

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

***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.

***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.

***WEEDS, GRASSES and RANK VEGETATION.*** Includes, but is not limited to the following:

(1) 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;

(2) Grapevines when growing in groups of 100 or more and not pruned, sprayed, cultivated or otherwise maintained for two consecutive years;

(3) Bushes of the species of tall, common or European barberry, further known as *berberis vulgaris* or its horticultural varieties;

(4) Any weeds, grass or plants, other than trees, bushes, flowers or other ornamental plants, growing to a height exceeding 12 inches;

(5) Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants; and

(6) The term **WEEDS** does not include shrubs, trees, cultivated plants or crops.

(B) 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.

**' 90.38 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.

Penalty, see ' 10.99

**' 90.39 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-Administrator-Treasurer. 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.

**' 90.40 NOTICE OF VIOLATIONS.**

(A) Upon receiving notice of the probable existence of weeds in violation of this subchapter, a person designated by the City Council shall make an inspection and prepare a written report to the City Council regarding the condition. The City Council, 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-Administrator-Treasurer 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.

**Emergency Management  
Elbow Lake - General Regulations**

(B) (1) All notices are to be in writing and all filings are to be with the City Clerk-Administrator-Treasurer.

(2) Certified mailing to the City Clerk-Administrator-Treasurer or others is deemed filed on the date of posting to the United States Postal Service.

**' 90.41 APPEALS.**

(A) The property owner may appeal by filing written notice of objections with the City Council within 48 hours of the notice, excluding weekends and holidays, if the property owner contests the finding of the City Council. 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.

(B) 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.

**' 90.42 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-Administrator-Treasurer 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.

**' 90.43 LIABILITY.**

(A) The property owner is liable for all costs of removal, cutting or destruction of weeds, as defined by this subchapter.

(B) 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.

(C) All sums payable by the property owner are to be paid to the City Clerk-Administrator-Treasurer and to be deposited in a general fund as compensation for expenses and costs incurred by the city.

(D) 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.

***OPEN BURNING***

**' 90.60 DEFINITIONS.**

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

***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.

***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***.

***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.

***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.

***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.

***WOOD.*** Dry, clean fuel only such as twigs, branches, limbs, ***Apresto 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.



**' 90.61 PROHIBITED MATERIALS.**

(A) 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, sheetrock, wiring, paint or paint fillers.

(B) 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.

(C) No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.

(D) No person shall conduct, cause or permit open burning of any leaves or grass clippings.  
Penalty, see ' 10.99

**' 90.62 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, as defined in ' 90.60.

Penalty, see ' 10.99

**' 90.63 PURPOSES ALLOWED FOR OPEN BURNING.**

(A) Open burn permits may be issued only for the following purposes:

(1) Elimination of fire of health hazard that cannot be abated by other practical means;

(2) Ground thawing for utility repair and construction;

(3) 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;

(4) Disposal of diseased trees generated on site, diseased or infected nursery stock, diseased bee hives; and/or

(5) 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.

(B) Fire training permits can only issued by the Minnesota Department of Natural Resources.  
Penalty, see ' 10.99

**' 90.64 PERMIT APPLICATION FOR OPEN BURNING; PERMIT FEES.**

(A) Open burning permits shall be obtained by making application on a form prescribed the Department of Natural Resources (DNR) and adopted by the Fire Department. The permit application shall be presented to the Fire Chief, Fire Marshal and Assistant Fire Marshals for reviewing and processing those applications.

(B) An open burning permit shall require the payment of a fee. Permit fees shall be in the amount established by the Council.  
Penalty, see ' 10.99

**' 90.65 PERMIT PROCESS FOR OPEN BURNING.**

Upon receipt of the completed open burning permit application and permit fee, the Fire Chief, Fire Marshal or Assistant Fire Marshals shall schedule a preliminary site inspection to locate the proposed burn site, note special conditions and set dates and time of permitted burn and review fire safety considerations.

**' 90.66 PERMIT HOLDER RESPONSIBILITY.**

(A) Prior to starting an open burn, the permit holder shall be responsible for confirming that no burning ban or air quality alert is in effect. Every open burn event shall be constantly attended by the permit holder or his or her competent representative. The open burning site shall have available, appropriate communication and fire suppression equipment as set out in the fire safety plan.

(B) The open burn fire shall be completely extinguished before the permit holder or his or her representative leaves the site. No fire may be allowed to smolder with no person present. It is the responsibility of the permit holder to have a valid permit, as required by this subchapter, available for inspection on the site by the Police Department, Fire Department, MPCA representative or DNR forest officer.

(C) (1) The permit holder is responsible for compliance and implementation of all general conditions, special conditions and the burn event safety plan as established in the permit issued.

(2) The permit holder shall be responsible for all costs incurred as a result of the burn, including, but not limited to fire suppression and administrative fees.  
Penalty, see ' 10.99

**' 90.67 REVOCATION OF OPEN BURNING PERMIT.**

The open burning permit is subject to revocation at the discretion of DNR forest officer, the Fire Chief, Fire Marshal or Assistant Fire Marshals. Reasons for revocation include, but are not limited to a fire hazard existing or developing during the course of the burn, any of the conditions of the permit being violated during the course of the burn, pollution or nuisance conditions developing during the course of the burn or a fire smoldering with no flame present.

Penalty, see ' 10.99

**' 90.68 DENIAL OF OPEN BURNING PERMIT.**

If established criteria for the issuance of an open burning permit are not met during review of the application, it is determined that a practical alternative method for disposal of the material exists, or a pollution or nuisance condition would result, or if a burn event safety plan cannot be drafted to the satisfaction of the Fire Chief, Fire Marshal or Assistant Fire Marshals, these officers may deny the application for the open burn permit.

**' 90.69 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.

Penalty, see ' 10.99

**' 90.70 RULES AND LAWS ADOPTED BY REFERENCE.**

The provisions of M.S. " 88.16 to 88.22 and the *Minnesota Uniform Fire Code*, Minn. Rules Ch. 1510, as these statutes and rules 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.

## Emergency Management

### CHAPTER 91: PARKS AND RECREATION

#### Section

- 91.01 General rules for parks, parkways, campgrounds and other properties
- 91.02 Traffic regulations
- 91.03 Bathing and bathing beaches
- 91.04 Boats, boating and water skiing
- 91.05 Violations; authority

#### **' 91.01 GENERAL RULES FOR PARKS, PARKWAYS, CAMPGROUNDS AND OTHER PROPERTIES.**

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

***COUNCIL.*** The City Council of the City of Elbow Lake.

***PARKS and PARKWAYS.*** Parks, parkways, playgrounds, recreation fields and buildings, lakes, rivers and beaches therein, and all public service facilities conducted on grounds, buildings and structures in the city parks and parkways which are under the control of the City Council.

(B) No person shall be, or remain in, or leave, park or remain in any vehicle in any park, parkway or drive between the hours of 11:00 p.m. and 6:00 a.m., but this section shall not apply to those who are authorized to remain in a park or on a parkway, such as caretakers and authorized overnight campers.

(C) No person shall cut, break, scratch, mar or, in any way, injure or deface any building, fence, pump, lamp, flagpole, construction improvement, facility or any other feature or property upon or within any park or parkway.

(D) No person not an employee of the Council shall pick or cut any wild or cultivated flower or cut, break or, in any way, injure or deface any tree, shrub or plant within the limits of any park or parkway; nor carry within or out of any park or parkway any wild flower, tree, shrub, plant or any newly plucked branch or portion thereof or any soil or material of any kind.

(E) No person shall throw, deposit, place or leave in any park or parkway or waters therein, any paper, rubbish, waste or refuse of any kind, whether or not the same is offensive to the senses or is injurious to health, except in the receptacles therein provided for waste.

**Emergency Management  
Elbow Lake - General Regulations**

(F) No person shall post, paste, fasten, paint or affix any placard, bill, notice or sign anywhere within any park or parkway without the express permission of the Council or an employee of the Council authorized to give the permission.

(G) No person shall fire or discharge any firearm of any description or fire, explode or set off any squib, cracker or other firework or thing containing powder or other combustible or explosive material, within the limits of any park or parkway, excepting exhibitions of fireworks given under the direction or by permission of the Council.

(H) No person shall rob, injure or destroy any bird's nest within the limits of any park or parkway, nor aim or discharge any air gun, sling-shot or other weapon or throw any stone or other missile at any bird or bird's nest or wild animal within any park or parkway, nor in any manner capture or kill any bird or wild animal therein.

(I) No person shall, at any time, set, lay, prepare or have in possession any trap, snare, artificial light, net, bird line, ferret or any contrivance whatever, for the purpose of catching, taking or killing any bird or wild animal in any park or parkway.

(J) No person shall play ball, golf, tennis or other game upon or within any park or parkway that interferes with normal park activities, except upon ball, tennis or appropriate athletic grounds or golf links, established by the Council and designated as such.

(K) No person shall sell or offer for sale any article or thing whatsoever in any park or parkway. This shall not be deemed to prohibit sale by the Council or by authorized employees.

(L) No threatening, profane, abusive, disorderly, insulting or indecent language, conduct or behavior, nor any act tending to a breach of the public peace, shall be allowed in or upon any park or parkway; nor shall any person play at games of chance, or do any indecent, lascivious, lewd or improper act therein.

(M) No band, procession, military company or any company with flags, banners or transparencies, shall be allowed in or upon any park or parkway without permission issued by the Council or its designated employee.

(N) No entertainment or exhibition shall be given in any park or parkway, excepting the entertainments given under the direction and authority of the Council.

(O) No public meeting of any kind shall be held in any park, parkway, playground or athletic field, nor shall there be any public speaking therein, without a permit granted therefor by the Council or its designated employee.

(P) (1) No person shall start any fire in any park or upon any parkway, except that small fires for culinary purposes may be made by picnic parties in the parks designated by the Council, but only in the places in the parks provided for that purpose by the Council and under its direction.

(2) Every person who starts any fire and every person using the fire is hereby charged with the duty of completely extinguishing the fire or fires before leaving the park.

(Q) Except for domestic cats and dogs, no animals shall be allowed in any park or on any parkway. Other animals may be allowed only with special permission of the Council. All animals shall, at all times, be leashed and under the control of the owner. The owner shall be responsible for the removal of all animal excrement. The Council may, by resolution, designate areas in any park or any parkway where animals shall not be permitted.

(R) Intoxicating liquor and 3.2% malt liquor may only be consumed in an area designated for picnics or camping. Consumption in other areas shall be by permission of the Council only. No kegs shall be allowed without Council permission.

(S) Rules and regulations in conformity with this chapter may be made from time to time by the Council governing the further use and enjoyment of parks, parkways, playgrounds, lakes, streams and rivers and the facilities thereof and thereon.

(T) Any person who shall violate such rules or regulations or who refuses to subject himself or herself thereof, may be excluded from the use of the facility. Any person who refuses to obey any order or exclusion or who persistently interferes with the orderly conduct of games or play or with the participants therein shall be guilty of disorderly conduct and upon conviction shall be punished as for that offense. (Ord. 175, passed 6-7-92) Penalty, see ' 10.99

## **' 91.02 TRAFFIC REGULATIONS.**

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

***DRIVER.*** The rider or driver of a horse, the riders of bicycles and the operator of a vehicle, motorcycle or public conveyance.

***PARKWAYS or DRIVE.*** Every way or place under jurisdiction of the City Council located within any park under the jurisdiction of the City Council which is open to the use of the public as a matter or right for purposes of vehicular traffic.

***VEHICLE.*** Every device in, upon or by which any person or thing is or may be transported or drawn upon a public highway, excepting devices used exclusively upon stationary rails or tracks and also excepting snowmobiles.

(B) (1) Vehicles shall be driven in a careful manner and with due regard for the safety and convenience of pedestrians and all other vehicles.

**Emergency Management  
Elbow Lake - General Regulations**

(2) (a) Upon all parkways and drives of sufficient width a vehicle shall be driven as closely as possible to the right-hand edge or curb of the road unless it is impracticable to do so and except as otherwise provided for herein.

(b) Drivers of vehicles proceeding in opposite directions shall pass each other to the right and upon roadways having width for not more than one line of traffic in each direction, each driver shall give to the other at least one-half of the main traveled portion of the roadway, as nearly as possible.

(3) No vehicle shall stop on any crosswalk so as to interfere with the passage of pedestrians.

(4) On all parkways or drives divided by walk, viaduct, grass area or, in any other manner, where divisions are sign-posted or otherwise marked or indicated, vehicles shall keep to the right of the divisions.

(5) A vehicle passing around a rotary traffic island shall be driven only to the right of the island.

(6) Upon a parkway or drive where the Council has established a one-way drive and the drive is sign-posted or otherwise marked or indicated, a vehicle shall be driven only in the direction designated.

(7) The driver or a vehicle on a parkway about to be overtaken and passed by another vehicle approaching from the rear shall give way to the right in favor of the overtaking vehicle on suitable and audible signal being given by the driver of the overtaking vehicle and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.

(8) No vehicle or horse is permitted on any footwalk, lawn or any other grounds or parks or parkways not designated for traffic, riding or parking purposes.

(9) No vehicle shall be left standing on a drive, parkway or park at night without light unless lights thereon are displayed so as to be visible from the front and rear.

(10) When taking up or discharging freight or passengers, vehicles shall be headed in the direction of traffic on the right of the driveway.

(11)(a) It shall be unlawful for any person to operate or manipulate in any park or upon any parkway designated as a city park, any detached or attached spotlight or flashlight, except for emergency purposes.

(b) The provisions of this section shall not apply to agents, servants or employees of the hospital, police or fire departments of the city or county or township when the operation or use of the lights by them are connected with, and necessary to the performance of their duties.

(C) Every motor vehicle shall, at all times, be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and no person shall use a muffler cutout,

by-pass or similar device upon a motor vehicle on any parkway or drive. Every motor vehicle shall, at all times, be equipped with such parts and equipment so arranged and kept in a state of repair as to prevent carbon monoxide gas from entering the interior of the vehicle.

(D) No person shall park a vehicle or permit it to stand within any district or section of a parkway or drive where the Council has established a **No parking zone** when the zone is marked by yellow curb, sign or otherwise marked or indicated. Parking at regularly designated parking concourses shall be in accordance with the markings and no person shall park his or her car in any other manner, except as so designated.

(E) (1) No person shall drive a vehicle on a street or highway at a speed greater, than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event, speed shall be so restricted as may be necessary in order to avoid colliding with any person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(2) No vehicle shall be driven thereon, at a speeding excess of 15 mph on any street or highway or parkway on which a different speed has not been established by the Commissioner of Highways under M.S. ' 169.14, as it may be amended from time to time. No vehicle shall be driven at a speed in excess of ten mph on the **Acampground loop** at Tipsinah Mounds Park. On any parkway where a different speed zone has been so established and signs have been posted calling attention to the zone, no vehicle shall be driven at a speed greater than that indicated on the signs.

(3) No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation or in compliance with the law.

(4) The driver of every vehicle shall, consistent with the requirements, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway and when special hazard exists with respect to pedestrian or other traffic or by reason of weather or highway or street conditions.

(5) In every charge of violation of any speed regulation in this section, the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the speed limit applicable within the district or at the location.

(6) The provisions of this section declaring speed limitation shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as to the proximate cause of an accident.

(F) No driver of any vehicle shall tow behind or on the side or push in front of it any toboggan; sled, ice skates, roller skates, bicycle, coaster, toy vehicle or any other sliding or coating device, nor permit any person riding in or upon the device to attach same or himself or herself to the vehicle, nor permit any person to board or alight from. nor hang onto the vehicle when in motion.



**Emergency Management  
Elbow Lake - General Regulations**

(G) Specifically excluded from this section are boat and utility trailers licensed by the state and meeting the safety requirements for the licensing.

(H) No vehicle of any kind or character shall be permitted to drive across or on park lands, except on roadways, except vehicles and machines as operated by the Council or its authorized agents and employees.

(I) (1) The driver of every vehicle shall bring the vehicle to a complete stop where there is in place any light, sign, standard or marking upon which appears the word **ASTOP.@**

(2) The driver shall stop before entering the nearest crosswalk or, if none, then before entering the intersection or at any stop sign or other sign or markings indicating where to stop.

(3) The driver may then proceed with caution yielding to vehicles not so obligated to stop which are within the intersection or approaching so closely as to constitute an immediate hazard, the vehicles approaching the intersection shall yield the right-of-way to the vehicle so proceeding into or across the intersection.

(J) Every person riding a bicycle or an animal or driving any animal upon a roadway or parkway shall be subject to the provisions of this chapter applicable to the driver of a vehicle, except those provisions of this chapter which, by their nature, can have no application. This shall not be deemed as authorization to ride or drive animals in a park or on a parkway without permission of the Council.

(Ord. 175, passed 6-7-92) Penalty, see ' 10.99

**' 91.03 BATHING AND BATHING BEACHES.**

(A) (1) No person shall bathe in or enter the waters of any park or parkway, except at bathing places designated by the Council. No person shall ride, drive or send any animal into the waters of any park or parkway.

(2) No person shall expose himself or herself to public view in any park or parkway or on any lake unless properly clothed. Suitable swimming attire shall be deemed **Aproperly clothed@** within the meaning of this chapter while swimming or bathing at designated bathing beaches or in the immediate vicinity thereof.

(3) No person shall frequent any park waters or bathing beach for the purpose of swimming or bathing or congregating with others or to swim or bathe or congregate there at between the hours of sundown or 10:00 p.m., whichever is earlier, and 6:00 a.m. or sunrise, whichever is later, of the following day.

(4) Except as a part of launching or removing a boat, no person shall swim, wade, float or otherwise be in the water in the area where boats, other than boats belonging to the Council are launched, removed or moored.

(Ord. 175, passed 6-7-92)

(B) A curfew of 10:30 p.m. is hereby established for city-owned and city-operated beaches, including any and all beaches the city acts jointly with other municipalities or governmental agencies in the ownership or operation of a beach. This section is specifically intended to include the property located on and adjacent to the beach area itself.

(Ord. 155, passed 7-2-79)

Penalty, see ' 10.99

#### **' 91.04 BOATS, BOATING AND WATER SKIING.**

(A) Except where it is specifically permitted, no person shall aquaplane or water ski in any waters under the jurisdiction of the Council.

(B) No person shall operate a boat or tow any person behind the boat on a lake or river in any area occupied or used by other persons as a swimming or boating area at a speed or in a manner which endangers or threatens injury to the person or property of the persons using the rivers or lakes.

(C) Persons driving the boat and persons riding the aquaplane or water skis shall both be held in violation of this chapter if this section is violated.

(Ord. 175, passed 6-7-92) Penalty, see ' 10.99

#### **' 91.05 VIOLATIONS; AUTHORITY.**

(A) If any person shall be found guilty in a court of competent jurisdiction of the violation of any provision of this chapter, the conviction shall thereupon operate as a revocation of any permit issued pursuant to this chapter without further action on the part of the Council. The Council shall also have the authority to revoke, for good cause, any permit issued by the Council, but, except upon conviction in court, the person whose permit is subject to be revoked, shall have at least five days notice thereof, in writing, and an opportunity to appear before the Council to show cause why his or her permit should not be revoked.

(B) The provisions of this chapter shall not prevent the agents, servants and employees of the Council from doing those things which are necessary to the performance of their duties.

(C) The Council may authorize the issuance of permits which may permit the holders thereof:

- (1) To remain in the parks or on the parkways during otherwise prohibited hours;
- (2) Post notices;
- (3) Park vehicles in otherwise unauthorized areas; and
- (4) Aquaplane or water ski in otherwise prohibited areas.

**Emergency Management  
Elbow Lake - General Regulations**

(D) If any provision or provisions of this chapter are declared to be unconstitutional by a competent court, the decision shall not affect any other part or portion of this chapter.  
(Ord. 175, passed 6-7-92) Penalty, see ' 10.99

## **Emergency Management**

### **CHAPTER 92: SIDEWALKS**

#### Section

#### 92.01 Obstructions

#### **' 92.01 OBSTRUCTIONS.**

(A) Every owner or occupant of lands and premises within the corporate limits of the city, having on the property so owned or occupied by him or her, shade trees adjacent to or in proximity of sidewalks in the city, shall trim or cause to be trimmed, the branches overhanging or extending over side walks shall be less than eight feet above the sidewalk.

(B) Every owner or occupant of lands and premises within the corporate lands and premises within the corporate limits of the city shall trim or remove or cause to be trimmed or removed all bushes and shrubbery so that no part thereof shall extend over, on or above the sidewalk along the premises.  
(Ord. 51, passed - -) Penalty, see ' 10.99

**Emergency Management  
Elbow Lake - General Regulations**

## **Emergency Management**

### **CHAPTER 93: FIRE LIMITS; PREVENTION**

[Reserved for Future Use]

**Emergency Management  
Elbow Lake - General Regulations**

## **Emergency Management**

### **CHAPTER 94: ANIMALS**

#### Section

#### ***General Provisions***

- 94.01 Definitions
- 94.02 Non-domestic animals
- 94.03 Farm animals
- 94.04 Violation

#### ***Licensing Provisions***

- 94.15 License required
- 94.16 Application
- 94.17 Fee
- 94.18 Term
- 94.19 Dogs and cats not requiring licenses
- 94.20 Revocation of license or permit

#### ***General Conditions***

- 94.30 Tag and collar
- 94.31 Restraint of dogs
- 94.32 Confinement of certain animals
- 94.33 Animals as nuisance
- 94.34 Impoundment
- 94.35 Rabies; violation
- 94.36 Number of animals restricted

### ***GENERAL PROVISIONS***

#### **' 94.01 DEFINITIONS.**

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

***AT LARGE.*** A dog shall be termed at large when it is not under restraint, as defined herein.



**Emergency Management  
Elbow Lake - General Regulations**

**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 equestrian 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.

**HARBORER.** Any person who has custody of any dog or cat or permits a dog or cat to be kept or to stay on or about the harborer's premises.

**LICENSED VETERINARIAN.** A person or persons licensed by the state and/or owning or conducting a veterinarian practice within the city limits.

**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:

(1) Any member of the large cat family (family felidae) including lions, tigers, cougars, bobcats, leopards and jaguars, but excluding commonly accepted domesticated house cats.

(2) Any naturally wild member of the canine family (family canidae) including wolves, foxes, coyotes, dingoes, and jackals, but excluding commonly accepted domesticated dogs.

(3) Any crossbreeds such as the crossbreed between a wolf and a dog, unless the crossbreed is commonly accepted as a domesticated house pet.

(4) 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.

(5) Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

(6) 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.

**OWNER.** Any person, group of persons or legal entity owning, keeping or harboring a dog or dogs, cat or cats.

**POLICE.** The police officers of the city, or any person, firm or agency hired or engaged by the city to assist the police in the performance of their duties.

**RESTRAINT.** A dog is under restraint if it is controlled by a leash not exceeding eight feet in length; or if it is under the voice of signal command of a competent person, providing that the dog will

immediately respond to and obey the voice or signal commands of the person or if it is within the boundaries of the owner's or harborer's premises.

(Ord. 183, passed - -; Am. Ord. 185, passed 3-1-99)

**' 94.02 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.

Penalty, see ' 10.99

**' 94.03 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.

**' 94.04 VIOLATION.**

(A) Violations of this chapter within any 12-month period shall be punishable by a fine and/or jail time.

(B) If the violation is for an animal at large contrary to ' 94.31, the animal, which is deemed to be personal property, shall be forfeited to the city and it may be destroyed or euthanized with the cost to be assessed to the owner.

(C) ' 94.15 shall not apply to any veterinary medicine practice within the city when the practice is owned and operated by a licensed veterinarian(s)  
(Ord. 183, passed - -; Am. Ord. 185, passed 3-1-99)

**Emergency Management  
Elbow Lake - General Regulations**

***LICENSING PROVISIONS***

**' 94.15 LICENSE REQUIRED.**

No person shall own, keep or harbor a dog or cat unless the dog or cat is licensed, as provided herein. (Ord. 183, passed - -; Am. Ord. 185, passed 3-1-99) Penalty, see ' 10.99

**' 94.16 APPLICATION.**

Written application shall be made, in writing, at the office of the Clerk-Administrator-Treasurer. The application shall state the name and address of the owner of the dog or cat, the name, breed, age, sex, and color of the dog or cat, and be accompanied by a certificate of vaccination from a qualified source certifying that the dog or cat has been vaccinated against rabies, or has received a booster shot therefore, within the 24-month period immediately preceding the application. (Ord. 183, passed - -; Am. Ord. 185, passed 3-1-99)

**' 94.17 FEE.**

The annual license fee shall be established by the City Council in January of each year for the following year for each dog or cat. The license fee shall be paid at the time of making the application. The initial fee shall be \$5 for each dog or cat. (Ord. 183, passed - -; Am. Ord. 185, passed 3-1-99)

**' 94.18 TERM.**

(A) All dog or cat licenses shall be issued for one year beginning with January 1 of each year.

(B) Application for license may be made 30 days prior to January 1 each year.

(C) A permit must be obtained within 30 days for any dog or cat brought into and kept in the city after June 1 of each year. (Ord. 183, passed - -; Am. Ord. 185, passed 3-1-99)

**' 94.19 DOGS AND CATS NOT REQUIRING LICENSES.**

No license shall be required of dogs and cats less than six months of age. (Ord. 183, passed - -; Am. Ord. 185, passed 3-1-99)

**' 94.20 REVOCATION OF LICENSE OR PERMIT.**

The failure of any owner to comply with the requirements of this chapter shall constitute grounds for the immediate revocation of any license or permit issued under this chapter.  
(Ord. 183, passed - -; Am. Ord. 185, passed 3-1-99)

***GENERAL CONDITIONS***

**' 94.30 TAG AND COLLAR.**

All dogs and cats shall be harnessed or collared. The Clerk-Administrator-Treasurer shall upon issuance of a license provide the applicant with a metallic tag which shall be dated and numbered and which shall be securely fastened to the animal's collar or harness at all times. Every application for a license shall be accompanied by a certificate from a qualified veterinarian showing that the dog had been vaccinated for rabies within two years prior to the expiration of the license applied for.  
(Ord. 183, passed - -; Am. Ord. 185, passed 3-1-99) Penalty, see ' 10.99

**' 94.31 RESTRAINT OF DOGS.**

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. All dogs shall be under restraint at all times.  
(Ord. 183, passed - -; Am. Ord. 185, passed 3-1-99) Penalty, see ' 10.99

**' 94.32 CONFINEMENT OF CERTAIN ANIMALS.**

*(A) Dangerous animals.*

(1) *Attack by an animal.* It shall be unlawful for any person's animal to inflict or attempt to inflict bodily injury to any person or other animal whether or not the owner is present. This section shall not apply to an attack by a dog under the control of an on-duty law enforcement officer or to an attack upon an uninvited intruder who has entered the owner's home with criminal intent.

(2) *Destruction of dangerous animal.* The Animal Control Officer shall have the authority to order the destruction of dangerous animals in accordance with the terms established by this chapter.

(3) *Definitions.* For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**Emergency Management  
Elbow Lake - General Regulations**

(a) ***DANGEROUS ANIMAL.*** An animal which has:

1. Caused bodily injury or disfigurement to any person on public or private property;
2. Engaged in any attack on any person under circumstances which would indicate danger to personal safety;
3. Exhibited unusually aggressive behavior, such as an attack on another animal;
4. Bitten one or more persons on two or more occasions; or
5. Been found to be potentially dangerous and/or the owner has personal knowledge of the same, the animal aggressively bites, attacks, or endangers the safety of humans or domestic animals.

(b) ***POTENTIALLY DANGEROUS ANIMAL.*** An animal which has:

1. Bitten a human or a domestic animal on public or private property;
2. When unprovoked, chased or approached a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
3. Has engaged in unprovoked attacks causing injury or otherwise threatening the safety of humans or domestic animals.

(c) ***PROPER ENCLOSURE.*** Securely confined indoors or in a securely locked pen or structure suitable to prevent the animal from escaping and to provide protection for the animal from the elements. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the animal to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only barriers which prevent the animal from exiting. The enclosure shall not allow the egress of the animal in any manner without human assistance. A pen or kennel shall meet the following minimum specifications:

1. Have a minimum overall floor size of 32 square feet.
2. Sidewalls shall have a minimum height of five feet and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches, support posts shall be 1 1/2-inch or larger steel pipe buried in the ground 18 inches or more. When a concrete floor is not provided, the sidewalls shall be buried a minimum of 18 inches in the ground.
3. A cover over the entire pen or kennel shall be provided. The cover shall be constructed of the same gauge wire or heavier as the sidewalls and shall also have no openings in the wire greater than two inches.

4. An entrance/exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the animal is in the pen or kennel.

(d) **UNPROVOKED.** The condition in which the animal is not purposely excited, stimulated, agitated or disturbed.

(4) *Designation as potentially dangerous animal.* The Animal Control Officer shall designate any animal as a potentially dangerous animal upon receiving evidence that the potentially dangerous animal has, when unprovoked, then bitten, attacked, or threatened the safety of a person or a domestic animal as stated in subsection (3)(b). When an animal is declared potentially dangerous, the Animal Control Officer shall cause one owner of the potentially dangerous animal to be notified in writing that the animal is potentially dangerous.

(5) *Evidence justifying designation.* The Animal Control Officer shall have the authority to designate any animal as a dangerous animal upon receiving evidence of the following:

(a) That the animal has, when unprovoked, bitten, attacked, or threatened the safety of a person or domestic animal as stated in subsection (3)(a).

(b) That the animal has been declared potentially dangerous and the animal has then bitten, attacked, or threatened the safety of a person or domestic animal as stated in division (C)(1).

(6) *Authority to order destruction.* The Animal Control Officer, upon finding that an animal is dangerous hereunder, is authorized to order, as part of the disposition of the case, that the animal be destroyed based on a written order containing one or more of the following findings of fact:

(a) The animal is dangerous as demonstrated by a vicious attack, an unprovoked attack, an attack without warning or multiple attacks; or

(b) The owner of the animal has demonstrated an inability or unwillingness to control the animal in order to prevent injury to persons or other animals.

(7) *Procedure.* The Animal Control Officer, after having determined that an animal is dangerous, may proceed in the following manner: The Animal Control Officer shall cause one owner of the animal to be notified in writing or in person that the animal is dangerous and may order the animal seized or make orders as deemed proper. This owner shall be notified as to dates, times, places and parties bitten, and shall be given 14 days to appeal this order by requesting a hearing before the City Council for a review of this determination.

(a) If no appeal is filed, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction, unless the animal is already in custody or the owner consents to the seizure and destruction of the animal.

**Emergency Management  
Elbow Lake - General Regulations**

(b) If an owner requests a hearing for determination as to the dangerous nature of the animal, the hearing shall be held before the City Council, which shall set a date for hearing not more than three weeks after demand for the hearing. The records of the Animal Control or City Clerk-Administrator-Treasurer's office shall be admissible for consideration by the Animal Control Officer without further foundation. After considering all evidence pertaining to the temperament of the animal, the City Council shall make an order as it deems proper. The City Council may order that the Animal Control Officer take the animal into custody for destruction, if the animal is not currently in custody. If the animal is ordered into custody for destruction, the owner shall immediately make the animal available to the Animal Control Officer. If the owner does not immediately make the animal available, the Animal Control Officer shall obtain an order or warrant authorizing the seizure and the destruction of the animal from a court of competent jurisdiction.

(c) No person shall harbor an animal after it has been found by to be dangerous and ordered into custody for destruction.

(8) *Stopping an attack.* If any police officer or Animal Control Officer is witness to an attack by an animal upon a person or another animal, the officer may take whatever means the officer deems appropriate to bring the attack to an end and prevent further injury to the victim.

(9) *Notification of new address.* The owner of an animal which has been identified as dangerous or potentially dangerous shall notify the Animal Control Officer in writing if the animal is to be relocated from its current address or given or sold to another person. The notification shall be given in writing at least 14 days prior to the relocation or transfer of ownership. The notification shall include the current owner's name and address, the relocation address, and the name of the new owner, if any.

**(B) *Dangerous animal 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 division (B)(3)(c);

(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 M.S. ' 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 division (B)(2), 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 division (B)(2), is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under division (F)(6), 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 division (A) with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in division (A)(6). 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 division (B)(3). 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 division (A)(6) and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

Penalty, see ' 10.99

### **' 94.33 ANIMALS AS NUISANCE.**

(A) *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



**Emergency Management  
Elbow Lake - General Regulations**

minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

(B) *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.

(C) *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.

(D) *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.

(E) *Other.* Any animals kept contrary to this section are subject to impoundment.  
Penalty, see ' 10.99

**' 94.34 IMPOUNDMENT.**

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:

(A) There is an identified complainant other than the police officer or Animal Control Officer making a contemporaneous complaint about the animal;

(B) The officer reasonably believes that the animal meets either the barking dog criteria set out in ' 94.33(A); the criteria for cruelty set out in ' 91.13; or the criteria for an at large animal set out in ' 91.01;

(C) 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;

(D) 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;

(E) 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

(F) Written notice of the seizure is left in a conspicuous place if personal contact with the owner of the animal is not possible.

(G) 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 ' 94.32(A) in which case it shall be kept for seven regular business days or the times specified in ' 94.32(A), 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:

(1) Payment of the release fee and receipt of a release permit as established by ordinance .

(2) Payment of maintenance costs, as provided by the pound, per day or any part of day while animal is in the pound; and

(3) If a dog is unlicensed, payment of a regular license fee as established by ordinance, and valid certificate of vaccination for rabies and distemper shots is required.

#### **' 94.35 RABIES; VIOLATION.**

(A) It shall be unlawful for any person to own, possess or harbor a dog within the city, if the dog has not had a vaccination for rabies within the time required under standard veterinary practices.

(B) Any female dog in heat shall be kept confined indoors, or impounded for the duration of her season (Oestrus cycle) in a commercial dog kennel, the cost of which shall be borne by the owner.

(C) (1) Whenever any dog has bitten a person, the owner or custodian of the dog or animal, having been so notified, either orally or in writing, shall immediately quarantine the dog or animal at the owner's home or other suitable place of confinement, as directed by the responsible officer of the city for a period of 14 days after the occurrence. During the quarantine period the animal shall be securely confined in a building or in a yard enclosed by a fence so constructed that the animal cannot escape or otherwise leave the enclosure, and which will not permit other animals or persons to enter, for the purpose of preventing the animal from biting or otherwise coming in contact with person or other animals.

(2) Upon a reasonable suspicion that the dog may be rabid, the dog shall be subjected to the necessary tests by a doctor of veterinary medicine for the purpose of determining if it is infected with

rabies. The confinement, testing, treatment, in addition to all other expenses incurred as the result of a dog biting a person shall be the expense of the owner of the animal.

(Ord. 183, passed - -; Am. Ord. 185, passed 3-1-99)

**' 94.36 NUMBER OF ANIMALS RESTRICTED.**

(A) No person(s) shall own, keep, or harbor on a single premises, whether owned by the same person or not and for whatever purpose, more than six dogs or cats or a combination of dogs and cats, except that a fresh litter of dogs or cats may be kept for a period not to exceed six months.

(B) *Exemptions.* The restrictions contained in this section shall not apply to animals at veterinary medical clinics (either for treatment or boarding) or animals housed at the Grant County Humane Center, any properly licensed animal shelter, or any licensed kennel.

(C) *Grandfathering provisions.* Any single premises which currently keeps or harbors and licenses six or more dogs or cats or a combination of dogs and cats may continue to keep such animals on a single premises until the animal=s demise, provided that licenses are kept current. Owners, occupants and/or residents of a single premises shall not be allowed to replace any deceased dog or cat until they are in compliance with this section.

(Ord. passed 4-2-12)

## **TITLE XI: BUSINESS REGULATIONS**

### **Chapter**

**110.PEDDLERS, TRANSIENT MERCHANTS AND  
SOLICITORS**

**111.TOBACCO REGULATIONS**

**112.ALCOHOLIC BEVERAGES**

**113.CABLE TELEVISION**

**114.GAMBLING; GAMES OF SKILL**

**115.SEXUALLY ORIENTED BUSINESSES**



## Peddlers, Transient Merchants and Solicitors

### CHAPTER 110: PEDDLERS, TRANSIENT MERCHANTS AND SOLICITORS

#### Section

- 110.01 Definitions
- 110.02 Exceptions to definitions
- 110.03 Licensing; exemptions
- 110.04 License ineligibility
- 110.05 License suspension and revocation
- 110.06 License transferability
- 110.07 Registration
- 110.08 Prohibited activities
- 110.09 Exclusion by placard

#### § 110.01 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 chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**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.

**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.

**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.

**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."

### **Peddlers, Transient Merchants and Solicitors**

**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.

#### **§ 110.02 EXCEPTIONS TO DEFINITIONS.**

(A) For the purpose of the requirements of this chapter, the terms **PEDDLER**, **SOLICITOR**, and **TRANSIENT MERCHANT** shall not apply to any person selling or attempting to sell at wholesale any goods, wares, 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.

(B) 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 chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

(C) Nothing in this chapter 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 § 110.07. The term **DOOR-TO-DOOR ADVOCACY** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas.

#### **§ 110.03 LICENSING; EXEMPTIONS.**

(A) *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.

(B) *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 § 110.07.

(C) *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-Administrator-Treasurer. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) Applicant's full legal name.

## **Peddlers, Transient Merchants and Solicitors**

- (2) All other names under which the applicant conducts business or to which applicant officially answers.
- (3) A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like).
- (4) Full address of applicant's permanent residence.
- (5) Telephone number of applicant's permanent residence.
- (6) 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.
- (7) Full address of applicant's regular place of business (if any).
- (8) Any and all business related telephone numbers of the applicant.
- (9) The type of business for which the applicant is applying for a license.
- (10) Whether the applicant is applying for an annual or daily license.
- (11) 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).
- (12) 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.
- (13) 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.
- (14) A list of the three most recent locations where the applicant has conducted business as a peddler or transient merchant.
- (15) Proof of any requested county license.
- (16) Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.
- (17) A general description of the items to be sold or services to be provided.
- (18) All additional information deemed necessary by the City Council.
- (19) The applicant's driver's license number or other acceptable form of identification.
- (20) The license plate number, registration information and vehicle identification number for any



### **Peddlers, Transient Merchants and Solicitors**

vehicle to be used in conjunction with the licensed business and a description of the vehicle.

(D) *Fee.* All applications for a license under this chapter shall be accompanied by the fee established by ordinance.

(E) *Procedure.* Upon receipt of the completed application and payment of the license fee, the City Clerk-Administrator-Treasurer, 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-Administrator-Treasurer determines that the application is incomplete, the City Clerk-Administrator-Treasurer must inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk-Administrator-Treasurer 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-Administrator-Treasurer must issue the license unless there exist grounds for denying the license under § 110.04, in which case the Clerk-Administrator-Treasurer must deny the license. If the City Clerk-Administrator-Treasurer 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.

(F) *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.

(G) *License exemptions.*

(1) 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.

(2) 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.

(3) Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.  
Penalty, see § 10.99

### **§ 110.04 LICENSE INELIGIBILITY.**

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

(A) The failure of the applicant to obtain and show proof of having obtained any required county license.

(B) The failure of the applicant to truthfully provide any of the information requested by the city as a

### **Peddlers, Transient Merchants and Solicitors**

part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.

(C) 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.

(D) 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.

(E) 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 General's 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.

### **§ 110.05 LICENSE SUSPENSION AND REVOCATION.**

(A) *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:

- (1) Fraud, misrepresentation or incorrect statements on the application form.
- (2) Fraud, misrepresentation or false statements made during the course of the licensed activity.

(3) Conviction of any offense for which granting of a license could have been denied under § 110.04.

- (4) Violation of any provision of this chapter.

(B) *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.

(C) *Notice.* Prior to revoking or suspending any license issued under this chapter, 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.

(D) *Public hearing.* Upon receiving the notice provided in division (C) 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-Administrator-Treasurer 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

### **Peddlers, Transient Merchants and Solicitors**

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.

(E) *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 division (C) of this section.

(F) *Appeals*. Any person whose license is suspended or revoked under this section shall have the right to appeal that decision in court.

Penalty, see § 10.99

### **§ 110.06 LICENSE TRANSFERABILITY.**

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

Penalty, see § 10.99

### **§ 110.07 REGISTRATION.**

All solicitors, and any person exempt from the licensing requirements of this chapter under § 110.03, 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-Administrator-Treasurer shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be non-transferable.

Penalty, see § 10.99

### **§ 110.08 PROHIBITED ACTIVITIES.**

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

(A) 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.

(B) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right-of-way.

(C) Conducting business in a way as to create a threat to the health, safety and welfare of any individual or the general public.

(D) Conducting business before 7:00 a.m. or after 9:00 p.m.

(E) Failing to provide proof of license or registration, and identification, when requested; or using the

### **Peddlers, Transient Merchants and Solicitors**

license or registration of another person.

(F) 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.

(G) 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.

Penalty, see § 10.99

### **§ 110.09 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.

Penalty, see § 10.99

## **Tobacco Regulations**

### **CHAPTER 111: TOBACCO REGULATIONS**

#### Section

- 111.01 Purpose
- 111.02 Definitions and interpretations
- 111.03 License
- 111.04 Fees
- 111.05 Basis for denial of license
- 111.06 Prohibited sales
- 111.07 Vending machines; self-service sales
- 111.08 Responsibility
- 111.09 Compliance checks and inspections
- 111.10 Other illegal acts
- 111.11 Violations
  
- 111.99 Penalty

#### **§ 111.01 PURPOSE.**

Because the city recognized that many persons under the age of 18 years purchase or otherwise obtain, possess and use tobacco, tobacco products and tobacco related devices and the sales, possession and use are violation of both state and federal laws; and because studies, which the city hereby accepts and adopts those reports furnished by or through local law enforcement, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this chapter shall be intended to regulate the sale, possession and use of tobacco, tobacco products and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products and tobacco related devices and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in M.S. § 144.391, as it may be amended from time to time.  
(Ord. 184, passed 10-6-97)

#### **§ 111.02 DEFINITIONS AND INTERPRETATIONS.**

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

## **Tobacco Regulations**

(B) The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term “shall” means mandatory and the term “may” means permissive.

**COMPLIANCE CHECKS.** The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products and tobacco related devices are following and complying with the requirements of this chapter. **COMPLIANCE CHECKS** shall involve the use of minors, as authorized by this chapter. **COMPLIANCE CHECKS** shall also mean the use of minors who attempt to purchase tobacco, tobacco products or tobacco related devices for educational, research and training purposes as authorized by state and federal laws. **COMPLIANCE CHECKS** may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products and tobacco related devices.

**INDIVIDUALLY PACKAGED.** The practice of selling any tobacco or tobacco product wrapped individually for sale. **INDIVIDUALLY WRAPPED TOBACCO AND TOBACCO PRODUCTS** shall include, but not be limited to single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container, as described in this division, shall not be considered **INDIVIDUALLY PACKAGED**.

**LOOSIES.** The common term used to refer to a single or individually packaged cigarette.

**MINOR.** Any natural person who has not yet reached the age of 18 years.

**MOVEABLE PLACE OF BUSINESS.** Any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

**RETAIL ESTABLISHMENT.** Any place of business where tobacco, tobacco products or tobacco related devices are available for sale to the general public. **RETAIL ESTABLISHMENTS** shall include, but not be limited to grocery stores, convenience stores and restaurants.

**SALE.** Any transfer of goods for money, trade, barter or other consideration.

**SELF-SERVICE MERCHANDISING.** Open displays of tobacco, tobacco products or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product or tobacco related device between the customer and the licensee or employee. **SELF-SERVICE MERCHANDISING** shall not include vending machines.

**TOBACCO or TOBACCO PRODUCTS.** Any substance or item containing tobacco leaf, including, but not limited to cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff flowers; cavendish; shorts, plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing or smoking.

**TOBACCO RELATED DEVICES.** Any tobacco product as well as a pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing,

## **Tobacco Regulations**

sniffing or smoking of tobacco or tobacco products.

***VENDING MACHINES.*** Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products or tobacco related devices upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product or tobacco related device.

(Ord. 184, passed 10-6-97)

### **§ 111.03 LICENSE.**

No person shall sell or offer to sell any tobacco, tobacco products or tobacco related device without first having obtained a license to do so from the city.

(A) An application for a license to sell tobacco, tobacco products or tobacco related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought and any additional information the city deems necessary. Upon receipt of a completed application, the City Clerk-Administrator-Treasurer shall forward the application to the Council for action at its next regularly scheduled Council meeting. If the Clerk-Administrator-Treasurer shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

(B) The Council may either approve or deny the license, or it may delay action for reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the Council shall approve the license, the Clerk-Administrator-Treasurer shall issue the license to the applicant. If the Council denies the license, notice of the denial shall be given to the application along with notice of the applicant's right to appeal the Council's decision.

(C) All licenses issued under this chapter shall be valid for one calendar year from the date of issue.

(D) Any license issued under this chapter may be revoked or suspended as provided in §§ 111.11 and 111.99.

(E) All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the Council.

(F) No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this chapter.

(G) All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

(H) The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days, but no more than 60 days before the expiration of the current license.

(Ord. 184, passed 10-6-97)

## **Tobacco Regulations**

### **§ 111.04 FEES.**

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be \$35 a year.  
(Ord. 184, passed 10-6-97)

### **§ 111.05 BASIS FOR DENIAL OF LICENSE.**

(A) The following shall be grounds for denying the issuance or renewal of a license under this chapter; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license.

(B) If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this section:

(1) The applicant is under the age of 18 years;

(2) The applicant has been convicted within the past five years of any violation of a federal, state or local law, ordinance provision or other regulation relating to tobacco or tobacco products or tobacco related devices;

(3) The applicant has had a license to sell tobacco, tobacco products or tobacco related devices revoked within the preceding 12 months of the date of application;

(4) The applicant fails to provide any information required on the application or provides false or misleading information; and

(5) The applicant is prohibited by federal, state or other local law, ordinance or other regulation from holding such a license.  
(Ord. 184, passed 10-6-97)

### **§ 111.06 PROHIBITED SALES.**

It shall be a violation of this chapter for any person to sell or offer to sell any tobacco, tobacco product or tobacco related device:

(A) To any person under the age of 18 years;

(B) By means of any type of vending machine, except as may otherwise be provided in this chapter;

(C) By means of self-service methods whereby the customer does not need to make a verbal or written request to an employee of the licensed premise in order to receive the tobacco, tobacco product or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product or tobacco related device between the licensee or the licensee's employee and the customer;



## **Tobacco Regulations**

(D) By means of loosies, as defined in § 111.02;

(E) Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana or other deleterious, hallucinogenic, toxic or controlled substances, except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process; and

(F) By any other means, to any other person or in any other manner or form prohibited by federal, state or other local law, ordinance provision or other regulation.

(Ord. 184, passed 10-6-97) Penalty, see § 111.99

### **§ 111.07 VENDING MACHINES; SELF-SERVICE SALES.**

(A) It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco, tobacco products or tobacco related devices by the means of a vending machine unless minors are at all time prohibited from entering the licensed establishment.

(B) (1) It shall be unlawful for a licensee under this ordinance to allow the sale of tobacco, tobacco products or tobacco related devices by any means whereby the customer may have access to the items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product or the tobacco related device between the licensee or his or her clerk and the customer.

(2) All tobacco, tobacco products and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers or in a case or other storage unit not left open and accessible to the general public.

(3) Any retailer selling tobacco, tobacco products or tobacco related devices at the time this chapter is adopted shall comply with this section within 60 days, at which time, all self-service sales of cigarettes would be banned.

(Ord. 184, passed 10-6-97) Penalty, see § 111.99

### **§ 111.08 RESPONSIBILITY.**

All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products or tobacco related devices on the licensed premises and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this chapter, state or federal law or other applicable law or regulation.

(Ord. 184, passed 10-6-97)

### **§ 111.09 COMPLIANCE CHECKS AND INSPECTIONS.**

(A) All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years, but less than 18 years, to enter the licensed premises to attempt to purchase

## **Tobacco Regulations**

tobacco, tobacco products or tobacco related devices.

(B) Minors used for the purpose of compliance checks shall be supervised by city designed law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products or tobacco related devices when the items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked.

(C) Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educations, research or training purposes or required for the enforcement of a particular state or federal law.

(Ord. 184, passed 10-6-97)

### **§ 111.10 OTHER ILLEGAL ACTS.**

Unless otherwise provided, the following acts shall be a violation of this chapter.

(A) *Illegal sales.* It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco product or tobacco related device to any minor.

(B) *Illegal possession.* It shall be a violation of this chapter for any minor to have in his or her possession any tobacco, tobacco product or tobacco related device. This division shall not apply to minors lawfully involved in a compliance check.

(C) *Illegal use.* It shall be a violation of this chapter for any minor to smoke, chew, sniff or otherwise use any tobacco, tobacco product or tobacco related device.

(D) *Illegal procurement.* It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco related device and it shall be a violation of this chapter for any person to purchase or otherwise obtain such items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check.

(E) *Use of false identification.* It shall be a violation of this chapter for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

(Ord. 184, passed 10-6-97) Penalty, see § 111.99

### **§ 111.11 VIOLATIONS.**

(A) *Notice.* Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.

## **Tobacco Regulations**

(B) *Hearings.* If a person accused of violating this chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

(C) *Hearing officer.* The city shall serve as the hearing officer.

(D) *Decision.* If the hearing officer determines that a violation of this chapter did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under § 111.99(B), shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, the findings shall be recorded and a copy provided to the acquitted accused violator.

(E) *Appeals.* Appeals of any decision made by the hearing officer shall be filed in the district court for the city in which the alleged violation occurred.

(F) *Misdemeanor prosecution.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this chapter. If the city elects to seek misdemeanor prosecution, no administrative penalty shall be imposed.

(G) *Continued violation.* Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

(Ord. 184, passed 10-6-97) Penalty, see § 111.99

### **§ 111.99 PENALTY.**

(A) (1) Any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative fine of \$75 for a first violation of this chapter; \$200 for a second offense at the same licensed premises within a 24-month period; and \$250 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days.

(2) Other individuals, other than minors regulated by division (A)(3) below, found to be in violation of this chapter shall be charged an administrative fee of \$50.

(3) Minors found in unlawful possession of, or who unlawfully purchase or attempt to purchase tobacco, tobacco products or tobacco related devices, shall be deemed to be delinquent.

(4) Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this chapter.

(B) Nothing in this chapter shall prevent the providing of tobacco, tobacco products or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual or cultural ceremony. It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law.

(Ord. 184, passed 10-6-97)



## **Alcoholic Beverages**

### **CHAPTER 112: ALCOHOLIC BEVERAGES**

#### **Section**

#### ***General Provisions***

- 112.01 Adoption of state law
- 112.02 City law more restrictive than state law
- 112.03 Definitions

#### ***Licensing Provisions***

- 112.15 Number of licenses issued
- 112.16 Term and expiration
- 112.17 Kinds of liquor licenses
- 112.18 License fees; pro rata
- 112.19 Council discretion
- 112.20 Application; description of premises
- 112.21 Renewal
- 112.22 Transfer
- 112.23 Investigation
- 112.24 Hearing and issuance; restrictions
- 112.25 Conditions of license
- 112.26 Suspension and revocation

#### ***Conditions***

- 112.40 Nudity on premises
- 112.41 Consumption in public places
- 112.42 Hours and days of sale
- 112.43 Minors on premises
- 112.44 Purchase and consumption

- 112.99 Penalty

#### ***Cross-reference:***

*Vending machines; self-service sales, see § 111.07*

*Zoning, see Ch. 153*

**Alcoholic Beverages**  
**GENERAL PROVISIONS**

**§ 112.01 ADOPTION OF STATE LAW.**

The provisions of M.S. 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% 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, as it may be amended from time to time, are hereby adopted by reference or referenced as if they had been in existence at the time this chapter is adopted.

(Ord. 189, passed 5-6-02)

**§ 112.02 CITY LAW MORE RESTRICTIVE THAN STATE LAW.**

The Council reserves the authorizations of the provisions of M.S. § 340A.509, as it may be amended from time to time, to impose and has imposed in this chapter 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.

(Ord. 189, passed 5-6-02)

**§ 112.03 DEFINITIONS.**

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

(B) These definitions are in addition to the definitions contained in M.S. § 340A.101, as it may be amended from time to time.

**CITY.** The City of Elbow Lake.

**COUNCIL.** The City Council of the City of Elbow Lake.

**LIQUOR.** Without modification by the words “intoxicating” or “3.2% malt,” includes both **INTOXICATING LIQUOR** and **3.2% MALT LIQUOR**.

**RESTAURANT.**

(a) 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.

(b) To be a **RESTAURANT**, as defined by this term in this chapter, an establishment shall have a license from the state as required by M.S. § 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 M.S. § 157.16(3)(d), as it may be amended from time to time. An establishment which serves

### **Alcoholic Beverages**

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 chapter unless it meets the definitions of “small establishment,” “medium establishment” or “large establishment.”

**STATE.** The State of Minnesota.  
(Ord. 189, passed 5-6-02)

### ***LICENSING PROVISIONS***

#### **§ 112.15 NUMBER OF LICENSES ISSUED.**

State law establishes the maximum number of liquor licenses that a city may issue. However, the number of off-sale intoxicating liquor licenses and on-sale intoxicating liquor licenses which may be granted under this chapter is limited to two and two, respectively, excluding temporary licenses, 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 M.S. Ch. 340A, as it may be amended from time to time.  
(Ord. 189, passed 5-6-02)

#### **§ 112.16 TERM AND EXPIRATION.**

(A) Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall be issued effective January 1 and shall expire on December 31 of each year unless another date is provided by ordinance. All licenses, except temporary licenses, issued after January 1 shall expire December 31. 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.

(B) Licenses issued under an ordinance or ordinances at the effective date of this chapter shall expire on December 31, 2002.  
(Ord. 189, passed 5-6-02)

#### **§ 112.17 KINDS OF LIQUOR LICENSES.**

The following licenses and permits, up to the number specified in § 112.15, are authorized.

(A) 3.2% malt liquor on-sale licenses, which may be issued only to restaurants, hotels, clubs, bowling centers and establishments used exclusively for the sale of 3.2% malt liquor with the incidental sale of tobacco and soft drinks;

(B) 3.2% malt liquor off-sale license;

(C) Temporary 3.2% malt liquor licenses which may be issued only to a club, charitable, religious or non-profit organization;

### **Alcoholic Beverages**

(D) 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 chapter: hotels, restaurants, bowling centers, 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 § 112.18, shall not exceed the amounts provided for in M.S. § 340A.408(2)(b), 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 M.S. § 340A.404(4)(b), 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(4)(a), 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.)

(E) Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant, as defined in § 112.03, 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 § 112.18, shall not exceed \$200 or the maximum amount provided by M.S. § 340A.504(3)(c), as it may be amended from time to time.)

(F) Combination on-sale/off-sale intoxicating liquor licenses;

(G) Temporary on-sale intoxicating liquor licenses, temporary 3.2% malt liquor on-sale licenses, temporary on sale wine licenses and temporary set up 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 non-profit 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.)

(H) On-sale wine licenses, with the approval of the Commissioner of Public Safety, to restaurants that have facilities for seating at least 30 guests at one time and meet the criteria of M.S. § 340A.404(5), as it may be amended from time to time, and which meet the definition of restaurant in § 112.03 and to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401(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 § 112.18 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% malt liquor license is authorized to sell malt liquor with a content over 3.2% without an additional license.)

(I) One day consumption and display permits with the approval of the Commissioner of Public Safety to a non-profit organization in conjunction with a social activity in the city sponsored by the organization;

(J) Set-up licenses which must meet the same criteria as on-sale wine licenses; and

(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 § 112.18 shall not exceed \$300 or the maximum amount permitted by M.S. § 340A.414(6), as it may be amended from time to time.



### **Alcoholic Beverages**

Consumption and display permits shall expire on March 31 of each year.

(Ord. 189, passed 5-6-02) Penalty, see § 112.99

#### **§ 112.18 LICENSE FEES; PRO RATA.**

(A) No license or other fee established by the city shall exceed any limit established by M.S. § 340A, as it may be amended from time to time, for a liquor license.

(B) (1) The Council may establish from time to time by ordinance or resolution 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 chapter.

(2) 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) No refund of a pro rata share of an annual license fee shall occur.

(F) The initial license fees, subject to amendment by Council resolution or ordinance, shall be \$1,000 on-sale intoxicating liquor; \$1,100 combination on-sale/off-sale; \$25 temporary on-sale; \$25 on-sale wine; \$25 set up; \$25 3.2% malt liquor on-sale and all temporary licenses.

(Ord. 189, passed 5-6-02)

#### **§ 112.19 COUNCIL DISCRETION.**

The Council, in its sound discretion, may either grant or deny the application for any license or for the renewal of any license. No applicant has a right to a license under this chapter.

(Ord. 189, passed 5-6-02)

#### **§ 112.20 APPLICATION; DESCRIPTION OF PREMISES.**

(A) (1) *Form.* The application for a license issued under this chapter 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. Any applicant convicted of a gross misdemeanor within five years of the application, who does not have a good financial credit

## **Alcoholic Beverages**

history, or is otherwise not of good reputation, shall be denied a license.

(2) *Financial responsibility.* Prior to the issuance of any license under this chapter, 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 M.S. § 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 chapter without having on file with the city, at all times, effective proof of financial responsibility is a cause for revocation of the license.

(B) 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 except on a temporary basis, no more than three consecutive days, and only with prior Council approval. The description shall contain the street address and description.  
(Ord. 189, passed 5-6-02)

### **§ 112.21 RENEWAL.**

At least 90 days before a license issued under this ordinance 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.  
(Ord. 189, passed 5-6-02)

### **§ 112.22 TRANSFER.**

No license issued under this chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee or equity of a LLC, LLP or other business entity licensee is deemed to be a transfer of the license and the transfer without prior Council approval is a voluntary license termination. 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.  
(Ord. 189, passed 5-6-02) Penalty, see § 112.99

### **§ 112.23 INVESTIGATION.**

(A) *Preliminary background and financial investigation.* On an initial application for a license or 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

### **Alcoholic Beverages**

investigation shall be conducted. 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 the application is approved or denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in any event. 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.

(Ord. 189, passed 5-6-02)

### **§ 112.24 HEARING AND ISSUANCE; RESTRICTIONS.**

(A) 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.

(B) (1) Each license shall be issued only to the applicant for the premises described in the application.

(2) Not more than one license shall be directly or indirectly issued within the city to any one person.

(3) 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.

(4) No license shall be issued for any place or any business ineligible for a license under state law.

(5) No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation or other business entity, all of the shareholders or equity owners shall be residents of the state.

(6) No new license shall be granted for a premises where no license has previously been issued within 500 feet of any school or church. The distance is to be measured from the closest side of the school or church to the closest side of the structure on the premises within which liquor is to be sold.

(Ord. 189, passed 5-6-02)

### **§ 112.25 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" and/or "off-sale" license shall receive training regarding the selling or serving of

### **Alcoholic Beverages**

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 chapter and other applicable law equally with the employee.

(C) Every licensee shall allow any peace officer, health officer, city employee or 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 for off sale to the public during hours when the sale of liquor is prohibited.

(E) Compliance with financial responsibility requirements of state law and of this chapter is a continuing condition of any license.

(Ord. 189, passed 5-6-02) Penalty, see § 112.99

### **§ 112.26 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 chapter relating to liquor, as provided in division (B) below. 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 chapter of M.S. § 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. Revocations shall occur within 60 days following a violation for which the revocation is imposed.

(1) 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% malt liquor or violation of § 112.04, the license shall be revoked.

(2) The license shall be suspended by the Council after a finding, under division (A) above, that the licensee has failed to comply with any applicable statute, rule or provision of this chapter 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.

### **Alcoholic Beverages**

(c) For a 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.

(3) The Council shall select the day or days during which the license will be suspended.

(C) (1) Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this chapter 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.

(2) 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-Administrator-Treasurer, a hearing before the Council shall be granted within ten days.

(3) Any suspension under this division (C) shall continue until the Council determines that the financial responsibility requirements of state law and this chapter have again been met.

(D) The provisions of § 112.99 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this chapter.  
(Ord. 189, passed 5-6-02)

### ***CONDITIONS***

#### **§ 112.40 NUDITY ON PREMISES.**

(A) (1) 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 chapter.

(2) This is to protect and assist the owners, operations 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.

(3) 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.

(4) The Council also finds that the prohibition of nudity on the premises of any establishment licensed under this chapter, as set forth in this section, reflects the prevailing community standards of the city.

(B) (1) 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 non-transparent material.

### **Alcoholic Beverages**

(2) 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.  
(Ord. 189, passed 5-6-02) Penalty, see § 112.99

#### **§ 112.41 CONSUMPTION IN PUBLIC PLACES.**

No person shall consume intoxicating liquor or 3.2% malt liquor 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 chapter or where the consumption and display of liquor is lawfully permitted.  
(Ord. 189, passed 5-6-02) Penalty, see § 112.99

#### **§ 112.42 HOURS AND DAYS 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.

(B) No person shall consume, nor shall any on-sale licensee permit, any consumption of intoxicating liquor or 3.2% 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% 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.  
(Ord. 189, passed 5-6-02) Penalty, see § 112.99

#### **§ 112.43 MINORS ON PREMISES.**

No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2% 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% malt liquor are sold at retail on-sale.  
(Ord. 189, passed 5-6-02) Penalty, see § 112.99

#### **§ 112.44 PURCHASE AND CONSUMPTION.**

(A) 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. § 3401.414, as it may be amended from time to time, which has been approved by the Council.

## **Alcoholic Beverages**

(B) No person shall consume liquor in any such place.  
(Ord. 189, passed 5-6-02) Penalty, see § 112.99

### **§ 112.99 PENALTY.**

(A) Any person violating the provisions of this chapter shall be subject to § 10.99. Each violation shall constitute a separate offense.

(B) (1) The Council shall impose a civil penalty of up to \$2,000 for each violation of M.S. § 340A and of this chapter, as it may be amended from time to time, as provided by the minimum schedule of presumptive civil penalties. These civil penalties shall be in addition to any criminal penalties imposed under division (A) above or any suspension or revocation imposed under § 112.26. 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. Nonpayment of the penalty is grounds for suspension or revocation of the license.

(2) The following is the minimum schedule of presumptive civil penalties in addition to any suspensions which must be imposed unless the license is revoked:

- (a) For the first violation within any three-year period: \$500.
- (b) For the second violation within any three-year period: \$1,000.
- (c) For the third and subsequent violations within any three-year period: \$2,000 for each violation.

(C) For the purpose of this penalty section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***VIOLATION.*** Any and all violations of the provisions of this chapter, of M.S. § 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.  
(Ord. 189, passed 5-6-02)





## **Cable Television**

### **CHAPTER 113: CABLE TELEVISION**

#### **Section**

#### ***General Provisions***

113.01 Definitions

#### ***Grant of Authority***

- 113.15 City authority
- 113.16 Compliance with state and federal law; codes
- 113.17 Franchise term; non-exclusivity
- 113.18 Sale or transfer
- 113.19 Access to financial records
- 113.20 Subscriber charges
- 113.21 Indemnification and liability insurance
- 113.22 Public hearing regarding city's credentials
- 113.23 Channel capacity
- 113.24 Description of system; construction and repair
- 113.25 Relocation of wires and the like
- 113.26 Technical standards
- 113.27 Special testing
- 113.28 Non-voice return capability
- 113.29 Subscriber privacy; complaints
- 113.30 Abandonment
- 113.31 Removal of equipment; termination; forfeiture
- 113.32 Access channels
- 113.33 Program equipment
- 113.34 Operating standards
- 113.35 Pirating of signals

#### ***Administration and Enforcement***

- 113.45 Policy and procedure manual
- 113.46 Franchise Administrator
- 113.47 Programming Board

### ***GENERAL PROVISIONS***

## **Cable Television**

### **§ 113.01 DEFINITIONS.**

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

**CITY.** The City of Elbow Lake, Minnesota.

**CLASS IV CHANNEL.** A signaling path provided by a cable communications system to transmit signals of any type from a subscriber terminal to another point in the cable communication system.

**FCC.** The Federal Communications Commission of the United States.

**FRANCHISE.** This chapter.

**NON-VOICE RETURN COMMUNICATIONS.** The provision of appropriate system design techniques with the installation of cable and amplifiers suitable for the subsequent insertion of necessary non-voice communication electronic modules.

**SYSTEM.** The city cable communications system created and developed pursuant to this chapter. (Ord. 172, passed 4-30-90)

## **GRANT OF AUTHORITY**

### **§ 113.15 CITY AUTHORITY.**

The City Council hereby ordains that the city may install, operate and maintain a cable communications system within the city, subject to the following terms and performance conditions. (Ord. 172, passed 4-30-90)

### **§ 113.16 COMPLIANCE WITH STATE AND FEDERAL LAW; CODES.**

(A) The city and the system shall, at all times, comply with the provisions of M.S. Ch. 238, as from time to time amended.

(B) The city and the system shall conform to all laws and rules of the state regarding cable communications no later than one year after they become effective, unless otherwise stated, and to all federal laws and regulations regarding cable communications as they become effective.

(C) (1) All wires, conduits, cable and other property and facilities of the city shall be located, constructed, installed and maintained in compliance with applicable codes.

(2) The city shall keep and maintain all of its property so as not to unnecessarily interfere with the usual and customary trade, traffic or travel upon the streets and public places of the franchise area or endanger the lives or property of any person. (Ord. 172, passed 4-30-90)

## **Cable Television**

### **§ 113.17 FRANCHISE TERM; NON-EXCLUSIVITY.**

(A) The term of the franchise shall be 15 years and any renewal of the franchise shall be for a period of not more than 15 years.

(B) This franchise is non-exclusive.  
(Ord. 172, passed 4-30-90)

### **§ 113.18 SALE OR TRANSFER.**

(A) The sale or transfer of this franchise, in whole or in part, or the sale or transfer of system ownership so as to create a new controlling interest in the system, is prohibited, except upon the approval of the city.

(B) The sale or transfer shall be completed pursuant to applicable state law.  
(Ord. 172, passed 4-30-90)

### **§ 113.19 ACCESS TO FINANCIAL RECORDS.**

The city shall conduct an annual audit of the system's accounting and financial records and make available to residents of the city each year a report of gross subscriber revenues and other information as the city deems appropriate.  
(Ord. 172, passed 4-30-90)

### **§ 113.20 SUBSCRIBER CHARGES.**

(A) The city's current subscriber charges are available for inspection at the city's offices.

(B) Residential subscriber contracts, if any, may not exceed 12 months in duration unless, after 12 months, the contract may be terminated by the subscriber at any time, at the subscriber's option, with no penalty to the subscriber.  
(Ord. 172, passed 4-30-90)

### **§ 113.21 INDEMNIFICATION AND LIABILITY INSURANCE.**

(A) At all times during the term of the franchise, the city shall maintain liability insurance insuring the city in an amount which is the greater of the liability limits required of the city under applicable state law or:

(1) A minimum of \$100,000 for bodily injury or death to any one person and \$300,000 for bodily injury or death resulting from any one accident; and

(2) A minimum of \$300,000 for property damage resulting from any one accident.

### **Cable Television**

(B) Nothing in this franchise shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring the city's facilities while performing any work connected with grading, regrading or changing the line of any street or public place or with the construction or reconstruction of any sewer or water system.

(Ord. 172, passed 4-30-90)

### **§ 113.22 PUBLIC HEARING REGARDING CITY'S CREDENTIALS.**

The city's technical ability, financial condition and legal qualifications were considered and approved by the City Council in a full public proceeding about which the city afforded reasonable notice and a reasonable opportunity to be heard.

(Ord. 172, passed 4-30-90)

### **§ 113.23 CHANNEL CAPACITY.**

The city shall construct a cable system with a channel capacity available for immediate or potential use equal to a minimum of 450 MHz of band width (the equivalent of 60 television broadcast channels).

(Ord. 172, passed 4-30-90)

### **§ 113.24 DESCRIPTION OF SYSTEM; CONSTRUCTION AND REPAIR.**

(A) The system constructed by the city shall be a 450 MHz, 60 channel system comprised of three-fourths inch trunk coaxial cable and one-half inch feeder coaxial cable with approximately 9,134 feet of strand underground and 41,490 feet of strand above ground. Within 90 days of the passage of this franchise, the city shall apply for all governmental permits, licenses, certificates and authorizations required for the construction of the system. Within one year of its receipt of governmental authorizations, the city shall extend its energized trunk cable throughout the franchise area and provide persons along the route of the energized cable with individual drops, if desired by such persons. The requirements of this division (A) may be waived by the city only upon the occurrence of unforeseen events or acts of God.

(B) (1) The city shall, upon completion of any work requiring the opening of any street or public place, restore the same, including the pavement and its foundations, to as good a condition as it formerly was, and shall exercise reasonable care to maintain the same thereafter in good condition.

(2) The work shall be performed with due diligence.

(Ord. 172, passed 4-30-90)

### **§ 113.25 RELOCATION OF WIRES AND THE LIKE.**

Whenever the city shall, during the period of this franchise, undertake any public improvement or authorize any project or action for a public purpose which affects the system's cable communications equipment, it shall provide for contractor removal or replacement or for city utility crew removal or replacement, of the city's wires, conduits, cables, vaults, pedestals, utility holes, poles and other fixtures and property from the area affected by the improvements or project or action for a public purpose, and shall charge against the system account as costs for such removal or replacement the actual bid cost for the work

### **Cable Television**

or the actual labor and material costs incurred by the city utility crew.  
(Ord. 172, passed 4-30-90)

#### **§ 113.26 TECHNICAL STANDARDS.**

(A) The rules contained in Subpart K of Part 76 of the FCC's rules and regulations relating to cable communications systems are incorporated herein by reference.

(B) The results of any tests required by the FCC shall be filed with the city within ten days of the date the tests are conducted.  
(Ord. 172, passed 4-30-90)

#### **§ 113.27 SPECIAL TESTING.**

In the event that special testing is required to determine the source of technical difficulties, the city shall be responsible for the costs of the special testing.  
(Ord. 172, passed 4-30-90)

#### **§ 113.28 NON-VOICE RETURN CAPABILITY.**

The city shall provide a cable communications system having the technical capability for non-voice return communications.  
(Ord. 172, passed 4-30-90)

#### **§ 113.29 SUBSCRIBER PRIVACY; COMPLAINTS.**

(A) (1) No signals of a Class IV cable communications channel may be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for the permission shall be contained in a separate document with a prominent statement that the subscriber is granting permission with full knowledge of the document's provisions. The written permission shall be for a limited period of time not to exceed one year, which period may be renewed at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew the authorization. The authorization shall be revocable at any time by the subscriber without penalty of any kind whatsoever. The permission shall be required for each type of classification of class IV cable communications activity planned for the purpose.

(2) No information or data obtained by monitoring transmission of a signal from a subscriber terminal including, without limitation, lists of the names and addresses of the subscribers or any lists that identify the viewing habits of subscribers shall be sold or otherwise made available to any party other than to the city and its employees for internal business use or to the subscriber who is the subject of that information unless the city has received specific written authorization from the subscriber to make the data available.

(3) Written permission from the subscriber shall not be required in the event the city conducts a systemwide or individually addressed electronic sweeps for the purpose of verifying system integrity or

## **Cable Television**

monitoring for the purpose of billing.

(B) (1) All complaints by subscribers or other citizens regarding the quality of service, equipment malfunction, billing disputes and other matters relative to the system shall be investigated by the city within 24 hours. Each complaint shall be referred to the Franchise Administrator who shall mediate the complaint and issue a determination or appropriate recommendation to the city and the complainant.

(2) The complainant may appeal the Franchise Administrator's decision to the City Council for final and binding resolution.

(C) (1) The city shall provide, at least, a toll-free or collect telephone number for the reception of subscriber complaints and shall maintain a repair service capable of responding to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request.

(2) Whenever it is necessary to shut off or interrupt services for the purpose of making repairs, adjustments or installations, the city shall do so during a period of minimum use by subscribers. Unless the interruption is unforeseen, the city shall give reasonable notice thereof to the subscribers affected.

(3) Costs incurred in making repairs, adjustments and installations shall be borne by the city unless provided for elsewhere in this franchise.  
(Ord. 172, passed 4-30-90)

### **§ 113.30 ABANDONMENT.**

The city may not abandon any portion of the cable communications service provided hereunder without having duly published, three months prior, notice in a newspaper of general circulation within the city.

(Ord. 172, passed 4-30-90)

### **§ 113.31 REMOVAL OF EQUIPMENT; TERMINATION; FORFEITURE.**

Upon termination or forfeiture of the franchise, the city shall remove its cable, wires and appliances from the streets, alleys and other public places within the franchise area.

(Ord. 172, passed 4-30-90)

### **§ 113.32 ACCESS CHANNELS.**

(A) (1) The city shall provide to each of its subscribers who receive some or all of the services offered on the system, reception on at least one specially designated access channel. The specially designated access channel may be used by the general public, local educational authorities and local government on a first-come, first-serve, nondiscriminatory basis.

(2) Channel time and playback of prerecorded programming on this specially designated access channel shall be provided without charge to the general public; provided, however, that personnel, equipment and production costs may be assessed for live studio presentations exceeding five minutes in length.

## **Cable Television**

(3) Charges for production costs shall be consistent with the goal of affording the public a low-cost means of television access. During those hours that the specially designated access channel is not being used by the general public, local educational authorities or local government, the city shall lease time to commercial or non-commercial users on a first-come, first-serve, nondiscriminatory basis if the demand for the time arises.

(4) The city may also use this specially designated access channel for local origination during those hours when the channel is not in use by the general public, local educational authorities, local government or commercial or noncommercial users who have leased time.

(5) The VHF spectrum shall be used for the specially designated access channel required in this division (A).

(B) The city shall establish rules pertaining to the administration of the specially designated access channel(s).

(Ord. 172, passed 4-30-90)

### **§ 113.33 PROGRAM EQUIPMENT.**

The city shall make readily available for public use, upon need being shown, at least the minimal equipment necessary to perform good quality playback of prerecorded programming and to make it possible to record programs at remote locations with battery operated portable equipment. Need shall be determined by subscriber petition. The petition must contain the signatures of at least 10% of the subscribers of the system, but in no case more than 350, nor fewer than 100, signatures.

(Ord. 172, passed 4-30-90)

### **§ 113.34 OPERATING STANDARDS.**

(A) The system shall deliver to the subscriber's terminal a signal that is capable of producing a black and white or colored picture without visual material degradation in quality within the limitations imposed by the technical state of the art.

(B) The system shall transmit or distribute signals without causing objectionable cross-modulation in the cables or interfering with other electrical or electronic networks or with the reception of other television or radio receivers in the area not connected to the network.

(Ord. 172, passed 4-30-90)

### **§ 113.35 PIRATING OF SIGNALS.**

It shall be unlawful for anyone to obtain any cable television service from the city with intent to cheat or defraud, by installing, rearranging or tampering with the facilities or equipment, or by any trick, stratagem, impersonation, pretension, falsification of fact or contrivance, or by any device or means whatsoever.

(Ord. 172, passed 4-30-90) Penalty, see § 10.99

## **Cable Television**

### ***ADMINISTRATION AND ENFORCEMENT***

#### **§ 113.45 POLICY AND PROCEDURE MANUAL.**

Within six months of the adoption of these franchise provisions, the city shall prepare and adopt a policy and procedure manual which shall set forth the city's policies and procedures for the ongoing operation and maintenance of the system including, without limitation, policies and procedures regarding rates for basic and premium services, service calls, service fees, advertising and public, educational and government access programming.

(Ord. 172, passed 4-30-90)

#### **§ 113.46 FRANCHISE ADMINISTRATOR.**

The City Clerk-Administrator-Treasurer shall be responsible for the ongoing administration of this franchise.

(Ord. 172, passed 4-30-90)

#### **§ 113.47 PROGRAMMING BOARD.**

Within 30 days of the adoption of this franchise, the City Council shall establish an independent programming board which, during the term of the franchise, shall make any and all decisions regarding programming to be offered on the system. At no time during the term of the franchise shall the city exercise any editorial control regarding the content of any programming service offered on the system, except for programming on any channel designated for educational or governmental use.

(Ord. 172, passed 4-30-90)



## Cable Television



## **Gambling; Games of Skill**

### **CHAPTER 114: GAMBLING; GAMES OF SKILL**

#### **Section**

- 114.01 Adoption of state law by reference
- 114.02 City may be more restrictive than state law
- 114.03 Purpose
- 114.04 Definitions
- 114.05 Applicability
- 114.06 Lawful gambling permitted
- 114.07 Council approval
- 114.08 Application and local approval of premises permits
- 114.09 Local permits
- 114.10 Revocation and suspension of local permit
- 114.11 License and permit display
- 114.12 Notification of material changes to application
- 114.13 Contribution of net profits to fund administered by city
- 114.14 Designated trade area
- 114.15 Records and reporting
- 114.16 Hours of operation
- 114.17 Severability
  
- 114.99 Penalty

#### **§ 114.01 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.

#### **§ 114.02 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.

#### **§ 114.03 PURPOSE.**

## **Gambling; Games of Skill**

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.

### **§ 114.04 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:

**BOARD.** The State of Minnesota Gambling Control Board.

**LICENSED ORGANIZATION.** An organization licensed by the Board.

**LOCAL PERMIT.** A permit issued by the city.

**TRADE AREA.** This city and each city and township contiguous to this city.

### **§ 114.05 APPLICABILITY.**

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

(A) 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.

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

### **§ 114.06 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.

### **§ 114.07 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.

Penalty, see § 114.99

## **Gambling; Games of Skill**

### **§ 114.08 APPLICATION AND LOCAL APPROVAL OF PREMISES PERMITS.**

(A) 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-Administrator-Treasurer 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.

(B) Upon receipt of an application for issuance or renewal of a premises permit or bingo hall license, the City Clerk-Administrator-Treasurer 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.

(C) 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.

(D) 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.

(E) The applicant shall be notified in writing of the date on which the Council will consider the recommendation.

(F) 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-Administrator-Treasurer.

(G) The Council shall, by resolution, approve or disapprove the application within 60 days of receipt of the application.

(H) The Council shall disapprove an application for issuance or renewal of a premises permit for any of the following reasons:

(1) Violation by the gambling organization of any state statute, state rule or city ordinance relating to gambling within the last three years.

(2) 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.

(3) Lawful gambling would be conducted at premises other than those for which an on-sale liquor license has been issued.

(4) Lawful gambling would be conducted at more than \_\_\_\_ premises within the city. Cities may use this provision to limit the number of premises where lawful gambling may be conducted.

(5) An organization would be permitted to conduct lawful gambling activities at more than one premises in the city.

## **Gambling; Games of Skill**

(6) More than one licensed organization would be permitted to conduct lawful gambling activities at one premises.

(7) Failure of the applicant to pay any investigation fee provided by division (D) of this section within the prescribed time limit.

(8) 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.

### **§ 114.09 LOCAL PERMITS.**

(A) 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 § 114.05.

(B) 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:

(1) Name and address of the organization requesting the permit.

(2) Name and address of the officers and person accounting for receipts, expenses, and profits for the event.

(3) Dates of gambling occasion for which permit is requested.

(4) Address of premises where event will occur.

(5) Copy of rental or leasing arrangement, if any, connected with the event, including rental to be charged to organization.

(6) Estimated value of prizes to be awarded.

(C) The fee for a local permit shall be \$100. 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.

(D) Upon receipt of an application for issuance or renewal of a local permit, the City Clerk-Administrator-Treasurer shall transmit the notification to the Chief of Police or Sheriff for review and recommendation.

(E) 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.

(F) The applicant shall be notified in writing of the date on which the Council will consider the

## **Gambling; Games of Skill**

recommendation.

(G) 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-Administrator-Treasurer.

(H) The Council shall disapprove an application for issuance or renewal of a premises permit for any of the following reasons:

(1) Violation by the gambling organization of any state statute, state rule or city ordinance relating to gambling within the last three years.

(2) 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.

(3) The organization has not been in existence in the city for at least three consecutive years prior to the date of application.

(4) The organization does not have at least 30 active members.

(5) Exempted or excluded lawful gambling will not take place at a premises the organization owns or rents.

(6) Exempted or excluded lawful gambling will not be limited to a premises for which an on-sale liquor license has been issued.

(7) An organization will have a permit to conduct exempted or excluded lawful gambling activities on more than one premises in the city.

(8) More than one licensed, qualified organization will be conducting exempted or excluded lawful gambling activities at any one premises.

(9) Failure of the applicant to pay permit fee provided by division (C) of this section within the prescribed time limit.

(10) Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

Otherwise the council shall approve the application.

(I) Local permits shall be valid for one year after the date of issuance unless suspended or revoked.

Penalty, see § 114.99

### **§ 114.10 REVOCATION AND SUSPENSION OF LOCAL PERMIT.**

(A) A local permit may be revoked or temporarily suspended for a violation by the gambling

### **Gambling; Games of Skill**

organization of any state statute, state rule or city ordinance relating to gambling.

(B) 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.

#### **§ 114.11 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.

Penalty, see § 114.99

#### **§ 114.12 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.

Penalty, see § 114.99

#### **§ 114.13 CONTRIBUTION OF NET PROFITS TO FUND ADMINISTERED BY CITY.**

(A) 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.

(B) Payment under this section shall be made on the last day of each month.

(C) 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.

Penalty, see § 114.99

#### **§ 114.14 DESIGNATED TRADE AREA.**

(A) 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.

(B) This section applies only to lawful purpose expenditures of gross profits derived from gambling conducted at a premises within the city's jurisdiction.

Penalty, see § 114.99



## **Gambling; Games of Skill**

### **§ 114.15 RECORDS AND REPORTING.**

(A) Organizations conducting lawful gambling shall file with the City Clerk-Administrator-Treasurer 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.

(B) Organizations licensed by the Board shall file a report with the city proving compliance with the trade area spending requirements imposed by § 114.14. Such report shall be made on a form prescribed by the city and shall be submitted annually and in advance of application for renewal. Penalty, see § 114.99

### **§ 114.16 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. Penalty, see § 114.99

### **§ 114.17 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.

### **§ 114.99 PENALTY.**

Any person who violates:

(A) Any provision of this chapter;

(B) M.S. §§ 609.75 to 609.763, inclusive, as they may be amended from time to time; or

(C) 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 § 10.99



## **CHAPTER 115: SEXUALLY ORIENTED BUSINESSES**

### Section

- 115.01 Purpose
- 115.02 Findings
- 115.03 Definitions
- 115.04 Exceptions
- 115.05 License required
- 115.06 Person ineligible
- 115.07 Places ineligible
- 115.08 License application
- 115.09 Fees
- 115.10 Granting of licenses
- 115.11 Conditions of license
- 115.12 Restrictions and regulations
- 115.13 Suspensions and revocation of license

### 115.99 Penalty

Appendix: Resolution adopting the findings of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*

### **§ 115.01 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.

### **§ 115.02 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, which is adopted by reference in the resolution adopting the findings of this report. This chapter shall have no force and effect until the City Council accepts these recommendations by resolution of a majority of its members, using the model resolution contained in the Appendix of this chapter.

(A) 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.

(B) 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.

(C) 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.

(D) 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.

(E) A licensing and regulatory scheme as prescribed in this chapter can facilitate the enforcement of the city's "anti-bligh" regulations, as set forth in Chapter 154 of this code, and can aid in monitoring sexually oriented businesses for adverse secondary effects on the community.

(F) The risk of criminal activity and/or public health problems can be minimized through a licensing and regulatory scheme as prescribed in this chapter.

### § 115.03 DEFINITIONS.

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

***SEXUALLY ORIENTED BUSINESS.*** Shall include the following:

(1) A business that meets any of the following criteria, measured on a daily, weekly, monthly, or yearly basis:

(a) Has more than 25% of its inventory, stock-in-trade, or publicly displayed merchandise in sexually oriented materials;

(b) 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; or

(c) Derives more than 25% of its gross revenues from sexually oriented materials; or

(2) 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.

***SEXUALLY ORIENTED MATERIALS.*** Visual, printed, or aural materials, and other objects or devices, that:

(1) Contain, depict, simulate or describe specified sexual activities or specified anatomical areas; or

(2) Are marketed for use in conjunction with, or are primarily used only with or during specified sexual activities; or

- (3) Are designed for sexual stimulation.

***SEXUALLY ORIENTED USE.*** Any of the following activities and businesses, even if the activity exists for only a short-time:

(1) ***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.

(2) ***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.

(3) ***ADULT CABARET.*** A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on:

(a) The depiction of nudity, specified sexual activities or specified anatomical areas; or

(b) The presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

(4) ***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.

(5) ***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.

(6) ***ADULT HEALTH/SPORT CLUB.*** A health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

(7) ***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.

(8) ***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.

(9) ***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.

(10) ***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.

(11) **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.

(12) **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.

(13) **ADULT NOVELTY BUSINESS.** An establishment or business that has a variety of items for sale if it meets the criteria established in division (1) of the definition of “sexually oriented business” defined in this section.

(14) **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.

(15) **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.

**SPECIFIED ANATOMICAL AREAS.** Shall include the following:

- (1) 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; and
- (2) Human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

**SPECIFIED SEXUAL ACTIVITIES.** Shall include the following:

- (1) 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;
- (2) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence;
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation;
- (4) Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;

(5) 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;

(6) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being; or

(7) Human excretion, urination, menstruation or vaginal or anal irrigation.

#### **§ 115.04 EXCEPTIONS.**

This chapter does not regulate the following:

(A) Material with significant literary content or social commentary;

(B) 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;

(C) A person or organization exempted under M.S. § 617.295, as it may be amended from time to time;

(D) Activity regulated under M.S. § 617.251, as it may be amended from time to time;

(E) 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; and

(F) Movies rated G, PG, PG-13, NC-17 or R.

#### **§ 115.05 LICENSE REQUIRED.**

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

Penalty, see § 115.99

#### **§ 115.06 PERSONS INELIGIBLE.**

No license may be issued to a person who:

(A) Is not a citizen of the United States or a resident alien;

(B) Is a minor at the time the application is filed;

(C) 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;

(D) Holds a liquor license under Chapter 112.

(E) In the judgment of the licensing authority, is not the real party in interest or beneficial owner of the business operated under the license;

(F) Has had a license for a sexually oriented business or similar business revoked anywhere within five years of the license application; or

(G) 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 § 115.99

#### **§ 115.07 PLACES INELIGIBLE.**

No license may be issued for:

(A) A place or a business ineligible for a license under city ordinance or state law;

(B) Operation in a zoning district where the business is not allowed pursuant to Chapter 154 of this code;

(C) A place or business that is currently licensed as a tattoo establishment, pawnshop, massage business or establishment that sells alcoholic beverages; or

(D) 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.

Penalty, see § 115.99

#### **§ 115.08 LICENSE APPLICATION.**

(A) 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:

(1) The business in connection with which the proposed license will operate;

(2) The location of the business premises;

(3) 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;

(4) 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;

(5) Whether the applicant is the owner and operator of the business and if not, who is;

(6) 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;

(7) Whether the applicant is married or single. If married, the true name, place and date of birth and street address of applicant's spouse;

(8) Street address at which the applicant and spouse have lived during the preceding ten years;

(9) Kind, name and location of every business or occupation the applicant and spouse have been engaged in during the preceding ten years;

(10) Names and addresses of the applicant's and spouse's employers and partners, if any, for the preceding ten years;

(11) 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;

(12) 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;

(13) Whether the applicant has ever been in military service. If so, the applicant must, upon request, exhibit all discharges;

(14) 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;

(15) If the applicant is a corporation or other organization, the applicant must submit the following:

(a) Name, and if incorporated, the state of incorporation;

(b) Names and addresses of all officers;

(c) 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

(d) 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.

(16) 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;

(17) 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.

(18) Whether the applicant holds a current license for a sexually oriented business or similar business from another governmental unit;

(19) Whether the applicant has ever been denied a license for a sexually oriented business or similar business from another governmental unit; and

(20) Other information that the city deems appropriate.

(B) 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.

(C) 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.

(D) 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. Penalty, see § 115.99

## **§ 115.09 FEES.**

(A) An applicant for a license must pay to the city the investigation fee specified by ordinance, 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.

(B) The annual fees for a license are set forth by ordinance, as that ordinance may be amended from time to time.

(C) 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.

(D) No refund of a fee will be made except as authorized by ordinance.

## **§ 115.10 GRANTING OF LICENSES.**

(A) 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.

(B) 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.

(C) (1) The City Council may issue a license before an investigation, notice and public hearing for an applicant who:

(a) 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;

(b) Wishes to resume operation of the business without sufficient time, through no fault of his or her own, to meet the normal procedural requirements;

(c) Had no criminal license convictions, or license suspensions or revocations during the prior licensed period; and

(d) Otherwise qualifies and meets the requirements for a license.

(2) 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.

(D) 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.

(E) 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.

#### **§ 115.11 CONDITIONS OF LICENSE.**

(A) 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.

(B) 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.

(C) The license must be posted in a conspicuous place in the premises for which it is used. Penalty, see § 115.99

#### **§ 115.12 RESTRICTIONS AND REGULATIONS.**

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

(A) 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.

(B) No owner, manager or employee may allow a person under the age of 18 to enter the business.

(C) 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.

(D) No owner or manager may employ a person under the age of 18 on the licensed premises.

(E) 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 518B.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.

(F) No business may exceed 10,000 square feet in gross floor area.

(G) 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.

(H) 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.

(I) No business may have booths, stalls, partitioned portions of a room, or individual rooms, except as follows:

(1) 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

(2) 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.

(J) A licensee must not be open for business to the public:

(1) Between 1:00 a.m. and 8:00 a.m. on the days of Monday through Saturday; and

(2) Between 1:00 a.m. and 12:00 noon on Sundays.

Penalty, see § 115.99

### **§ 115.13 SUSPENSIONS AND REVOCATIONS OF LICENSE.**

(A) *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 M.S. 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.

(B) *Violations.*

(1) 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 division (B)(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 division (B)(2) of this section.

(2) Conviction of a sex crime, as identified in M.S. §§ 609.293 to 609.352, 609.746 to 609.749, 609.79 or 518B.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.

### **§ 115.99 PENALTY.**

Except as otherwise provided by state law, a person violating a provision of this chapter is subject to the penalties established in § 10.99. 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.



**APPENDIX I****RESOLUTION ADOPTING THE FINDINGS OF THE *REPORT  
OF THE ATTORNEY GENERAL'S WORKING GROUP ON  
THE REGULATION OF SEXUALLY ORIENTED BUSINESSES***

WHEREAS because of its small size, the city lacks the resources to investigate and research the impact sexually oriented businesses would have on the character of the city's neighborhoods; and

WHEREAS the city intends to rely on the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*, dated June 6, 1989, as a basis for regulating sexually oriented businesses in this city; and

WHEREAS the members of the City Council have reviewed this Report;

NOW THEREFORE, the City Council of this City hereby accepts the recommendations and conclusions of this Report and adopts the recommendations and conclusions by reference of the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*, dated June 6, 1989; and by passage of this resolution implements the provisions of Chapters 115 and 154.

Signed: \_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk-Administrator-Treasurer

**TITLE XIII: GENERAL OFFENSES**

Chapter

**130.GENERAL OFFENSES**





## General Offenses

### CHAPTER 130: GENERAL OFFENSES

#### Section

- 130.01 Curfew
- 130.02 Discharging firearms
- 130.03 Fireworks
  
- 130.99 Penalty

#### § 130.01 CURFEW.

(A) *Purpose.* The curfew for minors established by this section is maintained for four primary reasons:

- (1) To protect the public from illegal acts of minors committed during the curfew hours;
- (2) To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;
- (3) To protect minors from criminal activity that occurs during the curfew hours; and
- (4) To help parents control their minor children.

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

***EMERGENCY ERRAND.*** A task that if not completed promptly threatens the health, safety or comfort of the minor or a member of the minor's household. The term shall include, but shall not be limited to seeking urgent medical treatment, seeking urgent assistance from law enforcement or fire department personnel and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.

***OFFICIAL CITY TIME.*** The time of day as determined by reference to the master clock of the police dispatcher.

***PLACES OF AMUSEMENT, ENTERTAINMENT OR REFRESHMENT.*** Those places that include, but are not limited to movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants and pool halls.

***PRIMARY CARE or PRIMARY CUSTODY.*** The person who is responsible for providing food,

### **General Offenses**

clothing, shelter and other basic necessities to the minor. The person providing **PRIMARY CARE OR CUSTODY** to the minor shall not be another minor.

**SCHOOL ACTIVITY.** An event which has been placed on a school calendar by public or parochial school authorities as a school sanctioned event.

(C) *Hours.* No minor under the age of 16 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 10:00 p.m. and 5:00 a.m. the following day, official city time.  
(Ord. 121, passed 1-6-69)

(D) *Effect on control by adult responsible for minor.* Nothing in this section shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian or other adult person having the primary care and custody of the minor; nor shall this section be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

(E) *Exceptions.* The provisions of this section shall not apply in the following situations:

(1) To a minor accompanied by his or her parent or guardian or other adult person having the primary care and custody of the minor;

(2) To a minor who is upon an emergency errand at the direction of his or her parent, guardian or other adult person having the primary care and custody of the minor;

(3) To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession or occupation; or to a minor traveling directly to or from the location of the business trade, profession or occupation and the minor's residence; (Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor's presence at work.)

(4) To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian or other adult person having the primary care and custody of the minor;

(5) To a minor who is passing through the city in the course of interstate travel during the hours of curfew;

(6) To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly or freedom of religion;

(7) To minors on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not complain to the city's designated law enforcement provider about the minor's presence; and

## **General Offenses**

(8) To a minor who is married or has been married or is otherwise legally emancipated.

(F) *Duties of person legally responsible for minor.* No parent, guardian or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

(G) *Duties of other persons.* No person operating or in charge of any place of amusement, entertainment or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian or other adult person having primary care or custody of the minor or unless one of the exceptions to this section apply.

Penalty, see § 130.99

### **§ 130.02 DISCHARGING FIREARMS.**

(A) *Shooting upon, over or near a cemetery.* No person shall, without permission from the proper officials, discharge a firearm upon or over a cemetery or within 100 yards thereof, unless the person is upon his or her own land.

(B) *Hunting near a city park.* No person shall hunt, shoot, or kill game within ½ mile of a city park unless the City Council has granted permission to kill game not desired within the limits prohibited by this division.

(C) *Discharge of firearms prohibited in certain places.* No person shall discharge a firearm on a lawn, park, playground, orchard, or other ground appurtenant to a school, church, or an inhabited dwelling, the property of another, or a charitable institution. This section does not prevent or prohibit the owner thereof from discharging firearms upon his or her own land.

(D) *Discharging firearms on highways prohibited.* No person shall discharge a firearm upon or over a public road or highway.

(E) *Exceptions.* This section shall not prohibit the firing of a military salute or the firing of weapons by persons of the nation's armed forces acting under military authority, and shall not apply to law enforcement officials in the proper enforcement of the law, or to any person in the proper exercise of the right of self defense, or to any person otherwise lawfully permitted by proper federal, state or local authorities to discharge a firearm in a manner contrary to the provisions of this section.

(F) If any of the above provisions are found to be in conflict with M.S. § 624.717, as it may be amended from time to time, the provisions of that statute shall prevail.

Penalty, see § 130.99

### **§ 130.03 FIREWORKS.**

(A) The use, display, possession, discharge or sale of any fireworks not expressly permitted by M.S. § 624.20, Subd. 1(c), as it may be amended from time to time, is strictly prohibited.

(B) All use, display or discharge of those non-explosive, non-aerial pyrotechnic entertainment devices

### **General Offenses**

only containing the limited amounts of pyrotechnic chemical compositions described in and permitted by M.S. § 624.20, Subd. 1(c), as it may be amended from time to time, hereinafter referred to as “permitted consumer fireworks”, is strictly prohibited in:

(1) The area on, below, above or within or in close proximity to: recreational areas, roadways, streets, highways, bicycle lanes, pedestrian paths, sidewalks, rights-of-way, lakes, rivers, waterways and all other property owned or leased by the city, the county in which the city is located, the State of Minnesota or the federal government and located in whole or in part within the city limits;

(2) Private property within the city limits that has conspicuously posted a written sign or notice that no fireworks discharge is allowed;

(3) Within 300 feet of any consumer fireworks retail sales facility or storage area that has posted a written sign or notice that no fireworks discharge is allowed; and

(4) Any property, area, or structure that, by its physical condition or the physical conditions in which it is set, would constitute a fire or personal safety hazard.

(C) All other use, display or discharge of permitted consumer fireworks must be conducted in a manner that minimizes the risk of fire or injury to other persons or property.

### **§ 130.99 PENALTY.**

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99.

(B) (1) *Minors.* Any minor found to be in violation of § 130.01 may be adjudicated delinquent and shall be subject to the dispositional alternatives set forth in M.S. § 260.185, as it may be amended from time to time.

(2) *Adults.* Any adult person found to be in violation of § 130.01 shall be guilty of a misdemeanor and may be sentenced up to the maximum penalty authorized by state law for a misdemeanor.

(3) *Defense.* It shall be a defense to prosecution under § 130.01 that the owner, operator or employee of an establishment promptly notified the city's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.



## **TITLE XV: LAND USAGE**

### **Chapter**

**150.BUILDING REGULATIONS; CONSTRUCTION**

**151.SHORELAND MANAGEMENT**

**152.AIRPORT ZONING**

**153.ZONING**

**154.ANTI-BLIGHT REGULATIONS**





## **Building Regulations; Construction**

### **CHAPTER 150: BUILDING REGULATIONS; CONSTRUCTION**

#### Section

150.01 Overhangs, signs and pillars

150.02 Moving buildings

#### ***Cross-reference:***

*Fire Limits; Prevention, see Ch. 93*

#### **§ 150.01 OVERHANGS, SIGNS AND PILLARS.**

(A) The construction of overhangs, the hanging of signs and the placing of pillars or other construction over or on sidewalks and other public property in the city shall be permitted; provided, however, that the construction and hanging be first approved by the Planning Commission and the City Council.

(B) If permission is granted, as provided in division (A) above, then the owner of the adjoining premises upon which the items are attached shall assume all liability for any and all claims of any and all kinds whatsoever arising from the items and shall hold the city harmless in the event any claim of any kind is presented against the city because of the items and this provision shall be a covenant running with the land so as to bind all future owners of the premises.

(C) All items described in divisions (A) and (B) above, which are in place at the time of the passage of this section, shall be deemed to have been permitted by the Planning Commission and City Council; provided, however, that if they are continued after the passage of this section, then the owner of the premises to which they are attached, shall be deemed to have accepted the conditions set forth in division (B) above.

(Ord. 145, passed 5-3-76) Penalty, see § 10.99

#### **§ 150.02 MOVING BUILDINGS.**

(A) No building or structure of any type shall be moved into, out of or within the city before the owner thereof shall have first secured a permit therefor, as provided in division (B) below.

(B) The permit set forth in division (A) above shall be applied for in writing by the owner of the building or structure sought to be moved, which the application shall set forth in detail a description of the building or structure to be moved, the location it is to be moved from and to, the date or dates upon which the moving operations will take place, the route over which it is to be moved, the manner in which it is to be moved and the reasons for the moving. This application shall be presented to the City Council, in regular meeting assembled, and if the permit is granted, it shall be upon the terms and conditions, as to them, seems for the best interests of the welfare, safety and health of the community.

## **Building Regulations; Construction**

(C) This section is declared to be a health and safety measure.  
(Ord. 97, passed 4-3-61) Penalty, see § 10.99

## **Shoreland Management**

### **CHAPTER 151: SHORELAND MANAGEMENT**

#### **Section**

#### ***General Provisions***

- 151.01 Statutory authorization
- 151.02 Policy
- 151.03 Jurisdiction
- 151.04 Compliance
- 151.05 Enforcement
- 151.06 Interpretation
- 151.07 Abrogation and greater restrictions
- 151.08 Definitions
- 151.09 Administration

#### ***Classification and Land Use Districts***

- 151.20 Classification system
- 151.21 District descriptions

#### ***Zoning and Water Supply/Sanitary Provisions***

- 151.35 Lot area and width standards
- 151.36 Placement, design and height of structures
- 151.37 Shoreland alterations
- 151.38 Placement and design of roads and the like
- 151.39 Stormwater management
- 151.40 Commercial, industrial and the like; extractive uses and mining
- 151.41 Conditional uses
- 151.42 Water supply; sewage treatment

#### ***Nonconformities***

- 151.55 General
- 151.56 Construction on lots of record
- 151.57 Additions or expansions to structures
- 151.58 Sewage treatment systems

#### ***Subdivision/Platting Provisions***

- 151.70 Land suitability
- 151.71 Consistency with other controls

## **Shoreland Management**

- 151.72 Information requirements
- 151.73 Dedications
- 151.74 Platting
- 151.75 Controlled access or recreational lots

## ***Planned Unit Developments***

- 151.85 Types permissible
- 151.86 Processing
- 151.87 Application
- 151.88 Site “suitable area” evaluation
- 151.89 Residential and commercial density evaluation
- 151.90 Maintenance and design criteria
- 151.91 Conversion

## ***GENERAL PROVISIONS***

### **§ 151.01 STATUTORY AUTHORIZATION.**

This chapter is adopted pursuant to the authorization and policies contained in M.S. Ch. 105, Minn. Rules parts 6120.2500 through 6120.3900, as they may be amended from time to time, and the planning and zoning enabling legislation in M.S. Ch. 462, as it may be amended from time to time.  
(Ord. 180, passed 12-13-93)

### **§ 151.02 POLICY.**

The uncontrolled use of shorelands of the city affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the city.  
(Ord. 180, passed 12-13-93)

### **§ 151.03 JURISDICTION.**

The provisions of this chapter shall apply to the shorelands of the public water bodies, as classified in §§ 151.20 and 151.21. Pursuant to Minn. Rules parts 6120.2500 through 6120.3900, as they may be amended from time to time, no lake, pond, or flowage less than ten acres in size in municipalities or 25 acres in size in unincorporated areas need be regulated in a local government’s shoreland regulations. 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 chapter.

## **Shoreland Management**

(Ord. 180, passed 12-13-93)

### **§ 151.04 COMPLIANCE.**

The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this chapter and other applicable regulations.

(Ord. 180, passed 12-13-93)

### **§ 151.05 ENFORCEMENT.**

The city is responsible for the administration and enforcement of this chapter. Any violation of the provisions of this chapter or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses, shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this chapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to § 151.09(A).

(Ord. 180, passed 12-13-93)

### **§ 151.06 INTERPRETATION.**

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(Ord. 180, passed 12-13-93)

### **§ 151.07 ABROGATION AND GREATER RESTRICTIONS.**

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

(B) All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(Ord. 180, passed 12-13-93)

### **§ 151.08 DEFINITIONS.**

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

(B) All distances, unless otherwise specified, shall be measured horizontally.

***ACCESSORY STRUCTURE OR FACILITY.*** Any building or improvement subordinate to a

## **Shoreland Management**

principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

**BLUFF.** A topographic feature such as a hill, cliff or embankment having the following characteristics (an area with an average slope of less than 18% over a distance for 50 feet or more shall not be considered part of the bluff):

- (a) Part or all of the feature is located in a shoreland area;
- (b) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
- (c) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and
- (d) The slope must drain toward the waterbody.

**BLUFF IMPACT ZONE.** A bluff and land located within 20 feet from the top of a bluff.

**BOATHOUSE.** A structure designed and used solely for the storage of boats or boating equipment.

**BUILDING LINE.** A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

**COMMERCIAL PLANNED UNIT DEVELOPMENTS.** Uses that provide transient, short-term lodging spaces, rooms or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks and other primarily service-oriented activities are **COMMERCIAL PLANNED UNIT DEVELOPMENTS**.

**COMMERCIAL USE.** The principal use of land or buildings for the sale, lease, rental or trade of products, goods and services.

**COMMISSIONER.** The Commissioner of the Department of Natural Resources.

**CONDITIONAL USE.** A land use or development, as defined hereby, that would not be appropriate generally, but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions, as detailed in Chapter 153 of this code of ordinances, exist, the use or development conforms to the comprehensive land use plan of the community and the use is compatible with the existing neighborhood.

**DECK.** A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

**DUPLEX, TRIPLEX and QUAD.** A dwelling, structure on a single lot, having two, three and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.

**DWELLING SITE.** A designated location for residential use by one or more persons using

## **Shoreland Management**

temporary or movable shelter, including camping and recreational vehicle sites.

**DWELLING UNIT.** Any structure or portion of a structure or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel and resort rooms and cabins.

**EXTRACTIVE USE.** The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals and peat not regulated under M.S. §§ 93.44 to 93.51, as it may be amended from time to time.

**FOREST LAND CONVERSION.** The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

**GUEST COTTAGE.** 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.

**HARDSHIP.** The same as that term is defined in M.S. § 462.357, Subd. 6, as it may be amended from time to time.

**HEIGHT OF BUILDING.** The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

**INDUSTRIAL USE.** The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

**INTENSIVE VEGETATION CLEARING.** The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

**LOT.** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot or other accepted means and separated from other parcels or portions by the description for the purpose of sale, lease or separation.

**LOT WIDTH.** The shortest distance between lot lines measured at the midpoint of the building line.

**NONCONFORMITY.** Any legal use, structure or parcel of land already in existence, recorded or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized.

**ORDINARY HIGH WATER LEVEL.** The boundary of public waters and wetlands and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the **ORDINARY HIGH WATER LEVEL** is the elevation of the top of the bank of the channel. For reservoirs and flowages, the **ORDINARY HIGH WATER LEVEL** is the operating elevation of the normal summer pool.

**PLANNED UNIT DEVELOPMENT.** A type of development 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

## **Shoreland Management**

usually involving clustering of these units or sites to provide areas of common open space, density increases and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises or any combination of these or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels and conversions of structures and land uses to these uses.

***PUBLIC WATERS.*** Any waters, as defined in M.S. § 105.37(14) and (15), as it may be amended from time to time.

***RESIDENTIAL PLANNED UNIT DEVELOPMENT.*** A use where the nature of residency is non-transient and the main or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives and full fee ownership residences would be considered as ***RESIDENTIAL PLANNED UNIT DEVELOPMENTS***. To qualify as a ***RESIDENTIAL PLANNED UNIT DEVELOPMENT***, a development must contain at least five dwelling units or sites.

***SEMIPUBLIC USE.*** The use of land by a private, non-profit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

***SENSITIVE RESOURCE MANAGEMENT.*** The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding or occurrence of flora or fauna in need of special protection.

***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 a bluff, road, highway, property line or other facility.

***SEWAGE TREATMENT SYSTEM.*** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in § 151.42.

***SEWER SYSTEM.*** Pipelines or conduits, pumping stations and force main and all other construction, devices, appliances or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

***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 50% of the structure setback.

***SHORELAND.*** Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage; and 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. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

***SIGNIFICANT HISTORIC SITE.*** Any archaeological site, standing structure or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of M.S. § 7.08, as it may be amended from time to time. A ***HISTORIC 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



## **Shoreland Management**

the State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be ***SIGNIFICANT HISTORIC SITES***.

***STEEP SLOPE.*** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this chapter. Where specific information is not available, ***STEEP SLOPES*** are lands having average slopes over 12%, as measured over horizontal distances of 50 feet or more, that are not bluffs.

***STRUCTURE.*** Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles and other supporting facilities.

***SUBDIVISION.*** Land that is divided for the purpose of sale, rent or lease, including planned unit developments.

***SURFACE WATER-ORIENTED COMMERCIAL USE.*** The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts and restaurants with transient docking facilities are examples of the use.

***TOE OF THE BLUFF.*** The lower point of a 50-foot segment with an average slope exceeding 18%.

***TOP OF THE BLUFF.*** The higher point of a 50-foot segment with an average slope exceeding 18%.

***VARIANCE.*** The same as that term is defined or described in M.S. § 462.357, Subd. 6, as it may be amended from time to time.

***WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY.*** A small, above ground building or other improvement, except stairways, fences, docks and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of the structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

***WETLAND.*** A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39, 1971 edition.  
(Ord. 180, passed 12-13-93)

## **§ 151.09 ADMINISTRATION.**

### ***(A) Permits required.***

(1) A permit is required for the construction of buildings or building additions, and including such related activities as construction of decks and signs, the installation and/or alteration of sewage treatment systems and those grading and filling activities not exempted by this section. Application for a permit shall be made to the Clerk-Administrator-Treasurer on the forms provided. The application shall

### **Shoreland Management**

include necessary information so that the Clerk-Administrator-Treasurer can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

(2) A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by § 151.42, shall be reconstructed or replaced in accordance with the provisions of this chapter.

(B) *Certificate of zoning compliance.* The Clerk-Administrator-Treasurer shall issue a certificate of zoning compliance or each activity requiring a permit as specified in division (A) above. This certificate will specify that the use of land conforms to the requirements of this chapter. Any use, arrangement or construction at variance with that authorized by permit shall be deemed a violation of this chapter and shall be punishable as provided in § 151.05.

(C) *Variances.*

(1) Variances may only be granted in accordance with M.S. § 462.357, Subd. 6, as it may be amended from time to time, as applicable. A variance may not circumvent the general purposes and intent of this chapter. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the Board of Adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations and the characteristics of development on adjacent properties.

(2) The Board of Adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. 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 required in division (D) below shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(3) For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

(D) *Notifications to the Department of Natural Resources.*

(1) Copies of all notices of any public hearings to consider variances, amendments or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

(2) A copy of approved amendments and subdivisions/plats and final decisions granting 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.  
(Ord. 180, passed 12-13-93)

## **Shoreland Management**

### ***CLASSIFICATION SYSTEM AND LAND USE DISTRICTS***

#### **§ 151.20 CLASSIFICATION SYSTEM.**

(A) The public waters of the city have been classified below consistent with the criteria found in Minn. Rules part 6120.3300, as they may be amended from time to time, and the “Protected Waters Inventory Map for Grant County, Minnesota.”

(B) The shoreland area for the waterbodies shall be as listed by the Council and as shown on the official zoning map.

(Ord. 180, passed 12-13-93)

#### **§ 151.21 DISTRICT DESCRIPTIONS.**

(A) The land use districts in division (B) below and the delineation of a land use district’s boundaries on the official zoning map must be consistent with the goals, policies and objectives of the comprehensive land use plan, when available, and the following criteria, considerations and objectives.

(1) General considerations and criteria for all land uses:

- (a) Preservation of natural areas;
- (b) Present ownership and development of shoreland areas;
- (c) Shoreland soil types and their engineering capabilities;
- (d) Topographic characteristics;
- (e) Vegetative cover;
- (f) In-water physical characteristics, values and constraints;
- (g) Socioeconomic development needs and plans as they involve water and related land resources;
- (h) Recreational use of the surface water;
- (i) Road and service center accessibility;
- (j) The land requirements of industry which, by its nature, requires location in shoreland areas; and
- (k) The necessity to preserve and restore certain areas having significant historical or ecological value.

(2) Factors and criteria for planned unit developments:

## Shoreland Management

- (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 lands for the planned unit development approach;
- (d) Level of current development in the area; and
- (e) Amounts and types of ownership of undeveloped lands.

(B) The land use districts provided below and the allowable land uses therein for the given classifications of waterbodies, shall be properly delineated on the official zoning map for the shorelands of the community. These land use districts are in conformance with the criteria specified in Minn. Rules part 6120.3200, subpart 3, as they may be amended from time to time:

- (1) Land use districts for lake:

	<i>General Development Lakes</i>	<i>Recreational Development Lakes</i>	<i>Natural Environment Lakes</i>
<b>Special Protection District Uses</b>			
Forest management	P	P	P
Sensitive resource management	P	P	P
Agricultural cropland and pasture	P	P	P
Agricultural feedlots	C	C	C
Parks and historic sites	C	C	C
Extractive use	C	C	C
Single residential	C	C	C
Mining of metallic minerals and peat	P	P	P
<b>Residential District Uses</b>			
Single residential	P	P	P
Semipublic	C	C	C

## Shoreland Management

Paris and historic sites	C	C	C
Extractive use	C	C	C
Duplex, triplex, quad residential	P	P	C
Forest management	P	P	P
Mining of metallic minerals and peat	P	P	P
<b>High Density Residential District Uses</b>			
Residential planned unit developments	C	C	C
Single residential	P	P	P
Surface water-oriented commercial*	C	C	C
Parks and historic sites	C	C	C
Duplex, triplex, quad residential	P	P	P
Forest management	P	P	P
<b>Water-Oriented Commercial District Uses</b>			
Surface water-oriented commercial	P	P	C
Commercial planned unit development**	C	C	C
Public, semipublic	C	C	C
Parks and historic sites	C	C	C
Forest management	P	P	P
<b>General Use District Uses</b>			
Commercial	P	P	C
Commercial planned unit development**	C	C	C
Industrial	C	C	N
Public, semipublic	P	P	C
Extractive use	C	C	C
Parks and historic sites	C	C	C

## Shoreland Management

Forest management	P	P	P
Mining of metallic minerals and peat	P	P	P
<b>NOTES TO TABLE:</b> * - As accessory to a residential planned unit development. ** - Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of §§ 151.85 through 151.91 are satisfied.			

(2) Land use districts for rivers and streams:

	<i>Remote</i>	<i>Forested</i>	<i>Transition</i>	<i>Agricultural</i>	<i>Urban</i>	<i>Tributary</i>
<b>Special Protection District Uses</b>						
Forest management	P	P	P	P	P	P
Sensitive resource management	P	P	P	P	P	P
Agricultural cropland and pasture	P	P	P	P	P	P
Agricultural feedlots	C	C	C	C	C	C
Parks and historic sites	C	C	C	C	C	C
Extractive use	C	C	C	C	C	C
Single residential	C	C	C	C	C	C
Mining of metallic minerals and peat	P	P	P	P	P	P
<b>Residential District Uses</b>						
Single residential	P	P	P	P	P	P
Semipublic	C	C	C	C	C	P
Parks and historic sites	C	C	C	C	C	P
Extractive uses	C	C	C	C	C	C
Duplex, triplex and quad residential	C	C	C	C	P	C

## Shoreland Management

Forest management	P	P	P	P	P	P
Mining of metallic minerals and peat	P	P	P	P	P	P
<b>High Density Residential Uses</b>						
Residential planned unit developments	C	C	C	C	C	C
Single residential	P	P	P	P	P	P
Surface water-oriented commercials	C	C	C	C	C	C
Semipublic	C	C	G	C	C	C
Parks and historic sites	C	C	C	C	C	C
Duplex, triplex, quad residential	P	P	P	P	P	P
Forest management	P	P	P	P	P	P
<b>Water-Oriented Commercial Uses</b>						
Surface water-oriented commercial	C	C	C	C	C	C
Commercial planned unit developments*	C	C	C	C	C	C
Public, semipublic	C	C	C	P	P	P
Parks and historic sites	C	C	C	C	C	C
Forest management	P	P	P	P	P	P
<b>General Use District Uses</b>						
Commercial	C	C	C	C	P	C
Commercial planned unit development**	C	C	C	C	C	C
Industrial	N	C	N	N	C	C
Public, semipublic	C	C	C	C	P	C
Extractive use	C	C	C	C	C	C
Parks and historic sites	C	C	C	C	C	C

## Shoreland Management

Forest management	P	P	P	P	P	P
Mining of metallic minerals and peat	P	P	P	P	P	P
<b>NOTES TO TABLE:</b> * - As accessory to a residential planned unit development. ** - Limited expansion of a commercial planned unit development involving up to six additional dwelling units or rises may be allowed as a permitted use provided the provisions of §§ 151.85 through 151.91 are satisfied.						

(C) (1) The land use districts adopted herein, as they apply to shoreland areas and their delineated boundaries on the official zoning map, are not consistent with the land use district designation criteria specified in division (B) herein. These inconsistent land use district designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the official zoning map or to modify the boundary of an existing land use district shown on the official zoning map.

(2) When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:

(a) *Lakes*. When a revision to a land use district designation on a lake is considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this chapter on the lake must be revised to make them substantially compatible with the framework in divisions (A) and (B) above.

(b) *Rivers and streams*. When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this chapter must be revised to make them substantially compatible with the framework in divisions (A) and (B) above. If the same river classification is contiguous for more than a five-mile segment, only the shoreland for a distance of two and one-half miles upstream and downstream, or to the class boundary if closer, need be evaluated and revised.

(3) When an interpretation question arises about whether a specific land use fits within a given “use” category, the interpretation shall be made by the Board of Adjustment. When a question arises as to whether a land use district’s boundaries are properly delineated on the official zoning map, this decision shall be made by the city.

(4) When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner will only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The city will direct the Clerk-Administrator-Treasurer to provide additional information for this waterbody as is necessary to satisfy divisions (C)(1) and (2) above.

(5) The city must make a detailed finding of fact and conclusion when taking final action that this revision, and the upgrading of any inconsistent land use district designations on the waterbody, are consistent with the enumerated criteria and use provisions of this section.

(Ord. 180, passed 12-13-93)



## Shoreland Management

### ***ZONING AND WATER SUPPLY/SANITARY PROVISIONS***

#### **§ 151.35 LOT AREA AND WIDTH STANDARDS.**

The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the date of enactment of this chapter for the lake and river/stream classifications are the following:

(A) Unsewered lakes:

(1) Natural environment:

	<i>Riparian Lots</i>		<i>Nonriparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

(2) Recreational development:

	<i>Riparian Lots</i>		<i>Nonriparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490

## Shoreland Management

### (3) General development:

	<i>Riparian Lots</i>		<i>Nonriparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490

### (B) Sewered lakes:

#### (1) Natural environment:

	<i>Riparian Lots</i>		<i>Nonriparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

#### (2) Recreational development:

	<i>Riparian Lots</i>		<i>Nonriparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245

## Shoreland Management

### (3) General development:

	<i>Riparian Lots</i>		<i>Nonriparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

(C) There is no minimum lot size requirements for rivers and streams. The lot width standards for single, duplex, triplex and quad residential developments for the six river/stream classifications are:

					<i>Urban and Tributary</i>	
	<i>Remote</i>	<i>Forested</i>	<i>Transition</i>	<i>Agricultural</i>	<i>No Sewer</i>	<i>Sewer</i>
Single	300	200	250	150	100	75
Duplex	450	300	375	225	150	115
Triplex	600	400	500	300	200	150
Quad	750	500	625	375	250	190

(D) (1) Residential subdivisions with dwelling unit densities exceeding those in the tables in divisions (A)(2) and (3) can only be allowed if designed and approved as residential planned unit developments under §§ 151.85 through 151.91. Only land above the ordinary high water level of public waters can be used to meet lot area standards and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in division (A)(2) above can only be used if publicly-owned sewer system service is available to the property.

(2) Subdivisions of duplexes, triplexes and quads on natural environment lakes must also meet the following standards.

(a) Each building must be set back at least 200 feet from the ordinary high water level.

(b) Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building.

(c) Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building.

(d) No more than 25% of a lake's shoreline can be in duplex, triplex or quad developments.

(3) One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in divisions (A) through (C) above, provided the following standards are met.

## Shoreland Management

(a) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit.

(b) A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height.

(c) A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

(4) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards.

(a) They must meet the width and size requirements for residential lots and be suitable for the intended uses of controlled access lots.

(b) If docking, mooring or over-water storage of more than six watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

<i>Controlled Access Lot Frontage Requirements</i>	
<i>Ratio of Lake Size to Shore Length (Acres/Mile)</i>	<i>Required Increase in Frontage (Percent)</i>
Less than 100	25
100 to 200	20
201 to 300	15
301 to 400	10
Greater than 400	5

(c) They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.

(d) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions. (Ord. 180, passed 12-13-93)

## Shoreland Management

### § 151.36 PLACEMENT, DESIGN AND HEIGHT OF STRUCTURES.

(A) (1) When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where 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 setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.

(2) Structures shall be located as follows:

(a) Structure and on-site sewage system setbacks (in feet) from ordinary high water level:

	Setbacks*		
Classes of Public Waters	Structures		Sewage Treatment System
	Unsewered	Sewered	
Lakes			
Natural environment	150	150	150
Recreational development	100	75	75
General development	75	50	50
Rivers			
Remote	200	200	
Forested and transition	150	150	

## Shoreland Management

Agriculture, urban and tributary	100	50	
<b>NOTE TO TABLE:</b> * - One water-oriented accessory structure designed in accordance with division (B)(2) hereof may be set back a minimum ten feet from the ordinary high water level.			

(b) The following additional setbacks apply, regardless of the classification:

<i>Setback From</i>	<i>Setback (In Feet)</i>
Top of bluff	30
Unplatted cemetery	50
Right-of-way line of federal, state or county highway	50
Right-of-way line of town road, public street or other roads or streets not classified	20

(c) Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(d) Uses without water-oriented needs 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 normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(B) (1) Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

(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;

(b) For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available; and (If data are not available, by placing the lowest floor at least three feet above the ordinary high water level or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minn. Rules parts 6120.5000 to 6120.6200, as they may be amended from time to time, governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities.)

(c) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this section if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

(2) Each lot may have one water-oriented accessory structure not meeting the normal structure setback in division (A) above if this water-oriented accessory structure complies with the following provisions.

## **Shoreland Management**

(a) The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point.

(b) The setback of the structure or facility from the ordinary high water level must be at least ten feet.

(c) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.

(d) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.

(e) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.

(f) As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

(3) 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 and lifts 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 open-space recreational properties 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 open-space recreational properties 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.

(f) Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas; provided that the dimensional and performance standards of divisions (B)(3)(a) through (e) above are complied with in addition to the requirements of Minn. Rules Ch. 1340, as it may be amended from time to time.

## **Shoreland Management**

(4) No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

(5) (a) The Clerk-Administrator-Treasurer must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures or other improvements on steep slopes.

(b) When determined necessary, conditions must be attached to issued permits 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.

(C) All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

(Ord. 180, passed 12-13-93) Penalty, see § 10.99

### **§ 151.37 SHORELAND ALTERATIONS.**

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping and protect fish and wildlife habitat.

(A) (1) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by § 151.38 are exempt from the vegetation alteration standards that follow.

(2) Removal or alteration of vegetation, except for agricultural and forest management uses, as regulated in § 151.40, is allowed subject to the following standards:

(a) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

(b) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site 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 that:

1. The screening of structures, vehicles or other facilities, as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

2. Along rivers, existing shading of water surfaces is preserved; and

3. The above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased or pose safety hazards.



## **Shoreland Management**

(B) (1) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems and driveways.

(2) Public roads and parking areas are regulated by § 151.38.

(3) Notwithstanding divisions (B)(1) and (2) above, a grading and filling permit will be required for:

(a) The movement of more than ten cubic yards of material on steep slopes or within shore or bluff impact zones; and

(b) The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

(4) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

(a) 1. Grading or filling in any type 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:

a. Sediment and pollutant trapping and retention;

b. Storage of surface runoff to prevent or reduce flood damage;

c. Fish and wildlife habitat;

d. Recreational use;

e. Shoreline or bank stabilization; and

f. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals or others.

2. This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews or approvals by other local, state or federal agencies such as a watershed district, the Minnesota Department of Natural Resources or the United States Army Corps of Engineers. The applicant will be so advised.

(b) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

(c) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage and a permanent vegetation cover must be established as soon as possible.

### **Shoreland Management**

(d) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.

(e) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.

(f) Fill or excavated material must not be placed in a manner that creates an unstable slope.

(g) 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 30% or greater.

(h) Fill or excavated material must not be placed in bluff impact zones.

(i) Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under M.S. § 105.42, as it may be amended from time to time.

(j) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.

(k) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level and the height of the riprap above the ordinary high water level does not exceed three feet.

(5) Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters. (Ord. 180, passed 12-13-93)

### **§ 151.38 PLACEMENT AND DESIGN OF ROADS AND THE LIKE.**

(A) (1) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters.

(2) Documentation must be provided by a qualified individual that all roads and parking areas 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.

(B) (1) 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.

(2) If no alternatives exist, they may be placed within these areas and must be designed to minimize adverse impacts.

(C) Public and private watercraft access ramps, approach roads and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this division are met. For private facilities, the grading and filling provisions of § 151.37 must be met. (Ord. 180, passed 12-13-93)

## **Shoreland Management**

### **§ 151.39 STORMWATER MANAGEMENT.**

The following general and specific standards shall apply:

(A) (1) When possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge to public waters.

(2) 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 or methods used to retain sediment on the site.

(3) 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 may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and manmade materials and facilities.

(B) (1) Impervious surface coverage of lots must not exceed 25% of the lot area.

(2) 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 districts.

(3) New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(Ord. 180, passed 12-13-93)

### **§ 151.40 COMMERCIAL, INDUSTRIAL AND THE LIKE; EXTRACTIVE USES AND MINING.**

(A) (1) Surface water-oriented commercial uses and industrial, public or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

(a) In addition to meeting impervious coverage limits, setbacks and other zoning standards in this chapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.

(b) 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.

(c) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards.

1. No advertising signs or supporting facilities for signs may be placed in or upon

## Shoreland Management

public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff.

2. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

3. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

(2) Uses without water-oriented needs 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 normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(B) (1) General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

(2) Animal feedlots must meet the following standards:

(a) New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins.

(b) Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

(C) The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Non-point Source Pollution Assessment Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

(D) (1) *Site development and restoration plan.* An extractive use site development and restoration plan must be developed, approved and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion and must clearly explain how the site will be rehabilitated after extractive activities end.

(2) *Setbacks for processing machinery.* Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

## **Shoreland Management**

(E) Mining of metallic minerals and peat, as defined in M.S. §§ 93.44 to 93.51, as they may be amended from time to time, shall be a permitted use provided the provisions of M.S. §§ 93.44 to 93.51, as they may be amended from time to time, are satisfied.

(Ord. 180, passed 12-13-93)

### **§ 151.41 CONDITIONAL USES.**

(A) Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures and criteria and conditions for review of conditional uses established community-wide.

(B) The following additional evaluation criteria and conditions apply within shoreland areas:

(1) *Evaluation criteria.* A thorough evaluation of the waterbody and the topographic, vegetation and sod conditions on the site must be made to ensure:

(a) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

(b) The visibility of structures and other facilities as viewed from public waters is limited;

(c) The site is adequate for water supply and on-site sewage treatment; and

(d) The types, uses and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

(2) *Conditions attached to conditional use permits.* The city, upon consideration of the criteria listed above and the purposes of this chapter, shall attach conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this chapter. The conditions may include, but are not limited to the following:

(a) Increased setbacks from the ordinary high water level;

(b) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

(c) Special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas and vehicle parking areas.

(Ord. 180, passed 12-13-93)

### **§ 151.42 WATER SUPPLY; SEWAGE TREATMENT.**

(A) Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the State Department of Health and the State Pollution Control Agency.

(B) Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows.

## **Shoreland Management**

(1) Publicly-owned sewer systems must be used where available.

(2) All private sewage treatment systems must meet or exceed the State Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Minn. Rules Chapter 7080," a copy of which is hereby adopted by reference and declared to be a part of this chapter.

(3) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in § 151.36.

(4) (a) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in this division (B). If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

(b) Evaluation criteria:

1. Depth to the highest known or calculated ground water table or bedrock;
2. Soil conditions, properties and permeability;
3. Slope; and
4. The existence of lowlands, local surface depressions and rock outcrops;

(5) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with § 151.56.

(Ord. 180, passed 12-13-93)

## ***NONCONFORMITIES***

### **§ 151.55 GENERAL.**

All legally established nonconformities as of the date of this chapter may continue, but they will be managed according to applicable state statutes and other regulations of the community for the subjects of alterations and additions, repair after damage, discontinuance of use and intensification of use, except that the following standards will also apply in shoreland areas.

(Ord. 180, passed 12-13-93)

### **§ 151.56 CONSTRUCTION ON LOTS OF RECORD.**

(A) (1) Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of § 151.35 may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in

### **Shoreland Management**

separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time and sewage treatment and setback requirements of this chapter are met.

(2) A variance from setback requirements must be obtained before any use, sewage treatment system or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

(B) If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of § 151.35, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of § 151.35 as much as possible.  
(Ord. 180, passed 12-13-93)

### **§ 151.57 ADDITIONS OR EXPANSIONS TO STRUCTURES.**

(A) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height and other requirements of §§ 151.35 through 151.42. Any deviation from these requirements must be authorized by a variance pursuant to § 151.09(C).

(B) 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 and standards are met:

(1) The structure existed on the date the structure setbacks were established;

(2) 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;

(3) The deck encroachment toward the ordinary high water level does not exceed 15% of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and

(4) The deck is constructed primarily of wood and is not roofed or screened.

(Ord. 180, passed 12-13-93)

### **§ 151.58 SEWAGE TREATMENT SYSTEMS.**

(A) A sewage treatment system not meeting the requirements of § 151.42 must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

(B) (1) The governing body has, by formal resolution, notified the Commissioner of its program to identify nonconforming sewage treatment systems.

### **Shoreland Management**

(2) The city will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed two years.

(3) Sewage systems installed according to all applicable local shoreland management standards adopted under M.S. § 105.485, as it may be amended from time to time, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits or other deep disposal methods or systems with less soil treatment area separation above groundwater than required by Minn. Rules Chapter 7080 for on-site sewage treatment systems, shall be considered nonconforming.

(Ord. 180, passed 12-13-93)

### ***SUBDIVISION/PLATTING PROVISIONS***

#### **§ 151.70 LAND SUITABILITY.**

(A) Each lot created through subdivision, including planned unit developments authorized under §§ 151.85 through 151.91 must be suitable in its natural state for the proposed use with minimal alteration.

(B) Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites or any other feature of the natural land likely to be harmful to the health, safety or welfare of future residents of the proposed subdivision or of the community.

(Ord. 180, passed 12-13-93)

#### **§ 151.71 CONSISTENCY WITH OTHER CONTROLS.**

Subdivisions must conform to all official controls of the community. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly-owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with §§ 151.36 and 151.151.42 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of § 151.35, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

(Ord. 180, passed 12-13-93)

#### **§ 151.72 INFORMATION REQUIREMENTS.**

(A) Sufficient information must be submitted by the applicant for the community to make a determination of land suitability.

(B) The information shall include at least the following:



## **Shoreland Management**

(1) Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;

(2) The surface water features required in M.S. § 505.02(1), as it may be amended from time to time, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

(3) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests or other methods;

(4) 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;

(5) Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and

(6) 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.  
(Ord. 180, passed 12-13-93)

### **§ 151.73 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.  
(Ord. 180, passed 12-13-93)

### **§ 151.74 PLATTING.**

(A) All subdivisions that create five or more lots or parcels that are two and one-half acres or less in size shall be processed as a plat in accordance with M.S. Ch. 505, as it may be amended from time to time.

(B) No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

(Ord. 180, passed 12-13-93)

### **§ 151.75 CONTROLLED ACCESS OR RECREATIONAL LOTS.**

Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in § 151.38.

(Ord. 180, passed 12-13-93)

## **Shoreland Management**

### ***PLANNED UNIT DEVELOPMENTS***

#### **§ 151.85 TYPES PERMISSIBLE.**

(A) Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites or conversions of existing buildings and land.

(B) The land use districts in which they are an allowable use are identified in the land use district descriptions in § 151.21 and the official zoning map.  
(Ord. 180, passed 12-13-93)

#### **§ 151.86 PROCESSING.**

Planned unit developments must be processed as a conditional use, except that an expansion to an existing commercial PUD involving six or less new dwelling units or sites since the date this chapter was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in § 151.89. Approval cannot occur until the environmental review process is complete.  
(Ord. 180, passed 12-13-93)

#### **§ 151.87 APPLICATION.**

The applicant for a PUD must submit the following documents prior to final action being taken on the application request.

(A) (1) A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems, where public systems will not be provided, and topographic contours at ten-foot intervals or less.

(2) When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial or a combination of the two.

(B) A property owners association agreement (for residential PUDs) with mandatory membership and all in accordance with the requirements of § 151.90.

(C) Deed restrictions, covenants, permanent easements or other instruments that:

(1) Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft and construction of commercial buildings in residential PUDs; and

(2) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in § 151.90.

## Shoreland Management

(D) When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.

(E) Those additional documents as requested by the city that are necessary to explain how the PUD will be designed and will function.

(Ord. 180, passed 12-13-93)

### § 151.88 SITE “SUITABLE AREA” EVALUATION.

Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in § 151.89.

(A) The project parcel must be 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:

<i>Shoreland Tier Dimensions</i>		
	<i>Unsewered (Feet)</i>	<i>Sewered (Feet)</i>
General development lakes, first tier	200	200
General development lakes, second and additional tiers	267	200
Recreational development lakes	267	267
Natural environment lakes	400	320
All river classes	300	300

(B) (1) The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs or land below the ordinary high water level of public waters.

(2) This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

(Ord. 180, passed 12-13-93)

### § 151.89 RESIDENTIAL AND COMMERCIAL DENSITY EVALUATION.

(A) The procedures for determining the “base” density of a PUD and density increase multipliers are as follows.

(B) Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

(1) Residential PUD “base” density evaluation:

## Shoreland Management

(a) The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier.

(b) Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density and suitability analyses herein and the design criteria in § 151.90.

### (2) Commercial PUD “base” density evaluation:

(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 need not include decks, patios, stoops, steps, garages or porches and basements unless they are habitable space.)

(b) Select the appropriate floor area ratio from the following table:

<b><i>Commercial Planned Unit Development Floor Area Ratios* Public Waters Classes</i></b>			
<b><i>Average Unit Floor Area (Square Feet)*</i></b>	<b><i>Sewered General Development Lakes; First Tier on Unsewered General Development Lakes; Urban, Agricultural, Tributary River Segments</i></b>	<b><i>Second and Additional Tiers on Unsewered General Development Lakes; Recreational Development Lakes; Transition and Forested River Segments</i></b>	<b><i>Natural Environment Lakes and Remote River Segments</i></b>
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1, 000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038

## Shoreland Management

### **NOTE TO TABLE:**

\* - 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 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

(c) Multiply the suitable 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 total floor, area by tier computed in division (B)(2)(c) above by the average inside living area size determined in division (B)(2)(a) above; and (This yields a base number of dwelling units and sites for each tier.)

(e) Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria in § 151.90.

### (3) Density increase multipliers:

(a) Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in §§ 151.35 through 151.42 are met or exceeded and the design criteria in § 151.90 are satisfied. The allowable density increases in division (B)(3)(b) below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50% greater than the minimum setback or the impact on the waterbody is reduced an equivalent amount through topography or additional means acceptable to the local unit of government and the setback is at least 25% greater than the minimum setback.

(b) Allowable dwelling unit or dwelling site density increases for residential or commercial planned unit developments:

<i>Density Evaluation Tiers</i>	<i>Maximum Density Increase within Each Tier (Percent)</i>
First	50
Second	100
Third	200
Fourth	200
Fifth	200

(Ord. 180, passed 12-13-93)

## **§ 151.90 MAINTENANCE AND DESIGN CRITERIA.**

(A) (1) Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development:

## **Shoreland Management**

(2) Deed restrictions, covenants, permanent easements, public dedication and acceptance or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

- (a) Commercial uses prohibited (for residential PUDs);
  - (b) Vegetation and topographic alterations other than routine maintenance prohibited;
  - (c) Construction of additional buildings or storage of vehicles and other materials prohibited;
- and
- (d) Uncontrolled beaching of watercraft prohibited.

(3) Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners' association with the following features.

- (a) Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers.
- (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.

(B) Planned unit developments must contain open space meeting all of the following criteria.

- (1) At least 50% of the total project area must be preserved as open space.
- (2) Dwelling units or sites, road rights-of-way or land covered by road surfaces, parking areas or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space.
- (3) Open space must include areas with physical characteristics unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries.
- (4) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites by guests staying in commercial dwelling units or sites and by the general public.
- (5) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
- (6) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities.
- (7) The appearance of open space areas, including topography, vegetation and allowable uses,

### **Shoreland Management**

must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance or other equally effective and permanent means.

(8) The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least 50% of the shore impact zone area of existing developments or at least 70% of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUDs, at least 50% of the shore impact zone must be preserved in its natural state.

(C) Erosion control and stormwater management erosion control and stormwater management plans must be developed and the PUD must:

(1) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction; and (This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.)

(2) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25% of the tier area, except that for commercial PUDs 35% impervious surface coverage be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with § 151.37.

(D) Centralization and design of facilities and structures must be done according to the following standards:

(1) Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. 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 and §§ 151.36 and 151.42. On-site sewage treatment systems must be located on the most suitable areas of the development and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system or each sewage system.

(2) Dwelling units or sites must be clustered. into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above, the surface water features and maximum height. Setbacks from the ordinary high water level must be increased in accordance with § 151.89 for developments with density increases.

(3) Shore recreation facilities, 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 (notwithstanding existing mooring sites in an existing commercially used harbor). 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.

(4) Structures, parking areas and other facilities must be treated to reduce visibility as viewed

### **Shoreland Management**

from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

(5) Accessory structures and facilities, except water-oriented accessory structures, must meet the required principal structure setback and must be centralized.

(6) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in § 151.36 and are centralized.

(Ord. 180, passed 12-13-93)

### **§ 151.91 CONVERSIONS.**

Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met.

(A) Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

(B) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

(C) Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:

(1) Removal of extraneous buildings, docks or other facilities that no longer need to be located in shore or bluff impact zones;

(2) Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

(3) If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

(D) Existing dwelling unit or dwelling site densities that exceed standards in § 151.89 may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems or other means.

(Ord. 180, passed 12-13-93)



## **Airport Zoning**

### **CHAPTER 152: AIRPORT ZONING**

#### Section

#### ***General Provisions***

- 152.01 Purpose and authority
- 152.02 Short title
- 152.03 Definitions

#### ***District Regulations; General***

- 152.15 Airspace obstruction zoning
- 152.16 Land use safety zoning
- 152.17 Airport zoning map
- 152.18 Nonconforming uses

#### ***Administration and Enforcement***

- 152.30 Permits
- 152.31 Variances
- 152.32 Hazard marking and lighting
- 152.33 Airport Zoning Administrator
- 152.34 Airport Zoning Board of Adjustment
- 152.35 Appeals
- 152.36 Judicial review
- 152.37 Conflicts

### ***GENERAL PROVISIONS***

#### **§ 152.01 PURPOSE AND AUTHORITY.**

The Elbow Lake-Grant County Joint Airport Zoning Board, created and established by joint action of the City Council and the Board of County Commissioners, pursuant to the provisions and authority of M.S. § 360-063, as it may be amended from time to time, hereby finds and declares that:

(A) An airport hazard endangers the lives and property of users of the Elbow Lake Municipal Airport, and property or occupants of land in its vicinity, and also, if of the obstructive type, in effect reduces the size of the area available for the landing, takeoff and maneuvering of aircraft, thus tending to destroy or impair the utility of the Elbow Lake Municipal Airport and the public investments therein;

## **Airport Zoning**

(B) The creation or establishment of an airport hazard is a public nuisance and an injury to the region served by the Elbow Lake Municipal Airport;

(C) For the protection of the public health, safety, order, convenience, prosperity and general wealth, and for the promotion of the most appropriate use of land, it is necessary to prevent the creation or establishment of airport hazards;

(D) The prevention of these hazards should be accomplished, to the extent legally possible, by the exercise of the police power without compensation; and

(E) The prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds.  
(Ord. 136, passed 9-23-74)

### **§ 152.02 SHORT TITLE.**

This chapter shall be known as “Elbow Lake Municipal Airport Zoning Ordinance.” Those sections of land affected by this chapter are indicated in “Exhibit A,” which is attached to the city’s Ord. 136.  
(Ord. 136, passed 9-23-74)

### **§ 152.03 DEFINITIONS.**

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

**AIRPORT.** The Elbow Lake Municipal Airport located in Section 16, Township 129 North, Range 42 West, Grant County, Minnesota.

**AIRPORT ELEVATION.** The established elevation of the highest point on the usable landing area which elevation is established to be 1,205 feet above mean sea level.

**AIRPORT HAZARD.** Any structure or tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land which is hazardous to persons or property because of its proximity to the airport.

**DWELLING.** Any building or portion thereof designed or used as a residence or sleeping place of one or more persons.

**HEIGHT.** For the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

**LANDING AREA.** The area of the airport used for the landing, taking off or taxiing of aircraft.

**LANDING STRIP.** Any grass or turf covered area of the airport specifically designated and used for the landing and/or take-off of aircraft. This term shall have the same meaning throughout this chapter as does the term **RUNWAY**.

## **Airport Zoning**

**NONCONFORMING USE.** Any pre-existing structure, tree, natural growth or use of land which is inconsistent with the provisions of this chapter or an amendment hereto.

**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.

**RUNWAY.** Any paved surface of the airport which is specifically designated and used for the landing or take-off of aircraft.

**SLOPE.** An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude.

**STRUCTURE.** An object constructed or installed by humans, including, but without limitation buildings, towers, smoke-stacks and overhead transmission lines.

**TREE.** Any object of natural growth.

**WATER SURFACES.** The same meaning as land for the establishment of protected zones. (Ord. 136, passed 9-23-74)

### ***DISTRICT REGULATIONS; GENERAL***

#### **§ 152.15 AIRSPACE OBSTRUCTION ZONING.**

(A) In order to carry out the purposes of this chapter, the following airspace zones are hereby established: Primary Zone, Horizontal Zone, Conical Zone, Approach Zone and Transitional Zone and whose locations and dimensions are as follows:

(1) *Primary Zone.* All that land which lies directly under an imaginary primary surface longitudinally centered on a runway and extending 100 feet beyond each end of a runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of the primary surface is 500 feet.

(2) *Horizontal Zone.* All that land which lies directly under an imaginary horizontal surface 100 feet above the established airport elevation or a height of 1,305 feet above mean sea level, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is 6,000 feet.

(3) *Conical Zone.* All that land which lies directly under an imaginary conical surface extending upward and outward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance of 4,000 feet.

(4) *Approach Zone.* All that land which lies directly under an imaginary approach surface longitudinally entered on the extended centerline at each end of the existing runway. The inner edge of the

### **Airport Zoning**

approach surface is at the same width and elevation as, and coincides with, the primary surface. The approach surface inclines upward and outward at a slope of 40 to one, expanding uniformly to a width of 2,500 feet at a horizontal distance of 10,000 feet, and then continuing at the same rate of divergence to the periphery of the conical surface.

(5) *Transitional Zone.* All that land which lies directly under an imaginary transitional surface extending upward and outward at right angles to the runway centerline and the runway centerline extended at a slope of seven to one from the sides of the primary surfaces and from the sides of the approach surfaces until they intersect the horizontal surface or the conical surface.

(B) Except as otherwise provided in this chapter and except as necessary and incidental to airport operations, no structure or tree shall be constructed, altered, maintained or allowed to grow in any airspace zone created in division (A) above so as to project above any of the imaginary airspace surfaces described in division (A) hereof. Where an area is covered by more than one height limitation, the more restrictive limitations shall prevail.

(Ord. 136, passed 9-23-74)

### **§ 152.16 LAND USE SAFETY ZONING.**

(A) In order to carry out the purpose of this chapter, there are hereby created and established the following safety zone boundaries:

(1) *Safety Zone A.* All that land in the approach zones of a runway which is located within a horizontal distance of 3,000 feet from each end of the primary zone.

(2) *Safety Zone B.* All that land in the approach zones of a runway which is located within a horizontal distance of 4,500 feet from each end of the primary zone and is not included in Zone A.

(3) *Safety Zone C.* All that land which is enclosed within the perimeter of the horizontal zone and which is not included in Zone A or Zone B.

(B) (1) *Generally.* Subject at all times to the height restrictions set forth in § 152.15(B), no use shall be made of any land in any of the safety zones, defined in division (A) above, which creates or causes interference with the operation of radio or electronic facilities on the airport or with radio or electronic communications between the airport and aircraft, making it difficult for pilots to distinguish between airport lights and other lights, results in glare in the eyes of the pilots using the airport, impairs visibility in the vicinity of the airport or otherwise endangers the landing, taking off or maneuvering of aircraft.

(2) *Zone A.* Subject at all times to the height restrictions set forth in § 152.15(B) and to the general restrictions contained in division (B)(1) above, areas designated as Zone A shall contain no buildings or temporary structures, except as necessary and incidental to airport operations, and shall be restricted to those uses which will not create, attract or bring together an assembly of persons thereon. Permitted uses may include agriculture, light outdoor recreation (non-spectator), cemeteries and auto parking.

(3) *Zone B.* Subject at all times to the height restrictions set forth in § 152.15(B) and to the general restrictions contained in division (B)(1) above, areas designated as Zone B shall be used for the following purposes only:

## **Airport Zoning**

(a) For agricultural and residential purposes, provided there shall not be more than one single-family dwelling per three-acre tract of land;

(b) Any commercial or industrial use which meets the following minimum standards:

1. Each single commercial or industrial use shall not create, attract or bring together a site population that would exceed 15 times of that of the site acreage.

2. Each single commercial or industrial site shall be of a size not less than three acres.

3. Each single commercial or industrial site shall contain no more than one building per three-acre tract of land.

4. The maximum ground area to be covered by a single commercial or industrial building shall not exceed the following minimum ratios with respect to the building site area.

(c) The following uses are specifically prohibited in Zone B: churches, hospitals, schools, theaters, stadiums, hotels and motels, trailer courts, camp grounds and other places of public or semi-public assembly.

(4) *Zone C.* Zone C is subject only to the height restrictions set forth in § 152.15(B) and to the general restrictions contained in division (B)(1) above.  
(Ord. 136, passed 9-23-74)

### **§ 152.17 AIRPORT ZONING MAP.**

The several zones herein established are shown on the Elbow Lake Municipal Airport Zoning Map consisting of three sheets, prepared by Koehnlien, Lightowler, Johnson, Inc., and dated April, 1974, attached to Ord. 136 and made a part hereof, which map, together with such amendments thereto as may from time to time be made, and all notations, references, elevations, data, zone boundaries and other information thereon, shall be and the same is hereby adopted as part of this chapter.  
(Ord. 136, passed 9-23-74)

### **§ 152.18 NONCONFORMING USES.**

The regulations prescribed by this chapter shall not be constructed to require the removal, lowering or other changes or alteration of any structure or tree not conforming to the regulations as of the effective date of this chapter, or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this chapter, and is diligently prosecuted and completed within two years thereof.  
(Ord. 136, passed 9-23-74)

## ***ADMINISTRATION AND ENFORCEMENT***

## **Airport Zoning**

### **§ 152.30 PERMITS.**

(A) Except as specifically provided in divisions (A)(1) and (2) hereunder, no material change shall be made in the use of land and no structure or tree shall be erected, altered, planted or otherwise established in any zone hereby created unless a permit therefore shall have been applied for and granted by the Zoning Administrator, hereinafter provided for. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to conform to the regulations herein prescribed. If the determination is in the affirmative, the permit shall be granted.

(1) However, a permit for a tree or structure of less than 75 feet of vertical height above the ground shall not be required in the horizontal and conical zones or in approach and transitional zones beyond a horizontal distance of 4,200 feet from each end of the runway, except when the tree or structure, because of terrain, land contour or topographic features, would extend above the height limit prescribed for the respective zone.

(2) Nothing contained in this foregoing exception shall be constructed as permitting or intending to permit any construction, alteration or growth of any structure or tree in excess of any of the height limitations established by § 152.15.

(B) Before any existing use or structure may be replaced, substantially altered or repaired, or rebuilt within any zone established herein, a permit must be secured authorizing the replacement, change or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit, nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this chapter or any amendments, thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

(C) Whenever the Zoning Administrator determines that a nonconforming structure or tree has been abandoned or more than 80% torn down, physically deteriorated or decayed no permit shall be granted that would allow the structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations. Whether application is made for a permit under this division or not, the Zoning Administrator may order the owner of the abandoned or partially destroyed nonconforming structure, at his or her own expense, to lower, remove, reconstruct or equip the same in the manner necessary to conform to the provisions of this chapter. In the event the owner of the nonconforming structure shall neglect or refuse to comply with such order for ten days after receipt of written notice of the order, the Zoning Administrator may, by appropriate legal action, proceed to have the abandoned or partially destroyed nonconforming structure lowered, removed, reconstructed or equipped and assess the cost and expense thereof against the land on which the structure is or was located. Unless such an assessment is paid within 90 days from the service of notice thereof on the owner of the land, the sum shall bear interest at the rate of 8% per annum from the date the cost and expense is incurred until paid, and shall be collected in the same manner as are general taxes.

(Ord. 136, passed 9-23-74)

### **§ 152.31 VARIANCES.**

Any person desiring to erect or increase the height of any structure, permit the growth of any tree or use his or her property not in accordance with the regulations prescribed in this chapter may apply to the

### **Airport Zoning**

Board of Adjustment, hereinafter provided, for a variance from the regulations. The variances shall be allowed where it is duly found that a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and relief granted would not contrary to the public interest, but do substantial justice and be in accordance with the spirit of this chapter; provided any variance so allowed may be subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of this chapter.

(Ord. 136, passed 9-23-74)

### **§ 152.32 HAZARD MARKING AND LIGHTING.**

(A) The owner of any nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of markers and lights as shall be deemed necessary by the Zoning Administrator to indicate to the operators of aircraft in the vicinity of the airport the presence of the airport hazards. The markers and lights shall be installed, operated and maintained at the expense of the city.

(B) Any permit or variance granted by the Zoning Administrator or Board of Adjustment as the case may be, may, if the action is deemed advisable to effectuate the purpose of this chapter and be reasonable in the circumstances, so condition the permit or variance as to require the owner of the structure or tree in question, at his or her own expense, to install, operate and maintain thereon the markers and lights as may be necessary to indicate to pilots the presence of an airport hazard.

(Ord. 136, passed 9-23-74)

### **§ 152.33 AIRPORT ZONING ADMINISTRATOR.**

(A) It shall be the duty of the Elbow Lake Airport Board to administer and enforce the regulations prescribed herein. Application for permits and variances shall be made to the Chairperson of the Elbow Lake Airport Board upon a form furnished by him or her.

(B) Permit application shall be promptly considered and granted or denied by the Board.

(C) Variance applications shall be forthwith transmitted by the Elbow Lake Airport Board for action by the Board of Adjustment, hereinafter provided for.

(Ord. 136, passed 9-23-74)

### **§ 152.34 AIRPORT ZONING BOARD OF ADJUSTMENT.**

(A) The Board of Adjustment shall consist of the City Council.

(B) The Board of Adjustment shall have and exercise the following powers:

(1) To hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this chapter;

(2) To hear and decide special exceptions to the terms of this chapter upon which the Board of Adjustment, under regulations, may be required to pass; and

## **Airport Zoning**

(3) To hear and decide specific variances.

(C) (1) The Board of Adjustment shall adopt rules for its governance and procedure in harmony with the provisions of this chapter. Meetings of the Board of Adjustment shall be held at the call of the Mayor or Council member who is a member of the Airport Board and at such other times as the Board of Adjustment may determine. The Mayor or, in his or her absence, the acting Mayor may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question or, if absent or failing to vote, indicating the fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Zoning Administrator and shall be a public record.

(2) The Board of Adjustment shall make written findings of fact and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming or modifying any order, requirement, decision or determination which comes before it under the provisions of this chapter.

(3) The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision or determination of the Zoning Administrator or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter or to effect any variation in this chapter.

(Ord. 136, passed 9-23-74)

### **§ 152.35 APPEALS.**

(A) Any person aggrieved, or any taxpayer affected by any decision of the Zoning Administrator made in its administration of this chapter may appeal to the Board of Adjustment. The appeals may also be made by any governing body of a municipality, county or airport zoning board, which is the opinion that a decision of the Zoning Administrator is an improper application of this chapter as it concerns the governing body or board.

(B) All appeals hereunder must be taken within a reasonable time, as provided by the rules of the Board of Adjustment, by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

(C) (1) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reasons of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property.

(2) In such case, proceedings shall not be stayed except by order of the Board of Adjustment on notice to the Zoning Administrator and on due cause shown.

(D) (1) The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest and decide the same within a reasonable time.

(2) Upon the hearing any party may appear in person or by agent or by attorney.



## **Airport Zoning**

(E) The Board of Adjustment may, in conformity with the provisions of this chapter, reverse or affirm, in whole or in part, or modify the order, requirement, decision or determination appealed from and may make the order, requirement, decision or determination, as may be appropriate under the circumstances, and to that and shall have all the powers of the Zoning Administrator.  
(Ord. 136, passed 9-23-74)

### **§ 152.36 JUDICIAL REVIEW.**

Any person aggrieved, or any taxpayer affected by any decision of the Board of Adjustment, or any governing body of a municipality, county or airport zoning board, which is of the opinion that a decision of the Board of Adjustment is illegal may present to the appropriate county court a verified petition setting forth that the decision or action is illegal, in whole or in part, and specifying the grounds of the illegality. The petition shall be presented to the court within 30 days after the decision is filed in the office of the Board of Adjustment. The petitioner must exhaust the remedies provided in this chapter before availing himself or herself of the right to petition a court as provided by this section.  
(Ord. 136, passed 9-23-74)

### **§ 152.37 CONFLICTS.**

Where there exists a conflict between any of the regulations or limitations prescribed in this chapter and any other regulations applicable to the same area, whether the conflict with respect to the height of structures or trees, the use of land or any other matter, the more stringent limitation or regulation shall govern and prevail.  
(Ord. 136, passed 9-23-74)



## **Zoning**

### **CHAPTER 153: ZONING**

#### Section

#### ***General Provisions***

- 153.01 Title
- 153.02 Purpose
- 153.03 Legal authority
- 153.04 Compliance
- 153.05 Definitions

#### ***Zoning Use Districts***

- 153.15 Description
- 153.16 Boundaries
- 153.17 Interpretation

#### ***District Requirements***

- 153.30 Agricultural (A)
- 153.31 Residential A (RA)
- 153.32 Residential B (RB)
- 153.33 Commercial A (CA)
- 153.34 Commercial B (CB)
- 153.35 Industrial (I)
- 153.36 Commercial-Industrial (CI)

#### ***General Requirements***

- 153.50 Signs
- 153.51 Residential yard storage
- 153.52 Refuse
- 153.53 Screening
- 153.54 Landscaping
- 153.55 Parking
- 153.56 Loading and unloading
- 153.57 Architectural requirements
- 153.58 Nonconforming uses
- 153.59 Manufactured homes
- 153.60 Camp sites
- 153.61 Abandonment
- 153.62 Exemptions

## **Zoning**

### ***Administration and Enforcement***

- 153.75 Administration
- 153.76 Zoning permits
- 153.77 Appeals
- 153.78 Conditional use permits
- 153.79 Amendments and changes
- 153.80 Consistency with state law
- 153.81 Applications
- 153.82 Final actions
- 153.83 Additional extensions of time
- 153.84 Applications for subdivision approval and building permits
- Appendix A: On-Site Parking
- Appendix B: On-Site Loading and Unloading

### ***GENERAL PROVISIONS***

#### **§ 153.01 TITLE.**

This chapter from the date of its passage shall be entitled: “Zoning and Subdivision Ordinance, Elbow Lake, Minnesota”.  
(Ord. 126, passed 1-4-71)

#### **§ 153.02 PURPOSE.**

The purpose of this chapter is to promote the health safety, and general welfare of the people of the city. To this end, this chapter regulates the use and development of the incorporated area and shorelands of public waters of the city.  
(Ord. 126, passed 1-4-71)

#### **§ 153.03 LEGAL AUTHORITY.**

This chapter is enacted pursuant to the authority granted by the laws of M.S. § 379.462, as it may be amended from time to time, and in furtherance of the policies declared in M.S. Chapters 105, 115, and 116, as they may be amended from time to time.  
(Ord. 126, passed 1-4-71)

#### **§ 153.04 COMPLIANCE.**

No structure located in the city shall be erected or altered which does not comply with the regulations of this chapter, or shall any structure or premises be used for any purpose other than a use permitted by this chapter. No building permit shall be issued by any governing official for the construction of any building, structure or improvement on any land henceforth subdivided until all

## **Zoning**

requirements of this chapter have been fully complied with.  
(Ord. 126, passed 1-4-71)

### **§ 153.05 DEFINITIONS.**

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

**ACCESSORY USE or STRUCTURE.** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use of structure.

**AGRICULTURAL.** 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 for packing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

**AGRICULTURAL STRUCTURE.** Any structure existing or erected and used principally for agricultural purposes, with the exception of dwelling units.

**ALLEY.** Any strip of land publicly or privately owned, less than 24 feet in width between property lines, set aside for public vehicular access to abutting property.

**ARTERIAL STREET or HIGHWAY.** A street or highway of considerable continuity designed primarily to serve as an intercommunication link between various sectors of the area and beyond (such as from within the city to outlying areas).

**BLOCK.** The property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets or railroad right-of-ways or unsubdivided acreage.

**BOAT HOUSE.** A structure not more than one story high used for storage of boats, boat motors, boating equipment, fire jackets, gas cans, water skis, or marina equipment.

**BUILDING DRAIN.** The part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of any building and conveys the same to the building sewer.

**BUILDING LINE.** The line measured across the width of the lot at the point where the main structure is placed in accordance with setback provisions.

**BUILDING SEWER.** The part of the horizontal portion of the building drainage system extending from the building drain to its connection with the septic tank and carrying the sewage of but one building.

**CLEAR-CUTTING.** The removal of an entire stand of trees.

**COLLECTOR STREET.** A street designed to serve the internal traffic circulation of a recognized land use area which distributes and collects with "arterial streets" or "highways".

## **Zoning**

**COMMERCIAL.** Business activity of a normal wholesale or retail nature and including such travel related facilities as automobile accessory stores and gasoline filling stations, bowling alley, cafe (including drive-in eating establishments), dairy product stores, self-service laundry, liquor stores, motel, hotels, restaurant and resorts and related recreation uses.

**CROWDING POTENTIAL.** The ratio of total acreage of a water body to shore miles.

**CUL-DE-SAC.** A comparatively short street having but one end open to traffic and the other end being permanently terminated by a vehicular turnaround.

**DEVELOPMENT OBJECTIVES.** Those goals determined from time to time in plan or policy form as part of the city's comprehensive planning program that indicates how the city wishes to develop itself in line with orderly and logical direction.

**DWELLING.** A house.

**DWELLING, SINGLE-FAMILY.** A detached residence designed for/or occupied by one family only.

**DWELLING, TWO-FAMILY.** A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each.

**DWELLING, MULTIPLE-FAMILY.** A residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each.

**FAMILY.** One or more persons occupying a single housekeeping unit and using common cooking facilities; provided that, unless all members are related by blood or marriage adoption or guardianship, a **FAMILY** shall be composed only of members of a common housekeeping management unit all of the members of which have common use and access to all living and eating areas, bathrooms, and food preparation and serving areas and which is based on an intentionally structured relationship providing organization and stability.

**HOME OCCUPATION.** Any use customarily conducted entirely within a dwelling and carried on by the inhabitants therein, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

**LOT.** Land occupied or to be occupied by a building and its accessory buildings or by a dwelling group and its accessory buildings, together with the open spaces as are required under the provisions hereof, having not less than the minimum area required by this chapter for a building site in the district in which the lot is situated and having its principal frontage on a street.

**LOT DEPTH.** The distance between front and rear lot lines. The rear lot line shall be that line which abuts any alley. Where no lines of the lot abut an alley, the average of the longest sides of the lot shall be the depth. If a lot is square and no side thereof abuts on an alley, then the depth shall be the sides of the lot which run perpendicular to the front of any building existing or hereafter constructed on the lot.

**LOT WIDTH.** The distance between straight side lot lines measured at a point equidistant from the front and rear lot lines.

## **Zoning**

**MANUFACTURED 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 in it, and which complied with the manufactured home building code established by M.S. § 327.31, Subd. 3, as it may be amended from time to time. Wherever the term **SINGLE-FAMILY DWELLING** or **SINGLE-FAMILY RESIDENTIAL STRUCTURE** or a similar term is used in this chapter, that term shall include a **MANUFACTURED HOME** as defined herein.

**MANUFACTURED HOME COURT OR PARK.** A parcel of land under single ownership which has been planned and improved for the placement of a manufactured home for non-transient use.

**PARKING SPACE, ON-SITE.** An on-site parking space shall comprise not less than 189 square feet of parking stall, plus necessary maneuvering space. Space for maneuvering incidental to parking or unparking shall not encroach upon any public way. Every **ON-SITE PARKING SPACE** shall be accessible from a public way.

**SIGN.** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trade marks by which anything is publicized and such as are commonly used to designate an individual, a firm, an association, a corporation, a profession, a business or a commodity or product and which is visible from any public street and used to attract the attention of the public.

**STRUCTURE.** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, manufactured homes, walls, fences, billboards and poster panels.

**YARD.** An open space other than a court on the same lot with a building, which open space is unoccupied and unobstructed from the ground upward, except as herein provided. In measuring a **YARD**, as herein provided, the line of a building shall be deemed to mean a line parallel to the nearest lot line drawn through the point of a building or the point of a dwelling group nearest to the lot line, exclusive of canopies, eaves, fire escapes, entries, uncovered porches and landing places and the measurement shall be taken from the line of the building to the nearest lot line.

**YARD, FRONT.** A yard extending across the front of the lot between the inner side yard line and lying between the front line of the lot and the nearest line of the building.

**YARD, REAR.** A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building.

**YARD, SIDE.** A yard between the side line of the lot and the nearest line of the building and extending from the front line of the lot to the rear yard.  
(Ord. 126, passed 1-4-71; Am. Ord. 135, passed 9-17-73)

## **ZONING USE DISTRICTS**

## **Zoning**

### **§ 153.15 DESCRIPTION.**

(A) For the purposes of this chapter, the city is hereby divided into the following zoning use districts:

- (1) Agricultural (A);
- (2) Residence A (RA);
- (3) Residence B (RB);
- (4) Commercial A (CA);
- (5) Commercial B (CB);
- (6) Industrial (I); and
- (7) Commercial-Industrial (CI).

(B) A brief description of the zoning use districts is as follows:

(1) *Agricultural (A)*. Rural land lying outside the area of apparent urban development that is reserved for agricultural purposes. Provision will be made for single-family development as part of a farmstead. Passive recreational development and cemeteries would also be permitted. Provision for change of land use would be permitted subject to careful review by the Planning Commission.

(2) *Residence A (RA)*. Single-family and duplex residences at a comparatively low concentration of development (10,000 square feet per lot), together with such other uses as schools, parks, churches and certain public facilities. Provisions would also be made for customary home occupations and professional offices in the home. Residential uses permitted in the A district would also be permitted in the RA district.

(3) *Residence B (RB)*. Uses permitted in the RA district at a higher density of development (7,500 square feet per lot), with the inclusion of apartment residences.

(4) *Commercial A (CA)*. Downtown area, permitting offices and a full range of business and commercial enterprises.

(5) *Commercial B (CB)*. Highway oriented and local business service with special emphasis on planned sites with off-street parking, loading and circulation facilities.

(6) *Industrial (I)*. All industrial uses after local review to assure that the proposed industry would be protected from and compatible with neighboring uses in the same and adjoining districts. The utilization of this district is applicable to existing and proposed industrial areas. It provides for the establishment of detailed restrictions on proposed development and permits the building of an area for industrial use that possesses the character of an "industrial park;" (reservation of land, programmed provision of public facilities and guided development).

(7) *Commercial-Industrial (CI)*. This zone is intended to accommodate both CB and I uses with special emphasis on planned sites with off-street parking, loading and circulation facilities. All industrial



## **Zoning**

uses are subject to the requirements of the I district and all commercial uses are subject to the requirements of the CB district.

(Ord. 126, passed 1-4-71)

### **§ 153.16 BOUNDARIES.**

(A) The zoning use districts are as shown on the zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

(B) The boundaries of the districts shall be as shown upon the map attached to and made part of this chapter which shall be designated as the “zoning map.” The map and all notations, references and other things shown thereon shall be as much a part of this chapter as if the matters and things shown by this map were all fully described herein.

(C) The map shall be duly authenticated by the city. It shall be kept and maintained by the Clerk-Administrator-Treasurer, which copy shall be the final authority; distances not specifically indicated on the map shall be determined by the scale of the map. The official zoning map shall be registered with the County Recorder or Register of Titles. Each zoning map amendment shall also be so registered.

(D) All lands hereafter brought within the corporate limits of the city shall be considered as part of the RA district unless and until otherwise classified.

(Ord. 126, passed 1-4-71)

### **§ 153.17 INTERPRETATION.**

(A) (1) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, order, convenience, prosperity and general welfare.

(2) It is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of laws or ordinances or any rules, regulations or permits previously adopted or issued or which shall be adopted pursuant to law relating to the use of buildings or premises; nor is it intended by this chapter to interfere with or abrogate or annul easements, covenants or other agreements between parties.

(3) Where this chapter imposes a greater restriction upon the use of buildings or premises than are imposed or required by the existing provisions of law or ordinance or by the rules or regulations or by the easements, covenants or agreements, the provision of this chapter shall control.

(B) Where physical or cultural features existing on the ground are at variance with those shown on the zoning map, the Planning Commission shall interpret the district boundaries.

(Ord. 126, passed 1-4-71)

## ***DISTRICT REQUIREMENTS***

## **Zoning**

### **§ 153.30 AGRICULTURAL (A).**

#### *(A) Uses permitted.*

(1) All uses commonly classed as agricultural, with no restrictions as to operation or maintenance of vehicles or machinery as are incident to the uses; and

(2) Single-family dwellings (including manufactured homes) and their normal accessory buildings.

#### *(B) Uses by conditional use permit.*

(1) Churches, chapels, temples and synagogues including Sunday schools, convents and parish house meeting the requirements of the district;

(2) Parks, playgrounds and elementary schools;

(3) The offices of members of recognized professions, provided the professions are carried on in their respective residences;

(4) Home occupations, provided that no articles for sale shall be displayed so as to be visible from streets or roadways;

(5) Accessory buildings other than private garages and customary agricultural structures;

(6) Junior and senior high schools and incidental uses when situated on the same site or unit of property;

(7) Cemeteries; and

(8) Camp sites, resorts and manufactured home courts.

#### *(C) Height limit.* Non-agricultural structures shall not exceed a height of 35 feet.

#### *(D) Lot requirements.*

(1) No dwelling unit shall be constructed in the district on a lot of less than one acre in area or on a lot of less than 150 feet in width.

(2) Each lot shall have a front yard of not less than 30 feet.

(3) Each lot shall have a rear lot of not less than 30 feet.

(4) Each lot shall have a side yard along each side of each building; the sum of the width of the two side yards shall not be less than 30% of the width of the lot divided equally between the two side yards.

(5) In cases where an accessory structure is attached to the main building or within five feet

### **Zoning**

therefrom, it shall comply in all respects with the requirements of this chapter applicable to the main building. An accessory building, unless attached to and made a part of the main building as above provided, shall not be closer than three feet to any lot line or public right-of-way, except that the accessory buildings shall not encroach upon required front yards.

(E) *Parking requirements.* As set forth in Appendix A.

(F) *Loading and unloading requirements.* As set forth in Appendix B.  
(Ord. 126, passed 1-4-71)

### **§ 153.31 RESIDENTIAL A (RA).**

(A) *Uses permitted.*

(1) Single-family dwellings (including manufactured homes) and their normal accessory buildings;

(2) Two-family dwellings;

(3) Churches, chapels, temples and synagogues including Sunday schools, convents and parish houses meeting the requirements of the district;

(4) Parks, playgrounds and elementary schools;

(5) The offices of members of recognized professions, such as doctors of medicine and dentistry, chiropractors and engineers, lawyers and architects, provided such professions are carried on in the respective residences; and

(6) Home occupations in the residence, provided that the occupations are carried on in the main building, and provided further that not more than 25% of the floor space of the residence is used for this purpose, and that no articles for sale be displayed so as to be visible from the street.

(B) *Uses by conditional use permit.*

(1) Accessory buildings other than private garages;

(2) Hospitals or sanatoriums, philanthropic or eleemosynary institutions, except correctional institutions and animal hospitals; (Any building permitted to be used shall be set back not less than 50 feet from any lot or street line and then the appearance of the building shall be in appropriate harmony with the residential character of the area.)

(3) Junior and senior high schools and incidental uses when situated on the same site or unit of property;

(4) Cemeteries and funeral homes; and

(5) Manufactured home parks.

## **Zoning**

(C) *Height limit.* Same as specified for A districts, except as may be issued as conditional use permit.

(D) *Lot requirements.*

(1) Each dwelling unit together with its accessory buildings hereafter erected shall be located on a lot having an area of not less than 10,000 square feet and width of not less than 75 feet and depth of not less than 120 feet, except that a dwelling may be erected on a lot having less than the foregoing minimum area and width provided it existed under one ownership by virtue of a recorded plot or deed at the time of the passage of this chapter.

(2) All lots shall front on and have ingress and egress by means of a public right-of-way.

(3) All dwellings and accessory buildings on any lot shall not cover more than 30% of the area of the lot.

(4) No building shall be closer than 30 feet to the street line of which it faces; provided however, that it may observe the average setback of the residential buildings on the same side of the street and fronting there on within the same block.

(5) There shall be a side yard along each side of each building the sum of the width of which shall not be less than 30% of the width of the lot; provided that, no side yard shall be less than nine feet; and provided further, that all lots subdivided prior to the passage of this chapter shall have a side yard of not less than four feet.

(6) Each lot shall have a rear yard of not less than 25 feet in depth.

(7) Accessory buildings shall be located as set forth in division (D)(4) above.

(E) *Lot requirements exemptions.* The above lot requirements need not necessarily apply to new platted land under single ownership, which is proposed for development as a unit. The developments shall be submitted to the Planning Commission for their consideration and referral to the City Council for approval. Plans for developments shall include plans and other drawings indicating function, floor plans, elevations and typical vehicular circulation system, ingress and egress points and control, special landscape and fencing treatment along abutting land uses of a different type and the layout of adequate off-street parking and loading and unloading facilities and sewer service.

(F) *Parking requirements.* As set forth in Appendix A.

(G) *Loading and unloading requirements.* As set forth in Appendix B.  
(Ord. 126, passed 1-4-71)

### **§ 153.32 RESIDENTIAL B (RB).**

(A) *Uses permitted.*

- (1) All uses permitted in the RA zone; and
- (2) Apartment houses.

## **Zoning**

(B) *Uses by conditional use permit.* All uses by conditional use permit in the RA zone.

(C) *Height limit.* No structure shall be higher than 35 feet above grade, except as may be issued a conditional use permit.

(D) *Lot requirements.*

(1) The following minimum lot requirements shall apply to all single-family dwellings in the RB zone:

(a) Each dwelling, together with its accessory buildings, hereafter erected shall be located on a lot having an area not less than 7,500 square feet and width not less than 50 feet and depth not less than 120 feet, except that a dwelling may be erected on a lot having less than the foregoing minimum area and width provided it existed under one ownership by virtue of a recorded plat or deed at the time of the passage of this chapter.

(b) All lots shall front on and have ingress and egress by means of a public right-of-way.

(c) Lot coverage shall be the same as outlined under § 153.31(D).

(d) Setbacks shall be the same as outlined under § 153.31(D).

(e) There shall be a side yard along each side of each building the sum of the width of which shall not be less than 30% of the width of lot, provided that no side yard shall be less than five feet; and provided further that all lots subdivided prior to the passage of this chapter shall have a side yard of not less than four feet.

(f) Each lot shall have a rear yard of not less than 25 feet.

(g) Accessory buildings shall be located as set forth in § 153.31.

(2) The following minimum lot requirements shall apply to all two-family dwellings in the RB zone:

(a) Same as outlined under § 153.31, except that no provision is made for the use of lots less than the minimum dimensions; and

(b) All two-family dwellings and accessory buildings on any lot shall not cover more than 40% of the area of the lot.

(3) The following minimum lot requirements shall apply to all apartment houses (a multiple-family dwelling):

(a) For each efficiency, one bedroom and two bedroom units, 1,500 square feet of lot area is required, for each three bedroom unit, 2,000 square feet of lot area is required; and for each unit with more than three bedrooms, 2,500 square feet of lot area is required; provided that the apartment house in constructed on one level.

(b) For each efficiency, one bedroom and two bedroom units, 900 square feet of lot area is

### **Zoning**

required; and for each unit with three or more bedrooms, 1,200 square feet of lot area is required; provided that the apartment house is constructed on more than one level.

(c) No apartment building shall hereafter be erected, or, if existing, altered on a site that provides less than 10,000 square feet of lot area and an average of 75 feet of lot width for each building.

(d) All apartment houses, including accessory buildings on any lot shall not cover more than 40% of the area of the lot. Lot coverage shall be computed to include building or ground space, especially for the use of on-site automobile storage.

(e) No apartment shall be closer than 30 feet to the street line on which it faces.

(f) Each lot containing an apartment house, or several apartment houses grouped as a self-contained site arrangement, shall front on and have ingress and egress by means of a public right-of-way.

(g) All apartment houses erected on a single lot shall have a side yard of not less than 15 feet on each side; provided, however, that where several such apartment houses are grouped as a self-contained site arrangement, the minimum distance between apartment houses in the interior of the group arrangement shall not be less than one-half the height of the individual buildings, but in no case less than 15 feet and that the apartment houses located adjacent to adjoining lots shall be set back from the lots a minimum of 15 feet.

(h) Each lot shall have a rear yard of not less than 35 feet.

(i) Accessory buildings shall be located as set forth in § 153.31.

(E) *Lot requirements exemptions.* As set forth in § 153.31(E).

(F) *Parking requirements.* As set forth in Appendix A.

(G) *Loading and unloading requirements.* As set forth in Appendix B.  
(Ord. 126, passed 1-4-71; Am. Ord. 135, passed 9-17-73)

### **§ 153.33 COMMERCIAL A (CA).**

(A) *Use permitted.* All uses of a legitimate commercial nature, such as retail, wholesale, service, office, financial, recreational, professional and lodging; provided that, no industry or manufacturing shall be permitted.

(B) *Lot requirements.*

(1) No minimum lot area requirements.

(2) No percentage of lot coverage requirements.

(3) In the CA zone, no commercial building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than the average setback observed by the commercial buildings on

## **Zoning**

the same side of the street and fronting thereon within the same block. In no case, however, shall the building setback line be nearer to the center of the street on which it faces than one-half of the width of the street.

(4) No side yard is required on commercial lots in the CA zone where no openings are provided in the walls of commercial buildings adjacent to interior lot lines.

(5) Where openings are provided in the walls of commercial buildings adjacent to interior lot lines, there will be a side yard on that side of the lot not less than four feet in width.

(6) Each commercial lot in the CA zone shall have a rear yard not less than 15 feet in depth.

(C) *Loading and unloading requirements.* As set forth in Appendix B.

(D) *Height limit.* No structure shall be higher than 30 feet above grade, except as may be issued a conditional use permit.  
(Ord. 126, passed 1-4-71)

### **§ 153.34 COMMERCIAL B (CB).**

(A) *Uses permitted.* Any legitimate use the Planning Commission may recommend and the City Council approves and which will not be detrimental to the district, which will meet other specified requirements relative to the district as specified in this chapter.

(B) *Height limit.* No structure shall be higher than 30 feet above grade.

(C) *Lot requirements.*

(1) No minimum lot area requirements for commercial buildings. Residential minimums same as RA district.

(2) No percent of lot coverage restrictions.

(3) In the CB zone no building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than 50 feet, except that it may observe the average setback of the buildings in the block.

(4) Side yards in the CB zone shall be 15 feet.

(5) Each lot in the CB zone shall have a rear lot yard not less than 20 feet in depth.

(D) *Lot requirement exemptions.* As set forth in § 153.31(E).

(E) *Parking requirements.* As set forth in Appendix A.

(F) *Loading and unloading requirements.* As set forth in Appendix B.  
(Ord. 126, passed 1-4-71; Am. Ord. 135, passed 9-17-73)

## **Zoning**

### **§ 153.35 INDUSTRIAL (I).**

(A) *Uses permitted.* Manufacturing and processing uses which the Planning Commission may recommend and the City council approve under the provision of the issuance of a conditional use permit.

(B) *Height limit.* No structure shall be higher than 30 feet above grade, except as may be issued a conditional use permit.

(C) *Lot requirements.*

(1) No minimum lot area or setback requirements.

(2) No percent of lot coverage restrictions; provided, however, that the off-street parking and loading requirements of this chapter are met.

(D) *Parking requirements.* As set forth in Appendix A.

(E) *Loading and unloading requirements.* As set forth in Appendix B.  
(Ord. 126, passed 1-4-71)

### **§ 153.36 COMMERCIAL-INDUSTRIAL (CI).**

The following are permitted uses and requirements.

(A) Commercial uses as set forth in § 153.34(E) and meeting all requirements therein set forth; and

(B) Industrial uses as set forth in § 153.35 and meeting all requirements set forth in the CB zone.  
(Ord. 126, passed 1-4-71)

## ***GENERAL REQUIREMENTS***

### **§ 153.50 SIGNS.**

(A) Pursuant to the purposes of this chapter, there are certain general requirements that are not provided for in §§ 153.30 through 153.36.

(B) It is the purpose of this section to set forth these requirements.

(1) No ground sign, roof sign, wall sign, projecting sign or marquee sign shall be erected by any person until the plan has been reviewed by the Planning Commission and approved by the Council.

(2) The Planning Commission shall have authority to direct repair of signs to cause them to be in conformity with the provisions of this chapter.

(3) The following general regulations shall apply to all signs coming under the terms of this



## **Zoning**

chapter. No sign shall be permitted:

- (a) In a location which would interfere with the view of any traveler on any highway of approaching vehicles, traffic-control devices or signs for a distance of 500 feet along the highway;
  - (b) On rocks, trees or other perennial plant or any public utility pole;
  - (c) Containing a rotating beam or beam of light resembling an emergency vehicle;
  - (d) Which simulates any official, directional or warning sign erected or maintained by the state, county, municipality or other governmental subdivision or which incorporates or makes use of light simulating or resembling traffic signals or control signs;
  - (e) Which casts a distracting or confusing ray of light on to or visible from a public roadway;
  - (f) Which interferes with public utility facilities or the maintenance thereof;
  - (g) Which obstructs any window, door, fire escape, stairway or opening essential to the provision of light, air, ingress or egress from any building; and/or
  - (h) Which contains more than two surface areas or facings.
- (4) No sign, except as erected by an official unit of government for the direction of traffic or necessary public information, shall be permitted within the right-of-way of any public road.
- (5) All signs shall be constructed and maintained in a safe way and good workmanlike manner and the copy thereon shall be neat and legible. The property immediately surrounding them shall be maintained in a clean and unoffensive condition, free of unsightly growth and rubbish.
- (6) All existing signs which do not conform with the provisions of this chapter are non-conforming uses and shall comply with the provisions of § 153.58.
- (7) The following signs shall be exempt from the provisions of divisions (B)(1) and (2) hereof.
- (a) Farm product signs provided they are located within 300 feet of the farm and on the farm residence property and relate to farm products, merchandise or service sold, produced, manufactured or furnished on the farm; and provided further, that no device shall exceed 20 square feet, in area;
  - (b) Temporary signs not exceeding 12 square feet of area pertaining to the lease, hire or sale of the building or premises provided such signs are set back of the specified setback line and are no larger than 12 square feet in area;
  - (c) Directional signs provided they are of a design and meet the specifications as the County Highway Department shall impose;
  - (d) Signs which either identify personal property or residence and provided that they are affixed flat thereto and do not contain more than two square feet in area; and
  - (e) Signs or posters of a miscellaneous character which advertise temporary events;

### **Zoning**

provided, they are self-supporting and not tacked, posted, painted or otherwise affixed to walls of buildings, trees, fences or poles. The signs shall be removed within 48 hours after the culmination of the special event.

(C) All non-commercial signs of any size may be posted from August 1 in a state general election year or municipal election year until ten days following the election, and in the case of a special election, from 60 days before the special election to ten days after a special election. No non-commercial sign shall be placed on any city property or in any public right-of-way, including boulevards adjacent to city streets and shall not be exempt from the provisions of divisions (B)(1) and (2) hereof.

(Ord. 126, passed 1-4-71) Penalty, see § 10.99

### **§ 153.51 RESIDENTIAL YARD STORAGE.**

In the A, RA and RB zoning use districts, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying and recreational equipment, equipment temporarily being used on the premises, agricultural equipment and materials, if these are used or intended for use on the premises, off-street parking of passenger automobiles and pick-up trucks.

(Ord. 126, passed 1-4-71) Penalty, see § 10.99

### **§ 153.52 REFUSE.**

In all zoning use districts, all waste materials, debris, refuse or garbage shall be kept in an enclosed building or properly container designed for such purposes. The owner of vacant land shall be responsible for keeping the land free of refuse.

(Ord. 126, passed 1-4-71) Penalty, see § 10.99

### **§ 153.53 SCREENING.**

Where any business or industrial use (i.e. structure, parking or storage) is adjacent to property zoned for residential use, that business or industry shall provide appropriate screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front as determined by the Planning Commission.

(Ord. 126, passed 1-4-71)

### **§ 153.54 LANDSCAPING.**

In all zoning use districts, developed uses shall provide a landscaped yard along all streets, except as may be specially provided for unified developments. Except for driveways and access walks, the yard shall extend along the entire frontage of the lot and along both streets in the case of a corner lot.

(Ord. 126, passed 1-4-71)

### **§ 153.55 PARKING.**

## **Zoning**

(A) On-site parking areas shall be improved with a durable surface. The areas shall be so graded and drained as to dispose of all surface water accumulation within the area. These requirements shall also apply to open sales lots for cars, trucks and other equipment.

(B) A parking space shall be not less than 300 square feet of standing and maneuvering area. When application of these regulations results in a requirement of a fractional space, the fraction up to and including one-half shall be disregarded. Fractions over one-half shall count as one additional space.

(C) Required on-site parking spaces or area so devoted shall be as set forth in Appendix A.

(D) Property that constitutes required off-street parking area may not be separated through sale or other means, from the property containing the principal use for which the parking area is required.  
(Ord. 126, passed 1-4-71)

### **§ 153.56 LOADING AND UNLOADING.**

(A) Required on-site loading and unloading facilities shall be as set forth in Appendix B.

(B) Loading and unloading berths shall not be less than 15 feet in width, 30 feet in length, nor less than 15 feet in height, and shall be provided with access to a street unless provided otherwise by such means as customer or employee parking space on the same premise.  
(Ord. 126, passed 1-4-71)

### **§ 153.57 ARCHITECTURAL REQUIREMENTS.**

The location, dimensions and means of ingress and egress of loading and unloading space shall be designated upon the plans and specifications submitted for a building permit to enable the determination therefrom whether or not this provision is being reasonably complied with.  
(Ord. 126, passed 1-4-71)

### **§ 153.58 NONCONFORMING USES.**

Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair or maintenance, but if the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming use is destroyed by fire or other peril to the extent of greater than 50% of its market value, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. The city may by ordinance impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This section does not prohibit the city from enforcing an ordinance that applies to adult-only bookstores, adult-only theaters, or similar adults-only businesses, as defined by ordinance.  
(Ord. 126, passed 1-4-71)

### **§ 153.59 MANUFACTURED HOMES.**

## **Zoning**

(A) All manufactured home parks located in the city shall be licensed by the state.

(B) In their review of manufactured home parks or courts the city shall look particularly for adequate provision of the following facilities:

- (1) A continuing supply of safe and palatable water;
  - (2) Sanitary facilities and a safe method of sewage disposal;
  - (3) Electricity for artificial lighting and to serve equipment used in the manufactured home space;
  - (4) Patio or outdoor sitting space equal to 108 square feet for each manufactured home space;
  - (5) Tenant storage to the extent of 90 cubic feet of individual storage space per manufactured home space;
  - (6) Parking space equal to one space per manufactured home plus adequate on-site parking to serve the visiting public;
  - (7) Laundry drying facilities and public toilets;
  - (8) Recreational facilities;
  - (9) Management office and storage area;
  - (10) Garbage and trash disposal facilities; and
  - (11) Adequate and safe access and egress to major public roads.
- (Ord. 126, passed 1-4-71; Am. Ord. 135, passed 9-17-73)

### **§ 153.60 CAMP SITES.**

(A) No camp site shall be permitted within the city unless it has been approved and licensed by the state and granted a conditional use permit under the terms of this chapter.

(B) In their review the Planning Commission shall look particularly for the reasonable provision of the same level and type of facilities as outlined above under § 153.59.  
(Ord. 126, passed 1-4-71) Penalty, see § 10.99

### **§ 153.61 ABANDONMENTS.**

(A) No use, structure, sign, building or any other piece or article of real estate or personal property may be abandoned or permitted in any public or private place, because of disuse or neglect to become unsightly or offensive to the public.

(B) Any nonconforming use or use authorized by this chapter, when abandoned or discontinued, shall be removed or restored to as near its original state as is practicable and as consistent with the requirements

## **Zoning**

of § 153.58.

(Ord. 126, passed 1-4-71) Penalty, see § 10.99

### **§ 153.62 EXEMPTIONS.**

(A) Any citizen may make complaint to the district court for an order of compliance to this section.

(B) The penalty for such offense shall be the obligation to remove or to correct the unsightly or offensive thing or condition or remove or restore the abandoned or discontinued use within a time to be fixed by the court, or, in the discretion of the court, the same may be ordered removed or corrected and the cost thereof assessed against the owner of the property or the real estate on which the same is found to exist, together with all costs of prosecution.

(C) The following uses, being essential for the operation of any zoning use district are exempt from all the provisions of this chapter and are permitted in any district; poles, towers, wires, cables, conduits, vaults, pipelines, laterals or any other similar distributing equipment of a public utility; and provided further that fences, walls, hedges or shrubbery may be erected, placed, maintained or grown to a height not exceeding five feet unless as otherwise specified in this chapter.

(Ord. 126, passed 1-4-71)

## ***ADMINISTRATION AND ENFORCEMENT***

### **§ 153.75 ADMINISTRATOR.**

It shall be the duty of the Clerk-Administrator-Treasurer or any person authorized by the City Council to cause the provisions of this chapter to be properly enforced and to administer the same.

(Ord. 126, passed 1-4-71)

### **§ 153.76 ZONING PERMITS.**

(A) A zoning permit shall be obtained before the moving of any structure or part thereof, and for installing, converting or remodeling any structure or part thereof if it changes the outside dimensions and the cost exceeds \$100.

(B) Before a zoning permit is issued, the terms of this chapter shall be met.

(C) Application for a zoning permit shall be made to the Clerk-Administrator-Treasurer on blank forms furnished by the city. Each application for a permit to construct or alter any building shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory buildings to be erected. Application for any kind of zoning permit shall contain other information as may be deemed necessary for the proper enforcement of this chapter. The fee for a zoning permit shall be \$25, but no fee shall be charged if the proposed work will not alter the use of the property and the cost is less than \$100.

(D) The Clerk-Administrator-Treasurer shall refer the application for a zoning permit to the Planning Commission for their review prior to issuance.

## **Zoning**

(E) Prior to construction a site inspection shall be made by authorized personnel appointed by the City Council.  
(Ord. 126, passed 1-4-71; Am. Ord. 140, passed 2-10-75)

### **§ 153.77 APPEALS.**

(A) There is hereby established a Board of Adjustment and Appeals which Board shall hear any appeals from decisions of the Planning Commission. The Board of Adjustments and Appeals decisions shall be final, subject to judicial review. The City Council shall act as a Board of Adjustments and Appeals and shall meet at such time and places as is necessary to carry on the business at hand.

(B) The Board of Adjustments and Appeals must meet within 30 days after written notice has been personally served upon the Mayor. The Board shall have the powers set forth in M.S. §§ 162.359 and 462.357, Subd. 7, as it may be amended from time to time.  
(Ord. 126, passed 1-4-71)

### **§ 153.78 CONDITIONAL USE PERMITS.**

(A) A conditional use is one that may or may not be compatible with other uses in the district within which it is located. The compatibility must be judged on the basis of the particular circumstances and may require the imposing of conditions.

(B) The procedure for issuance of conditional use permits as provided for in this chapter is as follows:

(1) The applicant for a conditional use permit shall file his or her application, in writing, in the office of the Clerk-Administrator-Treasurer and pay a fee of \$5 when the application is filed. The fee shall be payable to the city.

(2) The Clerk-Administrator-Treasurer shall refer the application to the Planning Commission. The Planning Commission shall hold a public hearing on the application for a conditional use permit. A notice of the time, place and purpose of the hearing shall be published in the official newspaper at least ten days before the hearing and a similar notice shall be mailed at least ten days before the day of the hearing to each property owner situated wholly or partly within 350 feet of the property for which the application for a conditional use permit is made.

(3) The Planning Commission shall consider the application at its next regular meeting or a special meeting, held no later than ten days following notification of property owners and publication of the notice as noted in division (B)(2) above.

(4) The applicant or his or her representative shall appear before the Planning Commission and answer any questions concerning the proposed conditional use.

(5) The Planning Commission shall consider possible adverse affects of the proposed conditional use and what additional requirements may be necessary to prevent the adverse affects.

(6) The report of the Planning Commission shall be referred to the City Council and placed on

## **Zoning**

the agenda of the Council at its next regular meeting following referral from the Planning Commission.

(7) The City Council shall take action on the application after receiving the report of the Planning Commission. If it grants the conditional use permit, the City Council may impose any special conditions it considers necessary to protect the public health, safety and welfare.  
(Ord. 126, passed 1-4-71)

### **§ 153.79 AMENDMENTS AND CHANGES.**

(A) An amendment to this chapter may be initiated by the City Council, the Planning Commission or by petition of affected property owners.

(B) Any affected property owner petitioning for an amendment to this chapter shall make application, in writing, to the Clerk-Administrator-Treasurer. The application shall be accompanied by a fee of \$25 payable to the city.

(C) The County Board and Town Board of the township within the proposed amendment is located shall receive notification if within the extra territorial limits of this chapter.

(D) (1) No change shall be made until the proposed change has been referred to the Planning Commission for report thereon and an attested copy of the report has been filed with the Council.

(2) The Planning Commission shall hold a public hearing on an application for an amendment to a zoning ordinance. A notice of the time, place and purpose of the hearing shall be published in the official newspaper at least ten days before the hearing and a similar notice shall be mailed at least ten days before the day of the hearing to each property owner situated wholly or partly within 350 feet of the property to which the amendment rules.  
(Ord. 126, passed 1-4-71)

### **§ 153.80 CONSISTENCY WITH STATE LAW.**

Notwithstanding anything in this chapter to the contrary, the provisions of M.S. § 15.99, as it may be amended from time to time, and the following sections shall govern the process for making decisions under this chapter. To the extent to which these sections conflict with the provisions of M.S. § 15.99, as it may be amended from time to time, the provisions of that statute shall apply.

### **§ 153.81 APPLICATIONS.**

(A) Notwithstanding anything to the contrary in this chapter, all applications for any site plan, conditional use permit, land use permit, variance, or for any other city approval required by this chapter, or to amend this chapter, shall be made in writing on a form provided by the city, if the city has a form, to the Zoning Administrator. The Zoning Administrator is authorized to reject in writing any incomplete application within 15 business days of receipt if the application is incomplete, stating the reasons for its rejection, including what information is missing. This rejection shall be sent by first-class mail to the applicant. Every application shall contain the legal description of the property and a statement of the specific permit or action being sought. Nothing in this section shall be deemed to prevent the city from requesting additional information from the applicant upon which to base a decision.

## **Zoning**

(B) If a dispute arises over a specific fee imposed by the city, the amount of the fee must be deposited and held in escrow, and the person aggrieved by the fee may appeal to district court, as provided by M.S. § 462.361, as it may be amended from time to time. The application shall proceed as if the fee had been paid, pending a decision of the court.

### **§ 153.82 FINAL ACTIONS.**

(A) As required by M.S. § 15.99, as it may be amended from time to time, the following provisions apply to the process for approving or denying applications for a zoning amendment, site plan, conditional use permit, land use permit, variance, or any other application which requires a city approval under this chapter.

(B) The city shall take final action to approve or deny an application described above within 60 days of receiving an application, unless the application is not accepted. If the city cannot take action to approve or deny the application within 60 days of receiving the application, the Zoning Administrator is authorized before the end of the initial 60-day period, to make a one-time extension of the time for taking action by providing written notice by first-class mail to the applicant of the extension, the reasons for the extension, and its anticipated length, which may not exceed an additional 60 days unless approved by the applicant in writing.

(C) When the final action to approve or disapprove an application is to be taken by the City Council, the Planning Commission or the Board of Appeals and Adjustments, if a vote on a resolution or properly made motion to approve the application fails for any reason, the failure shall constitute a denial of the application, provided that those voting against the motion state on the record the reasons why they oppose the application. A denial of an application because of a failure to approve a resolution or motion does not preclude an immediate submission of a same or similar application.

(D) Except as provided in division (C), if the application is denied by the City Council, Planning Commission or Board of Appeals and Adjustments, whichever body has the authority to make the final decision to approve or deny an application, it must state the reasons for denial on the record and provide the applicant in writing a statement of the reasons for the denial. If this written statement is not adopted at the same time as the denial, it must be adopted at the next meeting following the denial of the application but before the expiration of the time allowed for making a decision under this section. The written statement must be consistent with the reasons stated in the record at the time of the denial. The written statement must be provided to the applicant upon adoption.

(E) If the decision to deny the request is made by the Zoning Administrator or other city official, the official must state in writing the reasons for the denial at the time the official denies the request.

### **§ 153.83 ADDITIONAL EXTENSIONS OF TIME.**

M.S. § 15.99, as it may be amended from time to time, provides for certain exceptions to the time limits established in § 153.82. These exceptions are as follows. If the provisions of M.S. § 15.99, as it may be amended from time to time are inconsistent with this section, then the provisions of that statute shall apply.



### **Zoning**

(A) The time limit in § 153.82 is extended if a state statute, federal law, or court order requires a process to occur before the city acts on the application, and the time periods prescribed in the state statute, federal law, or court order make it impossible to act on the application within 60 days. In cases described in this division, the deadline is extended to 60 days after completion of the last process required in the applicable statute, law, or order. Final approval of the city receiving an application is not considered a process for purposes of this division.

(B) The time limit in § 153.82 is also extended if: an application submitted to a state agency requires prior approval of a federal agency; an application submitted to the city, requires prior approval of a state or federal agency. In cases described in this division, the deadline for action is extended to 60 days after the required prior approval is granted.

### **§ 153.84 APPLICATIONS FOR SUBDIVISION APPROVAL AND BUILDING PERMITS.**

Sections 153.81 through 153.83 shall not apply to any request for action under the city's subdivision regulations or under M.S. § 462.358 or Ch. 505, as they may be amended from time to time. Neither shall they apply to a request for a building permit.

## Zoning

### APPENDIX A: ON-SITE PARKING

<i>Use</i>	<i>Required Spaces or Area</i>
Residential	On per dwelling unit
Churches /auditoriums**	One per six seats
Pre-schools	One per each two employees
Elementary schools	One per each two employees
Secondary schools	One per each two employees and one per each five pupils
Parks/playgrounds*	One per each two employees
Swimming pools*	One per each two employees
Public halls/community centers	Equal in number to 30% of the capacity of people
Hospitals/medical institutions*	One per each two beds and one per each staff doctor
Commercial	Three square feet of parking area for each square foot of space open to the public, but no less than 900 square feet, plus one per each three employees
Industrial*	One per each three employees and one per each managerial personnel
Commercial/industrial	Commercial buildings same as CB zone; industrial buildings same as I zone
<b>NOTES TO TABLE:</b>	
* - Adequate to serve visiting public as demonstrated to the Planning Commission.	
** - Additional required for building containing an auditorium, such as schools.	

(Ord. 126, passed 1-4-71)

**Zoning**  
**APPENDIX B: ON-SITE LOADING AND UNLOADING**

<i>Use</i>	<i>Required Berths</i>
Educational	One per each building containing 10,000 square feet* to 200,000 square feet, plus one per each additional 200,000 square feet
Religious	Same as educational above
Health/medical institutions	One per each building containing 10,000 square feet to 100,000 square feet, plus one per each additional 100,000 square feet
Recreational facilities	One per each building containing at least 10,000 square feet of building area, plus one per each additional 100,000 square feet
Commercial	One per each individual building**
Industrial	One per each building containing 10,000 square feet and two per each building containing 10,000 square feet to 100,000 square feet
Commercial/industrial	Commercial buildings, same as commercial zone; industrial buildings same as I zone
<b>NOTES TO TABLE:</b> * - Square feet represents gross floor area so measured. ** - Adequate to meet needs of the use as demonstrated to the Planning Commission.	

## **Zoning**

## **Zoning**

### **CHAPTER 154: ANTI-BLIGHT REGULATIONS**

#### Section

- 154.01 Purpose
- 154.02 Findings
- 154.03 Definitions
- 154.04 Exceptions
- 154.05 Location of sexually oriented businesses
- 154.06 Sign restrictions for sexually oriented businesses
  
- 154.99 Penalty

#### **§ 154.01 PURPOSE.**

The purpose of this chapter is to control, through zoning regulations, certain land uses that have a direct and detrimental effect on the character of the city's residential and commercial neighborhoods. The City Council specifically recognizes the sanctity and fundamental nature of free speech and does not intend to regulate or ban speech based on content.

#### **§ 154.02 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, which is adopted by reference. This chapter shall have no force and effect until the City Council accepts these recommendations by resolution of a majority of its members, using the model resolution contained in the Appendix in Chapter 115 of this code.

(A) Sexually oriented businesses have an impact on the neighborhoods surrounding them which is distinct from the impact caused by other uses.

(B) Residential and commercial neighborhoods located within close proximity to sexually oriented businesses experience the following negative impacts:

(1) Increased crime rates, particularly in sex-related crimes such as rapes, prostitution, indecent exposure and other lewd and lascivious behavior;

(2) Property values which are either diminished or fail to appreciate at the rate of other comparable properties not located in proximity to sexually oriented businesses;

## **Zoning**

- (3) Increased transiency and decreased stability of ownership;
- (4) Deteriorated neighborhood appearance from litter and graffiti;
- (5) Sex-related harassment of residents and customers by motorists and pedestrians;
- (6) A perception that the area is “unsafe”; and
- (7) Difficulty in attracting and retaining customers, employees, and desirable tenants.

(C) The adverse impacts which sexually oriented businesses have on surrounding areas diminish as the distance from the sexually oriented business increases.

(D) The adverse impacts of sexually oriented businesses are exacerbated when the uses are located near each other.

(E) The presence of liquor establishments in the immediate vicinity of sexually oriented businesses also compounds the adverse impacts on the neighborhood.

(F) Sexually oriented businesses can exert a dehumanizing influence on persons attending places of worship, children attending day care centers or schools, and people using public parks and libraries.

(G) Sexually oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area where they are located, thereby exacerbating the shortage of affordable and habitable housing for city residents.

(H) The concentration of sexually oriented businesses in one area can have a substantially detrimental effect on that area and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating: other businesses move out of the vicinity and residents flee from the area. The resulting decline in real estate values erodes the city's tax base and contributes to overall urban blight.

(I) Land-use regulations are appropriate to minimize the detrimental effects that sexually oriented businesses have on adjacent land uses.

### **§ 154.03 DEFINITIONS.**

The following words and terms shall have the following meanings when used in this section, except as provided otherwise in § 154.04:

***SEXUALLY ORIENTED BUSINESS.*** Shall include the following:

- (1) A business that meets any of the following criteria, measured on a daily, weekly, monthly, or yearly basis:
  - (a) Has more than 25% of its inventory, stock-in-trade, or publicly displayed merchandise in sexually oriented materials;

## **Zoning**

(b) 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; or

(c) Derives more than 25% of its gross revenues from sexually oriented materials; or

(2) 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.

***SEXUALLY-ORIENTED MATERIALS.*** Visual, printed, or aural materials, and other objects or devices, which:

(1) Contain, depict, simulate, or describe specified sexual activities or specified anatomical areas;

(2) Are marketed for use in conjunction with, or are primarily used only with or during, specified sexual activities; or

(3) Are designed for sexual stimulation.

***SEXUALLY-ORIENTED USE.*** Includes any of the following activities and businesses, even if the activity exists for only a short-time:

(1) ***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.

(2) ***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.

(3) ***ADULT CABARET.*** A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on:

(a) The depiction of nudity, specified sexual activities or specified anatomical areas; or

(b) The presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

(4) ***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.

(5) ***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.

(6) ***ADULT HEALTH/SPORT CLUB.*** A health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

## **Zoning**

(7) **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.

(8) **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.

(9) **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.

(10) **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.

(11) **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.

(12) **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.

(13) **ADULT NOVELTY BUSINESS.** An establishment or business that has a variety of items for sale if it meets the criteria established in the definition of “sexually oriented business,” as defined in this section.

(14) **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.

(15) **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.

**SPECIFIED ANATOMICAL AREAS.** Shall include the following:

(1) Less than completely and opaquely covered human genitals, pubic area, buttock, anus, or female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a state of sexual arousal, whether or not completely and opaquely



## **Zoning**

covered.

### ***SPECIFIED SEXUAL ACTIVITIES.*** Shall include the following:

- (1) 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;
- (2) Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;
- (3) Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;
- (4) Fondling or touching of nude human genitals, pubic regions, buttocks, or female breasts;
- (5) 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;
- (6) Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
- (7) Human excretion, urination, menstruation, or vaginal or anal irrigation.

### **§ 154.04 EXCEPTIONS.**

This section does not regulate the following:

- (A) Any material with significant literary content or social commentary;
- (B) A business where sexually oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if (1) 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 (2) each item is in an area accessible only by an employee of the business;
- (C) Any person or organization exempted under M.S. § 617.295, as it may be amended from time to time;
- (D) Any activity regulated under M.S. § 617.251, as it may be amended from time to time;
- (E) 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; and
- (F) Movies rated G, PG, PG-13, NC-17 or R.

### **§ 154.05 LOCATION OF SEXUALLY ORIENTED BUSINESSES.**

- (A) A sexually-oriented business may locate only in the CA, CB, I and CI zones.

## **Zoning**

(B) No person may operate a sexually oriented business on property, any part of which is within the area circumscribed by a circle that has a radius of 250 feet from any of the uses listed below. Distances must be measured by following a straight line, without regard to intervening structures or objects, between the closest points on the boundary lines of the property parcels where the two uses are located. This distance requirement applies to the following uses:

- (1) Property used or zoned for residential uses;
- (2) A day care facility, school, library, park, playground, state or federal wildlife area or preserve, religious institution or other public recreational facility;
- (3) Premises licensed under Chapter 112, Liquor Regulations; and
- (4) Another sexually-oriented business.

***Cross-reference:***

*Sexually Oriented Businesses, Ch. 115*

### **§ 154.06 SIGN RESTRICTIONS FOR SEXUALLY ORIENTED BUSINESSES.**

In order to protect children from exposure to lurid signs and materials, to avoid the appearance that the windows are boarded up and that the property is deteriorating, and to preserve the value of property surrounding sexually oriented businesses, the following sign regulations apply to all sexually oriented businesses. To the extent that the following provisions are inconsistent with section 300.30, the following provisions apply.

(A) All signs must be flat wall signs. No signs may be freestanding, located on the roof or contain any flashing lights, moving elements or electronically or mechanically changing messages.

(B) No merchandise, photos or pictures of the products or entertainment on the premises may be displayed in or immediately behind window areas or any other area, if they can be viewed from outside the portion of the building in which the business is located.

(C) Window areas must not be covered or made opaque in any way. No signs may be placed in a window. A sign no larger than one square foot must be placed on the main entrance door and must state, "adults only." The letters of this message must be a minimum of two inches high. The only other information on this sign may be the hours of operation.

***Cross-reference:***

*Sexually Oriented Businesses, Ch. 115*

### **§ 154.99 PENALTY.**

A violation of this section is a misdemeanor under Minnesota law and is subject to the penalties and provisions of § 10.99

## **Zoning**

### **TABLE OF SPECIAL ORDINANCES**

Table

- I. ANNEXATIONS**
- II. FRANCHISE AGREEMENTS**
- III. CONSTRUCTION; IMPROVEMENTS**
- IV. ZONING MAP CHANGES**

**Zoning**  
**Elbow Lake - Table of Special Ordinances**

## **Zoning**

**TABLE I: ANNEXATIONS**

<i><b>Ord. No.</b></i>	<i><b>Date Passed</b></i>	<i><b>Description</b></i>
38	5-1-1905	Annexation of certain property; extension of the corporate limits
141	2-10-75	Annexation of certain property

**Zoning**  
**Elbow Lake - Table of Special Ordinances**

## **Zoning**

**TABLE II: FRANCHISE AGREEMENTS**

<i><b>Ord. No.</b></i>	<i><b>Date Passed</b></i>	<i><b>Description</b></i>
67	7-29-40	Electric light and power franchise
89	4-6-53	Gas distribution franchise
90	12-7-53	Gas distribution franchise
110	6-9-67	Gas distribution franchise
123	10-6-69	Community antenna systems
157	--	Cable television franchise; repeal of Ord. 123
163	--	Cable television franchise; amendment of Ord. 157
169	--	Cable television franchise extension; repeal of Ord. 127
179	11-1-93	Transfer of a cable communications system franchise; amendment of Ord. 172
178	11-4-93	Changing the name of the franchise in cable communications system franchise; amendment of Ord. 169
--	12-6-10	Cable Communications franchise to Runestone Telecom Association

**Zoning**  
**Elbow Lake - Table of Special Ordinances**



## **Zoning**

**TABLE III: CONSTRUCTION; IMPROVEMENTS**

<i><b>Ord. No.</b></i>	<i><b>Date Passed</b></i>	<i><b>Description</b></i>
13	2-13-1889	Widening and extending Washburn Avenue
33	5-23-1900	Construction of sidewalks
36	4-10-1905	Construction of sidewalks
37	4-10-1905	Construction of sidewalks
48	6-7-26	Establishment of sewer district; construction

**CHAPTER 153: ZONING**

**Section**

***General Provisions***

- 153.001** Title
- 153.002** Purpose
- 153.003** Legal authority
- 153.004** Compliance
- 153.005** Definitions

***Zoning Use Districts***

- 153.015** Description
- 153.016** Boundaries
- 153.017** Interpretation

***District Requirements***

- 153.030** Agricultural (A), (AS)
- 153.031** Residential A (RA), (RAS)
- 153.032** Residential B (RBS)
- 153.033** Commercial (CA)
- 153.034** Commercial (CB)
- 153.035** Industrial (I)
- 153.036** Commercial-Industrial (CI)

***General Requirements - All Districts***

- 153.050** Residential yard storage
- 153.051** Refuse
- 153.052** Screening
- 153.053** Landscaping
- 153.054** Parking
- 153.055** Loading and unloading
- 153.056** Non-conforming uses
- 153.057** Mobile homes

## **Zoning**

*2004 S-I*

*57*

**Zoning  
Elbow Lake - Land Usage**

- 153.058 Camp sites
- 153.059 Abandonments
- 153.060 Exemptions

***General Requirements - Shoreland Area***

- 153.075 Sanitation standards
- 153.076 Shoreland alterations
- 153.077 Non-conforming uses
- 153.078 Planned unit development
- 153.079 Exemptions

***Subdivision Regulations  
General Provisions***

- 153.085 Purpose
- 153.086 Legal authority
- 153.087 General requirements

***Subdivision Regulations  
Procedures***

- 153.095 Pre-application meeting
- 153.096 Preliminary plat
- 153.097 Final plat

***Subdivision Regulations  
Presentation Requirements***

- 153.105 Preliminary plat
- 153.106 Final plat

***Subdivision Regulations  
Design Standards***

- 153.115 Streets
- 153.116 Easements
- 153.117 Blocks
- 153.118 Lots
- 153.119 Natural features
- 153.120 Planned unit development

## **Zoning**

### ***Subdivision Regulations Required Improvements***

- 153.135 Requirements***
- 153.136 Monuments***
- 153.137 Streets***
- 153.138 Water supply facilities***
- 153.139 Sanitary sewerage***
- 153.140 Storm drainage***
- 153.141 Street name signs***
- 153.142 Specifications***
- 153.143 Financing***
- 153.144 Dedications***

### ***Subdivision Regulations Administration***

- 153.155 Administrator***
- 153.156 Building Permits***
- 153.157 Appeals***
- 153.158 Variance***
- 153.159 Special use permits***
- 153.160 Amendments and changes***
- 153.161 Enforcement and penalties***
- 153.162 Metes and bounds description***

***Appendix A: On-Site Parking Requirements***

***Appendix B: On-Site Loading and Unloading Requirements***

***Appendix C: Absorption Area Requirements for Private Residences and Other Establishments***

## ***GENERAL PROVISIONS***

### ***153.001 TITLE.***

***This chapter shall be entitled: AZoning and Subdivision Ordinance, Elbow Lake, Minnesota@.  
(Ord. 126, passed 6-28-76)***

**<sup>1</sup> 153.002 PURPOSE.**

*The purpose of this chapter is to promote the health, safety, and general welfare of the people of the city. To this end, this chapter regulates the use and development of the incorporated area and shorelands of public waters of the city.*

*(Ord. 126, passed 6-28-76)*

**<sup>1</sup> 153.003 LEGAL AUTHORITY.**

*This chapter is enacted pursuant to the authority granted by the laws of M.S. <sup>1</sup> 379.462, as it may be amended from time to time, and in furtherance of the policies declared in M.S. Chapters 105, 115, and 116, as they may be amended from time to time.*

*(Ord. 126, passed 6-28-76)*

**<sup>1</sup> 153.004 COMPLIANCE.**

*No structure located in the city shall be erected or altered which does not comply with the regulations of this chapter, nor shall any structure or premises be used for any purpose other than a use permitted by this chapter. No building permit shall be issued by any governing official for the construction of any building, structure or improvement on any land henceforth subdivided until all requirements of this chapter have been fully complied with.*

*(Ord. 126, passed 6-28-76)*

**<sup>1</sup> 153.005 DEFINITIONS.**

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

***ACCESSORY USE or STRUCTURE.*** *A use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use of structure.*

***AGRICULTURAL.*** *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 for packing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.*

***AGRICULTURAL STRUCTURE.*** *Any structure existing or erected and used principally for agricultural purposes, with the exception of dwelling units.*

## **Zoning**

**ALLEYS.** Any strip of land publicly or privately owned, less than 24 feet in width between property lines, set aside for public vehicular access to abutting property.

**ARTERIAL STREET or HIGHWAY.** A street or highway of considerable continuity designed primarily to serve as an intercommunication link between various sectors of the area and beyond (such as from within the city to outlying areas).

**BLOCK.** The property abutting on one side of a street and lying between the two nearest intersecting or intercepting streets or railroad right-of-ways or unsubdivided acreage.

**BOAT HOUSE.** A structure not more than one story high used for storage of boats, boat motors, boating equipment, life jackets, gas cans, water skies, or marina equipment.

**BUILDING DRAIN.** The part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of any building and conveys the same to the building sewer.

**BUILDING LINE.** That line measured across the width of the lot at the point where the main structure is placed in accordance with setback provisions.

**BUILDING SEWER.** The part of the horizontal portion of the building drainage system extending from the building drain to its connection with the septic tank and carrying the sewage of but one building.

**CLEAR-CUTTING.** The removal of an entire stand of trees.

**COLLECTOR STREET.** A street designed to serve the internal traffic circulation of a recognized land use area which distributes and collects with Arterial streets or Highways.

**COMMERCIAL.** Business activity of a normal wholesale or retail nature and including such travel related facilities as automobile accessory stores and gasoline filling stations, bowling alley, cafe (including drive-in eating establishments), dairy product stores, self-service laundry, liquor stores, motel, hotels, restaurant and resorts and related recreation uses.

**CROWDING POTENTIAL.** The ratio of total acreage of a water body to shore miles.

**CUL-DE-SAC.** A comparatively short street having but one end open to traffic and the other end being permanently terminated by a vehicular turnaround.

**DEVELOPMENT OBJECTIVES.** Those goals determined from time to time in plan or policy form as part of the city's comprehensive planning program that indicates how the city wishes to develop itself in line with orderly and logical direction.

**DWELLING.** A house.

## **Zoning**

**DWELLING, SINGLE-FAMILY.** A detached residence designed for/or occupied by one family only.

**DWELLING, TWO-FAMILY.** A residence designed for/or occupied by two families only, with separate housekeeping and cooking facilities for each.

**DWELLING, MULTIPLE-FAMILY.** A residence designed for/or occupied by three or more families, with separate housekeeping and cooking facilities for each.

**ESTIMATED VALUE.** Value determined by multiplying square footage of total floor area of a structure times the most current State of Minnesota valuation data.

**FAMILY.** One or more persons occupying a single housekeeping unit and using common cooking facilities; provided that, unless all members are related by blood or marriage, no such **FAMILY** shall contain over five persons.

**FLOODPLAIN.** The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

**FLOODWAY.** The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.

**GRADING.** Changing the natural topography of the land.

**HOME OCCUPATION.** Any use customarily conducted entirely within a dwelling and carried on by the inhabitants therein, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

**INDIVIDUAL SEWAGE DISPOSAL SYSTEM.** A sewage disposal system, other than a public or community system, which receives sewage from an individual establishment. Unless otherwise indicated, the word **Asystem®** as it appears in this chapter, means **AINDIVIDUAL SEWAGE DISPOSAL SYSTEM.®**

**INDUSTRIAL.** Any activity engaged in the cleaning, servicing, testing, repair or storage of goods or products.

**LOCAL STREETS.** A street designed for access to abutting property and not intended to facilitate through traffic.

**LOT.** Land occupied or to be occupied by a building and its accessory buildings or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this chapter, having not less than the minimum area required by this chapter for a building site in the district in which such lot is situated and having its principal frontage on a street.



## **Zoning**

**LOT DEPTH.** The distance between front and rear lot lines. The rear lot line shall be that line which abuts any alley. Where no lines of the lot abut an alley, the average of the longest sides of the lot shall be the depth. If a lot is square and no side thereof abuts an alley, then the depth shall be the sides of the lot which run perpendicular to the front of any building existing or hereafter constructed on the lot.

**LOT WIDTH.** The distance between straight side lot lines measured at a point equidistant from the front and rear lot lines.

**MOBILE HOME.** A movable living unit designed for year-round occupancy.

**MOBILE HOME COURT.** A parcel of land under single ownership which has been planned and improved for the placement of mobile homes for non-transient use.

**MUNICIPALITY.** Any city.

**NON-CONFORMING USES.** Any use of land established before the effective date of a municipal ordinance which does not conform to the use restrictions of a particular zoning district. This should not be confused with substandard dimensions of a conforming use.

**NORMAL HIGH WATER MARK.** A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape.

**PARKING SPACE, ON-SITE.** An on-site parking space shall comprise not less than 180 square feet of parking stall plus necessary maneuvering space. Space for maneuvering incidental to parking or unparking shall not encroach upon any public way. Every **ON-SITE PARKING SPACE** shall be accessible from a public way.

**PERCOLATION TESTER.** An individual who is certified by Grant County who has presented bona fide evidence to the Zoning Administrator that he successfully completed a course in soil percolation testing.

**PLANNED UNIT DEVELOPMENT.** A type of development which may incorporate a variety of land uses planned and developed as a unit.

**PLAT.** The map, drawing or chart on which the subdividers plan for subdivision is presented to the City Council for approval.

2004 S-1

64

## **Elbow Lake - Land Usage**

**PUBLIC WATERS.** Any waters of the state which serve a beneficial public purpose, as defined in M.S. <sup>1</sup> 150.37, Subd. 6 as it may be amended from time to time.

**REGIONAL FLOOD.** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur with an average frequency in the magnitude of the 100 year recurrence interval.

**SETBACKS.** The minimum horizontal distance between a structure and the normal high water mark or between a structure and a road or highway right-of-way line.

## **Zoning**

**SHORELAND.** Land located within the following distances from public waters:

(1) 1,000 feet from normal high water mark of the lake, pond or flowage; and

(2) 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on such river or stream, whichever is greater; however, the practical limits of shorelands may be less whenever the waters involved are bounded by natural topographic divides which extend landward from the waters for lesser distances.

**SIGN.** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trade marks by which anything is publicized and such as are commonly used to designate an individual, a firm, an association, a corporation, a profession, a business or a commodity or product and which is visible from any public street and used to attract the attention of the public.

**SPECIAL USE.** A use which is permitted within a zoning district only when allowed by the City Council or their legally designated agent if certain conditions are met which eliminate or minimize the incompatibility with other permitted uses of the district.

**STRUCTURE.** An object constructed or installed by man, including, but without limitations, buildings, towers, smoke-stacks, and overhead transmission lines.

**SUBDIVISION.** Improved or unimproved land or lands which are divided for the purpose of sale or lease, or divided successfully within a five year period for the purpose of sale or lease, into three or more lots or parcels of less than five acres each, contiguous in area and which are under common ownership or control.

**SUBSTANDARD USE.** Any use of shorelands existing prior to the date of enactment of any municipal ordinance which is permitted within the applicable zoning district but does not meet the minimum lot area and length of water frontage, structure setbacks, or other dimensional standards of the ordinance.

2004 S-I

## **Zoning**

65

**VARIANCE.** Any modification or variation of official controls where it is determined that, because of hardships, strict enforcement of the official controls is impractical.  
(Ord. 126, passed 6-28-76)

### **ZONING USE DISTRICTS**

#### **' 153.015 DESCRIPTION.**

(A) For the purposes of this chapter, the city is hereby divided into the following zoning use districts:

<b>OUTSIDE SHORELAND</b>	<b>WITHIN SHORELAND</b>
--------------------------	-------------------------

## Zoning

<i>MANAGEMENT AREA</i>		<i>MANAGEMENT AREA</i>	
<i>DESIGNATION</i>	<i>ABBREVIATION</i>	<i>DESIGNATION</i>	<i>ABBREVIATION</i>
<i>Agricultural</i>	(A)	<i>Agricultural</i>	(AS)
<i>Residence A</i>	(RA)	<i>Residence A</i>	(RAS)
<i>Commercial A</i>	(CA)	<i>Residence B</i>	(RBS)
<i>Commercial B</i>	(CB)	--	--
<i>Industrial</i>	(I)	--	--
<i>Commercial-Industrial</i>	(CI)	--	--

(B) A brief description of the zoning use districts is as follows:

(1) *Agricultural (A)*. Rural land lying outside the area of apparent urban development that is reserved for agricultural purposes. Provision will be made for single-family development as part of a farmstead. Passive recreational development and cemeteries would also be permitted. Provision for change of land use would be permitted subject to careful review by the Planning Commission.

(2) *Residence A (RA)*. Single-family and duplex residences at a comparatively low concentration of development, together with such uses as schools, parks, churches and certain public facilities. Provisions would also be made for customary home occupations and professional offices in the home. Residential uses permitted in the (A) district would also be permitted in the (RA) district.

2004 S-I  
66

### Elbow Lake - Land Usage

(3) *Residence B (RB); (RBS)*. Uses permitted in the (RA) district at a higher density of development, with the inclusion of apartment residences.

(4) *Commercial A (CA)*. Downtown area, permitting offices and a full range of business and commercial enterprises.

(5) *Industrial (I)*. All industrial uses after local review to assure that the proposed industry would be protected from and compatible with neighboring uses in the same and adjoining districts. The utilization of this district is applicable to existing and proposed industrial areas. It provides for the establishment of detailed restrictions on proposed development and permits the building of an area for industrial use that possesses the character of an industrial park® (reservation of land, programmed provision of public facilities and guided development).

(6) *Commercial-Industrial (CI)*. This zone is intended to accommodate both (CB) and (I) uses with special emphasis on planned sites with off-street parking, loading and circulation facilities. All industrial uses are subject to the requirements of the (I) district and all commercial uses are subject to the requirements of the

## **Zoning**

*(CB) district.*

*(C) The boundaries of the Shoreland Management Area are hereby established at 1,000 feet from the normal high water mark of Elekkefjord Lake. The Shoreland Management Area shall include the following zoning districts:*

*(1) Agricultural (AS)*

*(2) Residence A (RAS)*

*(3) Residence B (RBS)*

*(Ord. 126, passed 6-28-76)*

### **' 153.016 BOUNDARIES.**

*(A) The zoning use districts are as shown on the zoning map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.*

*(B) The boundaries of said districts shall be as shown upon the map attached to and made part of this chapter which shall be designated as the **A**zoning map.® The said map and all notations, references and other things shown thereon shall be as much a part of this chapter as if the matters and things shown by this map were all fully described herein.*

2004 S-1

## **Zoning**

67

*(C) The map shall be duly authenticated by the city. It shall be kept and maintained by the Clerk-Administrator-Treasurer, which copy shall be the final authority; distances not specifically indicated on the map shall be determined by the scale of the map. The official zoning map shall be registered with the County Register of Deeds. Each zoning map amendment shall be registered with the County Register of Deeds. Each zoning map amendment shall also be registered.*

*(Ord. 126, passed 6-28-76)*

### **' 153.017 INTERPRETATION.**

*(A) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, order, convenience, prosperity and general welfare. It is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any existing provision of laws or ordinances or any rules, regulations or permits previously adopted or issued or which shall be adopted pursuant to law relating to the use of buildings or premises; nor is it intended by this chapter to interfere with or abrogate or annul easements, covenants or other agreements between parties; provided however, that where this chapter imposes a greater restriction upon the use of buildings or premises than are imposed or required by such existing provisions of law or ordinance or by such*

## **Zoning**

*rules or regulations or by such easements, covenants, or agreements, the provision of this chapter shall control.*

*(B) Where physical or cultural features existing on the ground are at variance with those shown on the zoning map, the Planning Commission shall interpret the district boundaries.*

*(Ord. 126, passed 6-28-76)*

## ***DISTRICT REQUIREMENTS***

### ***153.030 AGRICULTURAL (A), (AS).***

*(A) Uses permitted.*

*(1) All uses commonly classed as agricultural, with no restrictions as to operation or maintenance of vehicles or machinery as are incident to the uses; and*

*(2) Single-family dwellings (not to include mobile homes) and their normal accessory buildings.*

*(B) Uses by special permit.*

2004 S-1  
68

## ***Elbow Lake - Land Usage***

*(1) Churches, chapels, temples and synagogues including Sunday schools, convents and parish houses meeting the requirements of the district;*

*(2) Parks, playgrounds and elementary schools;*

*(3) The offices of members of recognized professions, provided the professions are carried on in their respective residences;*

*(4) Home occupations, provided that no articles for sale shall be displayed so as to be visible from streets or roadways;*

*(5) Accessory buildings other than private garages and customary agricultural structures;*

*(6) Junior and senior high schools and incidental uses when situated on the same site or unit of property;*

*(7) Cemeteries; and*

*(8) Camp sites, resorts and mobile home courts.*

*(C) Height limit. Non-agricultural structures shall not exceed a height of 35 feet.*

## Zoning

### *(D) Lot requirements, (A).*

(1) No dwelling unit shall be constructed in the district on a lot of less than one acre in area or on a lot of less than 150 feet in width.

(2) Each lot shall have a front yard of not less than 30 feet.

(3) Each lot shall have a rear lot of not less than 30 feet.

(4) Each lot shall have a side yard along each side of each building; the sum of the width of the two side yards shall not be less than 30% of the width of the lot divided equally between the two yards.

(5) In cases where an accessory structure is attached to the main building or within five feet therefrom, it shall comply in all respects with the requirements of this chapter applicable to the main building. An accessory building, unless attached to and made a part of the main building as above provided, shall not be closer than three feet to any lot line or public right-of-way, except that the accessory buildings shall not encroach upon required front yards.

2004 S-I

## Zoning

69

### *(E) Lot requirements, (AS).*

(1) Structures must be elevated at least three feet above the ordinary high water mark.

(2) No structure shall be closer than 50 feet in sewer areas, and 75 feet in non-sewered areas from the ordinary high water mark.

(3) No structure shall be placed nearer than 50 feet from the right-of-way line of any federal, state or county trunk highway; or 30 feet from the right-of-way line of any municipal street.

(4) The total area of all impervious structures on a lot shall not exceed 30% of the total lot area.

(F) *Parking requirements.* As set forth in Appendix A.

(G) *Loading and unloading requirements.* As set forth in Appendix B.  
(Ord. 126, passed 6-28-76)

## **<sup>1</sup> 153.031 RESIDENTIAL A (RA), (RAS).**

### *(A) Uses permitted, (RA).*

(1) Single-family dwellings (not to include mobile homes) and their normal accessory buildings;

## **Zoning**

(2) *Two-family dwellings;*

(3) *Churches, chapels, temples and synagogues including Sunday schools, convents and parish houses meeting the requirements of the district;*

(4) *Parks, playgrounds and elementary schools;*

(5) *The offices of members of recognized professions, such as doctors of medicine and dentistry, chiropractors and engineers, lawyers and architects, provided such professions are carried on in the respective residences; and*

(6) *Home occupations in the residence, provided that the occupations are carried on in the main building, and provided further that not more than 25% of the floor space of the residence is used for this purpose, and that no articles for sale be displayed so as to be visible from the street.*

2004 S-I  
70

### ***Elbow Lake - Land Usage***

(B) *Uses by special permit, (RA).*

(1) *Accessory buildings other than private garages;*

(2) *Hospitals or sanatoriums, philanthropic or eleemosynary institutions, except correctional institutions and animal hospitals. Any building permitted to be used shall be set back not less than 50 feet from any lot or street line and then the appearance of the building shall be in appropriate harmony with the residential character of the area;*

(3) *Junior and senior high schools and incidental uses when situated on the same site or unit of property; and*

(4) *Cemeteries and funeral homes.*

(C) *Height limit, (RA). Same as specified for (A) districts.*

(D) *Lot requirements, (RA).*

(1) *Residential A (RA).*

(a) *Each dwelling unit together with its accessory buildings hereafter erected shall be located on a lot having an area of not less than 10,000 square feet and width of not less than 75 feet and depth of not less than 120 feet.*

(b) *All lots shall front on and have ingress and egress by means of a public right-of-way.*

### **Zoning**

(c) *All dwellings and accessory buildings on any lot shall not cover more than 30% of the area of the lot.*

(d) *No building shall be closer than 30 feet to the street line of which it faces.*

(e) *There shall be a side yard along each building the sum of width shall not be less than 30% of the width of the lot; provided that no side yard shall be less than nine feet; and provided further that all lots subdivided prior to the passage of this chapter shall have a side yard of not less than four feet.*

(f) *Each lot shall have a rear yard of not less than 25 feet in depth.*

(g) *Accessory buildings shall be located as set forth in ' 153.030(D)(5) above.*

(2) *Residential A (RAS).*

2004 S-I

### **Zoning**

71

(a) *Structure must be elevated at least three feet above the ordinary high water mark.*

(b) *Each dwelling unit together with its accessory buildings hereafter erected shall be located on a lot having an area of not less than:*

<i>SQUARE FOOTAGE</i>	<i>AREA DESCRIPTION</i>
<i>20,000</i>	<i>Non-sewered areas</i>
<i>15,000</i>	<i>Sewered, water frontage areas</i>
<i>10,000</i>	<i>Sewered, no water frontage areas</i>

(c) *Each dwelling unit together with its accessory buildings erected shall be located on a lot having a width of at least 75 feet in sewerred areas and 100 feet in non-sewerred areas and a depth of not less than 120 feet.*

(d) *No structure shall be closer than 50 feet in sewerred areas, and 75 feet in non-sewerred areas from the ordinary high water mark.*

(e) *No structure shall be placed nearer than 50 feet from the right-of-way line of any federal, state, or county trunk highway; or 30 feet from the right-of-way line of any municipal street.*

(f) *The total area of all impervious surfaces on a lot shall not exceed 30% of the total lot area.*

(E) *Parking requirements, (RA); (RAS). As set forth in Appendix A.*

(F) *Loading and unloading requirements, (RA); (RAS). As set forth in Appendix B.*



## Zoning

(Ord. 126, passed 6-28-76)

### **<sup>1</sup> 153.032 RESIDENTIAL B (RBS).**

(A) *Uses permitted.*

(1) *All uses permitted in the (RA) zone; and*

(2) *Apartment houses.*

(B) *Uses by special permits. All uses by special permit in the (RA) zone.*

(C) *Height limit. No structure shall be higher than 35 feet above grade.*

2004 S-I

72

### ***Elbow Lake - Land Usage***

(D) *Lot requirements.*

(1) *The following minimum lot requirements shall apply to all single-family dwellings and two-family dwellings in the (RBS) zone:*

(a) *Structure must be elevated at least three feet above the ordinary high water mark.*

(b) *Each dwelling unit together with its accessory buildings hereafter erected, shall be located on a lot having an area of not less than:*

<b><i>SQUARE FOOTAGE</i></b>	<b><i>AREA DESCRIPTION</i></b>
<b><i>20,000</i></b>	<b><i>Non-sewered areas</i></b>
<b><i>15,000</i></b>	<b><i>Sewered, water frontage areas</i></b>
<b><i>10,000</i></b>	<b><i>Sewered, no water frontage areas</i></b>

(c) *Each dwelling unit together with its accessory buildings erected shall be located on a lot having a width of at least 75 feet in sewerred areas and 100 feet in non-sewered areas, and depth of not less than 120 feet.*

(d) *No structure shall be closer than 50 feet in sewerred areas and 75 feet in non-sewered areas from the ordinary high water mark.*

(e) *No structure shall be placed nearer than 50 feet from the right-of-way line of any federal, state, or county trunk highway; or 30 feet from the right-of-way line of any municipal street.*

(f) *The total area of all impervious surfaces on a lot shall not exceed 30% of the total lot area.*

## **Zoning**

(g) *All lots shall front on and have ingress and egress by means of a public right-of-way.*

(h) *There shall be a side yard along each side of each building the sum of the width of which shall not be less than 30% of the width of the lot, provided that no side yard shall be less than five feet; and provided further that all lots subdivided prior to the passage of this chapter shall have a side yard of not less than four feet.*

(i) *Each lot shall have a rear yard of not less than 25 feet.*

(j) *Accessory buildings shall be located as set forth in ' 153.030(D)(5).*

2004 S-1

## **Zoning**

73

(2) *The following minimum lot requirements shall apply to all apartment houses (a multiple family dwelling):*

(a) *Structures must be elevated at least three feet above the ordinary high water mark.*

(b) *Each dwelling unit together with its accessory building hereafter erected, shall be located on a lot having an area of not less than:*

<i><b>SQUARE FOOTAGE</b></i>	<i><b>AREA DESCRIPTION</b></i>
<i><b>20,000</b></i>	<i>Non-sewered areas</i>
<i><b>15,000</b></i>	<i>Sewered, water frontage areas</i>
<i><b>10,000</b></i>	<i>Sewered, no water frontage areas</i>

(c) *Each dwelling unit together with its accessory buildings hereafter erected shall be on a lot having a width of at least 75 feet in sewerred areas and 100 feet in non-sewered areas and depth of not less than 120 feet.*

(d) *No structure shall be closer than 50 feet in sewerred areas and 75 feet in non-sewered areas from the ordinary high water mark.*

(e) *No structure shall be placed nearer than 50 feet from the right-of-way line of any federal, state, or county trunk highway, or 30 feet from the right-of-way line of any municipal street.*

(f) *The total area of all impervious surfaces on a lot shall not exceed 30% of the total lot area.*

(g) *Each lot containing an apartment house, or several apartment houses grouped as a self-contained site arrangement, shall front on, and have ingress and egress by means of a public right-of-way.*

### **Zoning**

(h) *All apartment houses erected on a single lot shall have a side yard of not less than 15 feet on each side, provided, however, that where several such apartment houses are grouped as a self-contained site arrangement, the minimum distance between apartment houses in the interior of the group arrangement shall not be less than one-half the height of the individual buildings but in no case less than 15 feet and that such apartment houses located adjacent to adjoining lots shall be set back from such lots a minimum of 15 feet.*

(i) *Each lot shall have a rear yard of not less than 35 feet.*

(j) *Accessory buildings shall be located as set forth in ' 153.030(D)(5).*

2004 S-1

74

### **Elbow Lake - Land Usage**

(E) *Parking requirements. As set forth in Appendix A.*

(F) *Loading and unloading requirements. As set forth in Appendix B.*  
(Ord. 126, passed 6-28-76)

### **' 153.033 COMMERCIAL (CA).**

(A) *Use permitted. All uses of a legitimate commercial nature, such as retail, wholesale, service, office, financial, recreational, professional and lodging; provided that, no industry or manufacturing shall be permitted.*

(B) *Lot requirements.*

(1) *No minimum lot area requirements.*

(2) *No percentage of lot coverage requirements.*

(3) *In the (CA) zone, no commercial building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than the average setback observed by the commercial buildings on the same side of the street and fronting thereon within the same block. In no case, however, shall the building setback line be nearer to the center of the street on which it faces than one-half of the width of the street.*

(4) *No side yard is required on commercial lots in the (CA) zone where no openings are provided in the walls of commercial buildings adjacent to interior lot lines.*

(5) *Where openings are provided in the walls of commercial buildings adjacent to interior lot lines, there will be a side yard on that side of the lot not less than four feet in width.*

(6) *Each commercial lot in the (CA) zone shall have a rear yard not less than 15 feet in depth.*

(C) *Loading and unloading requirements. As set forth in Appendix B.*

(D) *Height limit. No structure shall be higher than 30 feet above grade, except as may be issued a special*

## Zoning

use permit.

(Ord. 126, passed 6-28-76)

2004 S-I

## Zoning

75

### **<sup>1</sup> 153.034 COMMERCIAL (CB).**

(A) *Uses permitted.* Any legitimate use the Planning Commission may recommend and the City Council approves and which will not be detrimental to the district, which will meet other specified requirements relative to the district as specified in this chapter.

(B) *Height limit.* No structure shall be higher than 30 feet above grade.

(C) *Lot requirements.*

(1) No minimum lot requirements.

(2) No percent of lot coverage restrictions.

(3) In the (CB) zone no building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than 50 feet, except that it may observe the average setback of the buildings in the block.

(4) Side yards in the (CB) zone shall be 15 feet.

(5) Each lot in the (CB) zone shall have a rear lot yard not less than 20 feet in depth.

(D) *Lot requirement exemptions.* As set forth in <sup>1</sup> 153.031(D).

(E) *Parking requirements.* As set forth in Appendix A.

(F) *Loading and unloading requirements.* As set forth in Appendix B.  
(Ord. 126, passed 6-28-76)

### **<sup>1</sup> 153.035 INDUSTRIAL (I).**

(A) *Uses permitted.* Manufacturing and processing uses which the Planning Commission may recommend and the City Council approve under the provision of the issuance of a special use permit.

(B) *Height limit.* No structure shall be higher than 30 feet above grade, except as may be issued a special use permit.

## **Zoning**

### **(C) Lot requirements.**

- (1) *No minimum lot area or setback requirements.*

2004 S-I

76

## **Elbow Lake - Land Usage**

(2) *No percent of lot coverage restrictions; provided, however, that the off-street parking and loading requirements of this chapter are met.*

(D) *Parking requirements. As set forth in Appendix A.*

(E) *Loading and unloading requirements. As set forth in Appendix B.*  
(Ord. 126, passed 6-28-76)

### **' 153.036 COMMERCIAL-INDUSTRIAL (CI).**

*The following are permitted uses and requirements.*

(A) *Commercial uses as set forth in ' 153.034(A) and meeting all requirements therein set forth; and*

(B) *Industrial uses as set forth in ' 153.035(A) and meeting all requirements set forth in the (CB) zone.*  
(Ord. 126, passed 6-28-76)

## **GENERAL REQUIREMENTS - ALL DISTRICTS**

### **' 153.050 RESIDENTIAL YARD STORAGE.**

*In the (A), (RA), and (RB) Zoning Use Districts, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties except for the following; laundry drying and recreational equipment, equipment temporarily being used on the premises, agricultural equipment and materials, if these are intended for use on the premises, off-street parking of passenger automobiles and pick-up trucks.*

(Ord. 126, passed 6-28-76)

### **' 153.051 REFUSE.**

*In all zoning use districts, all waste materials, debris, refuse or garbage shall be kept in an enclosed building or proper container for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse.*

(Ord. 126, passed 6-28-76)

**<sup>1</sup> 153.052 SCREENING.**

*Where any business or industrial use (i.e. structure, parking or storage) is adjacent to property zoned for residential use, that business or industry shall provide appropriate screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front as determined by the Planning Commission.*

*(Ord. 126, passed 6-28-76)*

**<sup>1</sup> 153.053 LANDSCAPING.**

*In all zoning use districts, developed uses shall provide a landscaped yard along all streets, except as may be specially provided for unified developments. Except for driveways and access walks, the yard shall extend along the entire frontage of the lot and along both streets in the case of a corner lot.*

*(Ord. 126, passed 6-28-76)*

**<sup>1</sup> 153.054 PARKING.**

*(A) Surface and drainage. On-site parking areas shall be improved with a durable surface. Such areas shall be so graded and drained as to dispose of all surface water accumulation within the area. These requirements shall also apply to open sales lots for cars, trucks, and other equipment.*

*(B) Determination of areas. A parking space shall not be less than 300 square feet of standing and maneuvering area. When application of these regulations results in a requirement of a fractional space, the fraction up to and including one-half shall be disregarded. Fractions over one-half shall count as one additional space.*

*(C) Required on-site parking spaces or area so devoted shall be as set forth in Appendix A.*

*(D) Sale of parking areas. Property that constitutes required off-street parking area may not be separated through sale or other means, from the property containing the principal use for which the parking area is required.*

*(Ord. 126, passed 6-28-76)*

**<sup>1</sup> 153.055 LOADING AND UNLOADING.**

*(A) Required on-site loading and unloading facilities shall be as set forth in Appendix B.*

(B) *Loading and unloading berths shall not be less than 15 feet in width, 30 feet in length, nor less than 15 feet in height, and shall be provided with access to a street unless provided otherwise by such means as customer or employee parking space on the same premise. The location, dimensions and means of ingress and egress of such loading and unloading space shall be designated upon the plans and specifications submitted for a building permit to enable the determination therefrom whether or not this provision is being reasonably complied with.*  
(Ord. 126, passed 6-28-76)

**<sup>1</sup> 153.056 NON-CONFORMING USES.**

*Any existing building or premises and any lawful use therein at the time of the passage of this section, may be continued therein although non-conforming to the regulations of the district in which they are maintained. Any such use may be changed or converted or extended throughout the building, provided in either case that no structural alterations, except as required by existing laws and ordinances, are made therein, and no new building or addition thereto is erected. In any district no building or premises, not conforming to the regulations of the use district in which it is maintained, shall be converted to a use that would not conform to the regulations of the use district in which the original non-conforming use would be permitted. A building which does not conform to the regulations of the district in which it is located may not be rebuilt in the event it is destroyed unless approval is given by the Planning Commission.*  
(Ord. 126, passed 6-28-76)

**<sup>1</sup> 153.057 MOBILE HOMES.**

(A) *No mobile home shall hereafter be located within the city unless it has been granted a special use permit in zone (CB) or is located in a mobile home park or court. No mobile home may be located on leased property unless located in a mobile home court or park. In their review of mobile home parks or courts, the city shall look particularly for adequate provision of the following facilities:*

- (1) *A continuing supply of safe and palatable water.*
- (2) *Sanitary facilities and a safe method of sewage disposal.*
- (3) *Electricity for artificial lighting and to serve equipment used in the mobile home space.*
- (4) *Patio or outdoor sitting space equal to 108 square feet for each mobile home space.*
- (5) *Tenant storage to the extent of 90 cubic feet of individual storage space per mobile home space.*

## **Zoning**

(6) *Parking space equal to one space per mobile home plus adequate on-site parking to serve the visiting public.*

(7) *Laundry drying facilities and public toilets.*

(8) *Recreational facilities.*

(9) *Management office and storage area.*

(10) *Garbage and trash disposal facilities.*

(11) *Adequate and safe access and egress to major public roads.*

(Ord. 126, passed 6-28-76)

### **<sup>1</sup> 153.058 CAMP SITES.**

(A) *No camp site shall be permitted within the city unless it has been approved and licensed by the State of Minnesota and granted a special use permit under the terms of this chapter.*

(B) *In their review the Planning Commission shall look particularly for the reasonable provision of the same level and type of facilities as outlined above in <sup>1</sup> 153.057.*

(Ord. 126, passed 6-28-76)

### **<sup>1</sup> 153.059 ABANDONMENTS.**

(A) *No use, structure, sign, building, or any other piece or article of real estate or personal property may be abandoned or permitted in any public or private place, because of disuse or neglect to become unsightly or offensive to the public.*

(B) *Any non-conforming use or use authorized by this chapter, when abandoned or discontinued, shall be removed or restored to as near its original state as is practicable.*

(C) *Any citizen may make complaint to the district court for an order of compliance to this section.*

(D) *The penalty for such offense shall be the obligation to remove or to correct such unsightly or offensive thing or condition or remove or restore such abandoned or discontinued use within a time fixed by the court, the same may be ordered removed or corrected and the cost thereof assessed against the owner of such property or the real estate on which the same is found to exist, together with all costs of prosecution.*

(Ord. 126, passed 6-28-76)

2004 S-1

80

## **Elbow Lake - Land Usage**

### **<sup>1</sup> 153.060 EXEMPTIONS.**

(A) *The following uses, being essential for the operation of any zoning use district are exempt from*



## **Zoning**

*all the provisions of this chapter and are permitted in any district: poles, towers, wires, cable, conduits, vaults, pipelines, laterals, or any other similar distributing equipment of a public utility; and provided further that fences, walls, hedges or shrubbery may be erected, placed, maintained or grown to a height not exceeding five feet unless as otherwise specified in this chapter.*

*(B) A structure may be closer than the minimum setback requirements from street right-of-way or the ordinary highwater mark provided that it may observe the average setback of residential buildings on the same side of the street and fronting thereon within the same block.*

*(C) A structure may be erected on a lot of less than minimum area and width provided all of the following conditions are complied with:*

- (1) It existed by virtue of a recorded plat or deed at the time of the adoption of this chapter.*
- (2) Such use is permitted in the zoning district.*
- (3) The lot is in separate ownership from abutting lands.*
- (4) All sanitary requirements of the city are complied with.*

*(D) The lot requirements need not necessarily apply to new plotted land under single ownership, which is proposed for development as a unit. Such developments shall be submitted to the Planning Commission for their consideration and referral to the City Council for approval. Plans for such development shall include plans and other drawings indicating function, floor plans, elevations and typical vehicular circulation system, ingress and egress points and control, special landscape and fencing treatment along abutting land uses of a different type and the layout of adequate off-street parking and loading and unloading facilities and sewer service. Smaller lot sizes may be allowed for planned unit developments provided any attached conditions are met, such as limits on overall density, minimum size of planned unit development, or restriction to residential uses.*

*(Ord. 126, passed 6-28-76)*

## **GENERAL REQUIREMENTS - SHORELAND AREA**

### **' 153.075 SANITATION STANDARDS.**

*(A) The 1969 edition of the Minnesota Individual Sewage Disposal System Code of Minimum Standards recommended by the Minnesota Department of Health and as modified by the City*

*2004 S-1*

## **Zoning**

**81**

*Council of Elbow Lake is hereby adopted by reference and made a part of this chapter as if fully set forth herein, and all development proposed in any of the zoning use districts established by this chapter shall comply with the sanitation standards therein contained. The Clerk-Administrator-Treasurer shall mark three copies of this code as official copies and file them in his office for use and examination.*

## **Zoning**

### **(B) *Licensing.***

(1) *No, persons, firm, or corporation shall engage in the business of installing and constructing sewage disposal systems, excavating or altering for said purpose of installation within the city without first obtaining a license to carry on such occupation from either the City Council of Elbow Lake or Grant County Commissioners and procuring and posting with either the Clerk-Administrator-Treasurer or the County Auditor a bond in the amount of \$1,000 in favor of the city or county and the public, conditioned upon the faithful performance of contracts and compliance with this chapter. Such license shall be revoked or refused by the City Council or County Commissioners for cause. Any installation, construction or alteration of a sewage disposal system by a licensee in violation of this chapter or refusal on the part of a licensee to correct such defective work performed by such licensee shall be cause for revocation of or refusal to renew a license. If such licensee who has not complied with this chapter has been licensed by Grant County but not the City of Elbow Lake, such licensee must then also obtain a license from the city to continue to carry on such occupation within the city.*

(2) *The annual license fee shall be \$10. Application for such license shall be made annually on a form furnished by the Clerk-Administrator-Treasurer or County Auditor.*

(3) *Before any license issued under the provision of this section may be revoked or its renewal refused, the licensee shall be given a hearing to show cause why such license should not be revoked or refused. Notice of time, place, and purpose of such hearing shall be in writing.*

### **(C) *Permits.***

(1) *No person, firm, or corporation shall install an individual sewage disposal system in the city without first obtaining a permit from the Clerk-Administrator-Treasurer or any other person designated by the Council for the specific installation and at the time of applying for said permit, shall pay a fee therefor of \$5. Such permits shall be valid for a period of six months from the date of issue.*

(2) *Applications for permits shall be made in writing upon printed blanks or forms furnished by the city and shall be signed by the applicant.*

(3) *Each application for a permit shall have thereon the correct legal description of the property on which the proposed installation is to take place and each application for a permit shall be*

*accompanied by a plot of the land showing the location of any proposed or existing buildings located on the property with respect to the boundary and complete plans of the proposed system with substantiating data, if necessary, attesting to the compliance with the minimum standards of this chapter.*

(4) *A complete plan shall include the location, size, and design of all parts of the systems to be installed. The application shall also show the present or proposed location of water supply facilities and water supply piping and the name of the persons, firm, or corporation who is to install the system and shall*

## **Zoning**

*provide such further information as may be required by the City Planning Commission.*

(5) *The results of two soil percolation tests taken by a certified percolation tester shall be required prior to issuing a sewage system permit. Percolation tests shall be taken in the immediate area of proposed soil absorption area of the system.*

(D) *Construction requirements. Every individual sewage system installed after the effective date of this chapter shall conform to the standards of the code herein adopted by reference.*

(E) *Inspection.*

(1) *The Clerk-Administrator-Treasurer or any other person designated by the Council shall cause such inspection or inspections as are necessary to determine compliance with this chapter. No part of the system shall be covered until it has been inspected and accepted. It shall be the responsibility of the applicant for the permit to notify the city that the job is ready for inspection or reinspection and it shall be the duty of the city to make the indicated inspections within a 24 hour working day period, excluding Saturday, Sunday, or legal holidays, after such notice has been given. It shall be the duty of the owner or occupant of the property to give the city free access to the property at reasonable times for the purpose of making such inspections. Upon satisfactory completion and final inspection of the system, the city shall issue to the applicant a certificate of approval.*

(2) *If upon inspection the city discovers that any part of the system is not constructed in accordance with the minimum standards provided in this chapter the applicant shall pay an additional fee of \$3 for the second inspection. For each reinspection that is necessary, a fee of \$10 will be charged. The applicant shall be responsible for the correction or elimination of all defects and no system shall be placed or replaced in service until all defects have been corrected or eliminated.*

(3) *There shall be open for city inspection purposes only, a hole not less than two inches in diameter and four feet in depth from the bottom of the lowest point in the soil absorption area of the system.*

(F) *Water supply.*

(1) *Any public or private supply of water for domestic purposes must conform to Minnesota Department of Health standards for water quality.*

2004 S-I

## **Zoning**

83

(2) *Private wells shall be placed in areas not subject to flooding and upslope from any source of contamination. Wells already existing in areas subject to flooding shall be floodproofed in accordance with procedures established in Statewide Standards and Criteria for the management of Flood Plain Areas of Minnesota.*

(G) *Sewage disposal. Any premises used for human occupancy shall be provided with an adequate method of sewage disposal to be maintained in accordance with acceptable practices.*

(I) *Public or municipal collection and treatment facilities must be used where feasible.*

## **Zoning**

(2) *All private sewage systems shall conform to applicable standards, criteria, rules and regulations of the Minnesota Department of Health, the Pollution Control Agency, and any applicable local government regulations in terms of size, construction, use and maintenance.*

(3) *Location and installation of a septic tank and soil absorption system shall be such that, with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance, endanger the safety of any domestic water supply nor pollute or contaminate any waters of the state. In determining a suitable location for the system, consideration shall be given to the size and slope of the lot, slope of natural and finished grade, soil permeability, high ground water elevation, geology proximity to existing or future supplies, accessibility for maintenance and possible expansion of the system.*

(a) *Placement of soil absorption systems shall be subject to the following specifications: ten feet from a lot line; 20 feet from a building intended for human occupancy; and 50 feet from a well or other water supply source.*

(b) *Minimum seepage area of the disposal field (total flat area of trench bottom exclusive of sidewall area) shall be determined by the percolation test procedure as specified in the 1969 edition of the Minnesota Individual Sewage Disposal System Code of Minimum Standards and Appendix C.*

(4) *Septic, tank and soil absorption systems shall be set back from the normal high water mark at least 50 feet.*

(5) *Septic tank and soil absorption or similar systems shall not be acceptable for disposal of domestic sewage for developments on lots adjacent to public waters under the following circumstances:*

(a) *Low swampy areas or areas subject to recurrent flooding; or*

(b) *Areas where the highest known ground water table is within four feet of the soil absorption system; or*

2004 S-I

84

## **Elbow Lake - Land Usage**

(c) *Areas of exposed bedrock or shallow bedrock within four feet of the bottom of the soil absorption system or where subsurface conditions significantly restrict percolation of effluent; or*

(d) *Areas of ground slope where there is danger of seepage of the effluent onto the surface of the ground in accordance with the following critical slope values:*

<b><i>PERCOLATION RATE</i></b>	<b><i>CRITICAL SLOPE</i></b>
<i>Less than 3</i>	<i>20% or more</i>
<i>3-45</i>	<i>15% or more</i>
<i>45-60</i>	<i>10% or more</i>

## **Zoning**

*inlet.*

- 1. Absorption area for seepage pits is figured as effective sidewall area beneath the*

- 2. Absorption area for standard trenches is figured as trench-bottom area.*

- 3. In every case sufficient area should be provided for at least two bedrooms.*

- 4. Unsuitable for seepage pits if over 30.*

- 5. Unsuitable for absorption systems if over 60.*

*(H) Alternative methods of sewage disposal, such as holding tanks, privies, electric or gas incinerators, biological and/or tertiary waste treatment plants or land disposal systems, may be permitted; provided such facilities meet the standards, criteria, rules, and regulations of the Minnesota Pollution Control Agency and the Minnesota Department of Health.*

*(Ord. 126, passed 6-28-76)*

### **' 153.076 SHORELAND ALTERATIONS.**

*(A) Grading and filling in shoreland areas or any alteration of natural topography where the slope of the land is toward a public water or watercourse leading to a public water must be authorized by a special use permit.*

*(B) In granting a special use permit for grading and filling, the following conditions shall be met:*

- (1) The smallest amount of bare ground be exposed for as short a time as feasible.*

2004 S-I

## **Zoning**

84A

- (2) Temporary ground cover such as mulch be used and permanent cover such as sod be planted.*

- (3) Diversions, silting basins, terraces and other methods to trap sediment be used.*

- (4) Lagooning be conducted in such a manner as to avoid creation of fish trap conditions.*

- (5) Fill is stabilized according to accepted engineering standards.*

- (6) Fill will not restrict a floodway or destroy the storage capacity of a flood plain.*

- (7) Sides of a channel or artificial watercourse be established to prevent slumping.*

## **Zoning**

*(8) Side channels or artificial watercourses be constructed with side slopes of two units horizontal distance to one unit vertical or flatter, unless bulkheads or riprapping are provided.*

*(C) Excavation on shorelands where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, shall require a permit from the Clerk-Administrator-Treasurer or any other person designated by the City Council before construction is begun. Such permit may be obtained only after the Commissioner of Natural Resources has approved the proposed connection to public waters. Approval shall be given only if the proposed work is consistent with applicable state regulations for work in beds of public waters.*

*(D) Any work which will change or diminish the course, current, or cross section of a public water shall be approved by the Commissioner before the work is begun. This includes the construction of channels and ditches, lagooning, dredging of the Flekkefjord Lake bottom for removal of muck, silt or weeds and filling in the lake bed. Approval shall be constructed to mean the issuance by the Commissioner of a permit under the procedures of M.S. ' 105.42, as it may be amended from time to time, and other related statutes.*

*(E) The removal of natural vegetation shall be restricted to prevent erosion into public waters to consume nutrients in the soil and to prevent shoreland aesthetics. However:*

*(1) Selective removal may be practiced to allow a view corridor to the water. However, such removal shall leave sufficient cover to screen cars, dwellings, and other structures, except boat houses, piers, docks, and marinas from view from Flekkefjord Lake.*

*(2) No clear cutting shall be allowed.*

2004 S-I  
84B

## **Elbow Lake - Land Usage**

*(3) This section shall not apply to permitted uses which normally require the removal of the natural vegetation.*

*(4) Natural vegetation shall be restored insofar as feasible after any construction project.*

*(F) The placement of roads and parking areas shall be controlled in accordance with the following criteria in order to retard the runoff of surface waters and excess nutrients:*

*(1) No impervious surface shall be placed within 50 feet of the ordinary high water mark.*

*(2) Where feasible and practical, all roads and parking areas shall meet the setback requirements established for structures within the Shoreland Management Area.*

*(3) Natural vegetation or other natural material shall be used in order to screen parking areas when viewed from the water.*

*(Ord. 126, passed 6-28-76)*

## **Zoning**

### **<sup>1</sup> 153.077 NON-CONFORMING USES.**

(A) *Any lawful use existing at the time of this chapter, except that sanitary facilities inconsistent with <sup>1</sup> 153.075(G) shall be eliminated within two years of notification of non-conformance by the Clerk-Administrator-Treasurer or any other person designated by the Council, but not to exceed the date of (five years from current effective date). Sewage systems with straight pipe discharge into public waters or other extreme non-conforming systems shall be corrected within 60 frost-free days from the date of notification.*

(B) *If this order is not complied with, the nuisance will be abated and the cost of so doing will be charged and assessed against the property and such amount will be certified to the County Auditor, Grant County, Minnesota as other taxes are collected and paid.*  
(Ord. 126, passed 6-28-76)

### **<sup>1</sup> 153.078 PLANNED UNIT DEVELOPMENT.**

(A) *Preliminary plans must first be approved by the Commissioner of Natural Resources.*

(B) *Central Sewage facilities must be provided which meet the standards, criteria, rules or regulation of the Minnesota Department of Health and the Pollution Control Agency.*

2004 S-I

## **Zoning**

84C

(C) *Open space is preserved.*

(D) *There is not more than one centralized boat launching facility for each planned unit development.*

(E) *Any attached conditions, such as limits on overall density, minimum length of water frontage may be demanded.*  
(Ord. 126, passed 6-28-76)

### **<sup>1</sup> 153.079 EXEMPTIONS.**

*The total area of all impervious surfaces on a lot shall not exceed 30% of the total lot area, except:*

(A) *Boathouses may be located landward of the ordinary high water mark as a conditional use provided they are not used for habitation and they do not contain sanitary facilities.*

(B) *Location of piers and docks shall be controlled by applicable state and local regulations.*

## **Zoning**

(C) *Where development exists on both sides of a proposed building site, structural setbacks may be altered to take setbacks of existing structures into account.*

(D) *Commercial, industrial, or permitted open space uses closer to such water than the setback specified in this chapter.*

*(Ord. 126, passed 6-28-76)*

## ***SUBDIVISION REGULATIONS GENERAL PROVISIONS***

### ***153.085 PURPOSE.***

*The purpose of these regulations is to regulate the subdividing of land within the city and within an area extending two miles beyond the city limits. Such extra-territorial power shall be continued only until Grant County, Elbow Lake Township, and Sanford Township duly adopts and administers Countywide subdivision controls. These controls are enacted to assure that developing areas will contribute in the creation of an attractive, stable and wholesome community environment in which adequate municipal services and safe streets will be provided.*

*(Ord. 126, passed 6-28-76)*

2004 S-1

84D

### ***Elbow Lake - Land Usage***

### ***153.086 LEGAL AUTHORITY.***

*The enactment of these regulations are in pursuance of the authority granted by M. S. 1462.358, as it may be amended from time to time.*

*(Ord. 126, passed 6-28-76)*

### ***153.087 GENERAL REQUIREMENTS.***

(A) *Any plat, hereafter made for each subdivision or each part thereof lying within the jurisdiction of this chapter, shall be prepared, presented for approval and recorded as herein prescribed. The regulations contained herein shall apply to the subdivision of a lot, tract or parcel of land into two or more lots, tracts or other division of land for the purpose of sale or of building development whether immediate or future, including the re-subdivision or platting of land or lots.*

(B) *No land shall be subdivided which is held unsuitable for the proposed use by the City Council for the reason of flooding, inadequate drainage, soil and rock formations with severe limitations for 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 the future residents of the proposed subdivision or of the community. The City Council in applying the provisions of this section shall in writing recite the particular facts upon which it bases its conclusion that the land is not suitable for the proposed use*



## **Zoning**

*and afford the subdivider an opportunity to present evidence regarding suitability at a public hearing. Thereafter the City Council may affirm, modify or withdraw its determination of unsuitability. (Ord. 126, passed 6-28-76)*

### ***SUBDIVISION REGULATIONS PROCEDURES***

#### **' 153.095 PRE-APPLICATION MEETING.**

*(A) The following procedures shall be followed in administering this chapter and no real property within its jurisdiction shall be subdivided and offered for sale or a plat recorded until a pre-application meeting has been held and a preliminary plat and a final plat of the proposed subdivision have been reviewed by the Planning Commission and until the final plans of group developments for housing, commercial, industrial or other uses or any combination of uses shall be presented in the same manner as other plats for review and approval.*

2004 S-I

## **Zoning**

84E

*(B) Prior to the submission of any plat for consideration to the Planning Commission under the provisions of this chapter, the subdivider shall meet with the Planning Commission, or any individual to whom the Commission may delegate this responsibility to introduce himself as a potential subdivider and learn what shall be expected of him in such capacity. Such initial meeting shall constitute the pre-application meeting. (Ord. 126, passed 6-28-76)*

#### **' 153.096 PRELIMINARY PLAT.**

*(A) The subdivider shall submit to the Clerk-Administrator-Treasurer or any other person designated by the council six copies of a preliminary plat of his proposed subdivision, the requirements of which are as set forth in this chapter. Said preliminary plat shall be submitted to the Planning Commission (who, for the purpose of this chapter, shall be designated the platting authority) two weeks prior to their next regularly scheduled meeting and shall be accompanied by a fee of \$25 plus \$1 for each lot up to a maximum of \$150.*

*(B) In instances where the proposed subdivision lies outside the city limits, the Clerk-Administrator-Treasurer shall submit one copy of the preliminary plat to the governing body of the town within the subdivision is proposed and one copy to the Grant County Planning Advisory Commission not later than three days after receipt of said plat from the subdivider. The County Planning Advisory Commission's reactions to said plat shall be presented to the City Planning Commission at its next regularly scheduled meeting.*

*(C) The City Planning Commission shall review the preliminary plat considering the reaction in*

## **Zoning**

*division (B) above and from the standpoint of the public health and welfare, tax balance of industry, agriculture and residences and city planning. The Planning Commission shall conduct a public hearing on the proposed plat as required by law. The Commission shall notify the owner or subdivider as to the time and place of the Planning Commission meeting, at which time he will be afforded an opportunity to appear.*

*(D) If approved, the Planning Commission shall express its approval or conditional approval and state the conditions of such approval, if any, or if disapproved, shall express its disapproval and its reason(s) therefor. Such approval or disapproval shall be transmitted to the City Council.*

*(E) After the City Council receives the report of the Planning Commission, the Council shall act to approve or disapprove the plat and the Council may, before acting upon the preliminary plat, submit it to any employee or technical advisor of the city they may designate for further review and study. If the Council shall disapprove said plat, the grounds for any such refusal shall be set forth in the proceedings of the Council and reported to the person or persons applying for such approval.*

2004 S-I

84F

## **Elbow Lake - Land Usage**

*(F) Approval shall mean the acceptance of the design as a basis for preparation of the final plat.*

*(G) At the time the preliminary plat is filed, if a zoning change would be required to accommodate the proposed use, the subdivider shall submit to the Clerk-Administrator-Treasurer a petition for appropriate rezoning.*

*(Ord. 126, passed 6-28-76)*

## **' 153.097 FINAL PLAT.**

*(A) The owner or subdivider shall file six copies of the final plat with the Clerk-Administrator-Treasurer or any other person designated by the Council at least two weeks before the next regularly scheduled Planning Commission meeting and within 90 days of the date of the last approval of the preliminary plat. These copies of the final plat shall conform substantially to the preliminary plat as approved. Final plat approval shall become null and void on all plats which are not filed within the time herein specified unless an extension is requested in writing to the City Council and for good cause granted by the Council.*

*(B) The subdivider may file a final plat limited to such portion of the preliminary plat which he proposed to record and develop at one time, provided that such portion conforms to all requirements of this chapter.*

*(C) The Clerk-Administrator-Treasurer or any other person designated by the Council shall refer two copies of the final plat to the Planning Commission for their review and report.*

*(D) The Planning Commission shall check the final plat to see that it is in substantial agreement with the preliminary plat as approved and that it meets all ordinances and regulations of the city. In the event that the plat involves special problems or is in conflict with city development objectives or with the*

## **Zoning**

*planning studies being conducted by the Planning Commission, the Commission shall notify the owner or subdivider as to the time and place of the Planning Commission meeting at which he shall be afforded an opportunity to appear.*

*(E) Any proposed plat in the Shoreland Management Area, which is inconsistent with provisions of this chapter shall be reviewed by the Commissioner of Natural Resources before approval by the City Council may be granted. Such review shall require that the proposed plats be received by the Commissioner at least ten days before a hearing is called by the City Council for consideration of approval of a final plat.*

*(F) Copies of all plats within the Shoreland Management Area shall be submitted to the Commissioner within ten days of final approval by the municipality.*

2004 S-I

## **Zoning**

84G

*(G) The subdivider shall install monuments in accordance with the requirements of M.S. ' 505.02, as it may be amended from time to time.*

*(H) When a final plat meets all the conditions of this chapter, the Planning Commission shall recommend approval to the City Council and the Council shall act thereon. Following final plat approval or disapproval by the Council, the Clerk-Administrator-Treasurer shall notify the subdivider of the Council's action and within 30 days thereafter the final plat, if approved, shall be filed with the County Register of Deeds.*

*(I) Any approval of the final plat by the Council shall be null and void if the plat is not recorded with the Register of Deeds of the County within 30 days after the date of approval unless application for an extension of time is made, in writing, during the 30 day period, to the City Council and granted by the Council. A duplicate and five paper prints of the final plat - after the plat has been recorded with the Register of Deeds of the County - shall be filed with the County Auditor. Said plat shall not be filed unless it is accompanied by a certified copy of the resolution approving it.  
(Ord. 126, passed 6-28-76)*

## ***SUBDIVISION REGULATIONS PRESENTATION REQUIREMENTS***

### ***' 153.105 PRELIMINARY PLAT.***

*(A) Scale: one inch equals 100 feet.*

*(B) Identification and description:*

*(1) Proposed name of subdivision, which name shall not duplicate or be similar in pronunciation to the name of any plat theretofore recorded in the city;*

## **Zoning**

- (2) Location by section, town, range, or by other legal description;*
- (3) Names and addresses of the owner, subdivider, surveyor and designer of the plan;*
- (4) Graphic scale;*
- (5) North point; and*
- (6) Date of preparation.*

2004 S-I  
84H

## **Elbow Lake - Land Usage**

### *(C) Existing conditions in tract and in surrounding area to a distance of 300 feet:*

- (1) Boundary line of proposed subdivision clearly indicated;*
- (2) Total approximate acreage;*
- (3) Platted streets, railroad right-of-way and utility easements;*
- (4) Boundary lines and ownership of adjoining unsubdivided land;*
- (5) Sewers, water mains, culverts or other underground facilities;*
- (6) Permanent buildings and structures; and*
- (7) Lakes, watercourses and marsh areas and such other information as soil tests and contours at vertical intervals of not more than two feet, if requested by the Planning Commission to aid in their review. All elevation data shall be mean sea level or some other assumed, workable data.*

### *(D) Subdivision design features:*

*(1) Layout and width of proposed streets and utility easements showing street names, lot dimensions, parks and other public areas. The name of any street heretofore used in the city shall not be used, unless the proposed street is an extension of an already named street, in which event the name shall be used. The street layout shall include all contiguous land owned or controlled by the subdivider.*

*(2) Proposed use of all parcels and, if zoning change is required, proposed rezoning.*

*(3) Preliminary street grades and drainage plan shall be shown on a copy of the contour map, if required.*

*(Ord. 126, passed 6-28-76)*

## **Zoning**

- (A) Plans for the provision of safe and palatable water, sewage disposal, drainage and flood controls;*
- (B) Such information as found necessary for review by the Planning Commission;*
- (C) Evidence that ground water control is at least four feet below the level of finished grades or plan for solving ground water problem;*

2004 S-I

## **Zoning**

84I

- (D) Data required as set forth in M.S. Chapter 505, as it may be amended from time to time;*
- (E) An identification system for all lots and blocks;*
- (F) The size (in square feet) and dimensions of all lots;*
- (G) Certification by a registered land surveyor to the effect that the plat represents a survey made by him and that monuments and markers shown thereon exist as located and that all dimensional and geodetic details are correct;*
- (H) Notarized certification by owners, and by any mortgage holder of record of the adoption of the plat and the dedication of streets and other public areas;*
- (I) Certifications showing that all taxes and liens currently due on the property to be subdivided have been paid in full;*
- (J) Form for approval by City Council:*

*The City Council of the City of Elbow Lake, Minnesota, hereby approves this final plat this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.*

*Signed: \_\_\_\_\_*  
*Mayor*

*Signed: \_\_\_\_\_*  
*Clerk-Administrator-Treasurer*  
*(Ord. 126, passed 6-28-76)*

## ***SUBDIVISION REGULATIONS DESIGN STANDARDS***

## Zoning

### ***153.115 STREETS.***

(A) *All subdivision layouts shall be developed in proper relation to existing and proposed streets, roads, topography, surface water, vegetative cover, other natural features, and the most advantageous development of adjoining areas.*

2004 S-I  
84J

### ***Elbow Lake - Land Usage***

(B) *Public streets shall be designed and located to take into account:*

- (1) Existing and planned streets;*
- (2) Topographic conditions including the bearing capacity and erosion potential of the soil;*
- (3) Public convenience and safety including facilitating fire protection, snow plowing, and pedestrian traffic;*
- (4) Requirements of public utility facilities;*
- (5) The proposed uses of land to be served;*
- (6) Anticipated traffic volumes; and*
- (7) Further resubdivision possibilities.*

(C) *Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets. When a new subdivision adjoins unsubdivided land susceptible to being subdivided, then the new streets shall be carried to the boundaries of such unsubdivided land.*

(D) *The following width and grade standards of street design shall be observed by the subdivider:*

<b><i>STREETS</i></b>	<b><i>DISTANCE*</i></b>	<b><i>MIN. GRADE</i></b>	<b><i>MAX. GRADE</i></b>
<i>Highways and arterial streets</i>	<i>100 to 150 feet</i>	<i>6%</i>	<i>0.5%</i>
<i>Collector streets</i>	<i>80 feet</i>	<i>8%</i>	<i>0.5%</i>
<i>Local streets</i>	<i>66 feet</i>	<i>10%</i>	<i>0.5%</i>
<b><i>NOTE TO TABLE:</i></b> <i>* - Distance is measured from lot line to lot line.</i>			

*Where new streets extend existing adjoining streets, their projections shall be at the same or greater width, but in no case less than the minimum required width.*

## **Zoning**

*(E) Tangents of at least 100 feet in length shall be introduced between reverse curves on collector streets and 50 feet on lesser streets.*

*(F) Local streets shall be so aligned that their use by through traffic will be discouraged.*

2004 S-I

## **Zoning**

84K

*(G) Street jogs with center line offsets of less than 150 feet shall be avoided.*

*(H) Insofar as practical, street intersections shall be at right angles and no intersection shall be at an angle of less than 45 degrees. It must be evidenced that safe and efficient traffic flow is encouraged.*

*(I) Maximum length of permanent cul-de-sac streets shall be 400 feet measured along the center line from the intersection of origin to the end of right-of-way. Each cul-de-sac shall be provided at the closed end with a turnaround having a minimum outside roadway diameter of 80 feet and a minimum street property line diameter of 100 feet.*

*(J) Half-streets shall be prohibited except where the City Council finds it to be practical to require the dedication of the other half when the adjoining property is subdivided.*

*(K) Proposed street obviously in alignment with existing and named streets shall bear the names of such existing streets. In other cases, the name for the proposed street shall not duplicate existing street names.*

*(L) Street surfacing done by the developer shall be approved by the City Council.*

*(M) Private streets shall not be approved nor shall public improvements be approved for any previously existing private street.*

*(N) No person shall sell any parcel of land in a subdivision located in the city if it abuts on a road which has not been accepted as a public road and is not required to be maintained by the city.*

*(O) Where a proposed plat is adjacent to a major throughfare, the City Council may require the developer to provide local service drives along the right-of-way of such facilities or they may require that lots should back on the throughfare, in which case, vehicular and pedestrian access between the lots and throughfare shall be prohibited.*

*(P) 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.*

*(Q) Curb lines at street intersections shall be rounded at a radius of not less than 20 feet.  
(Ord. 126, passed 6-28-76)*

## **' 153.116 EASEMENTS.**

*(A) Utility easements as required by the City Council shall be provided for utilities, where*

## **Zoning**

*necessary. They shall be centered on rear and other lot line or within alley right-of-ways. They shall*

2004 S-1

84L

### **Elbow Lake - Land Usage**

*have continuity of alignment from block to block. At deflection points, easements for pole line anchors shall be provided where necessary.*

*(B) Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way substantially in alignment with the lines of such watercourse, together with such further width of construction or both, as will be adequate for storm water runoff. The easement shall include not only the stream channel, but also adjoining areas that have been subject to flooding in years of heavy runoff.*

*(Ord. 126, passed 6-28-76)*

#### **' 153.117 BLOCKS.**

*(A) Block lengths shall not exceed 1,200 feet and, if possible, shall not be less than 400 feet in length. In blocks longer than 800 feet, a pedestrian crossway with a minimum right-of-way of ten feet shall be required near the center of the block. The use of additional accessways to schools, parks, and other destinations may also be required.*

*(B) A block shall be so designed as to provide two tiers of lots of appropriate depth unless it adjoins a railroad or highway or arterial street and unless the rear lot line abuts a different land use, or topographical conditions necessitate a single tier of lots. In these cases, the lot depth shall be at least 15 feet greater than minimum requirements.*

*(Ord. 126, passed 6-28-76)*

#### **' 153.118 LOTS.**

*(A) Where possible, side lot lines shall be at right angles to straight street lines or radial to curved street lines. Each lot shall front on a public street or highway. Lots with frontage on two parallel streets shall be permitted only under unusual circumstances.*

*(B) Minimum lot sizes within the city shall in all cases conform to zoning regulations in force. Corner lots shall be platted at least 15 feet wider than the minimum lot width required if no provision is so made in the Zoning Ordinance in force.*

*(C) There shall be no direct vehicular access from residential lots to highways or arterial streets, and residential lots shall be separated from trunk highways and arterial streets and railroad right-of-way by a 25 foot buffer strip, which may be in the form of added depth or width of lots backing on or siding along the throughfare or railroad right-of-way.*



*(D) Lot remnants which are below the minimum lot size must be added to adjacent or surrounding lots rather than be allowed to remain as an unusable outlot or parcel unless the owner can show plans for the future use of such remnants.*

*(E) The shape of individual lots may render portions unuseable for installing private sewage disposal systems or providing adequate separating distances between them and watercourses or water wells. Therefore, any part of a lot less than 30 feet wide shall not be used in computing the minimum lot area. (Ord. 126, passed 6-28-76)*

***' 153.119 NATURAL FEATURES.***

*In the subdividing of land, due regard shall be shown for all natural features which, if preserved, will add attractiveness and stability to the proposed development. (Ord. 126, passed 6-28-76)*

***' 153.120 PLANNED UNIT DEVELOPMENT.***

*(A) Altered zoning standards may be allowed as exemptions to this chapter for planned unit development provided:*

*(1) Preliminary plans are first approved by the Commissioner of Natural Resources.*

*(2) Central sewage facilities are installed which meet the standards, criteria, rules or regulations of the Minnesota Department of Health and the Pollution Control Agency.*

*(3) Open space is preserved.*

*(4) That the following factors are carefully evaluated to ensure that the increased density of development is consistent with the resource limitations of the public water:*

*(a) Suitability of the site for the proposed use;*

*(b) Physical and aesthetic impact of increased density;*

*(c) Level of current development;*

*(d) Amount and ownership of undeveloped shoreland;*

*(e) Levels and types of water surface use and public access; and*

## **Zoning**

(f) *Possible effects on over-all public use.*

(5) *Any commercial, recreational, community, or religious facility allowed as part of the planned unit development shall conform to all applicable federal and state regulations including but not limited to the following:*

(a) *Licensing provisions or procedures;*

(b) *Waste disposal regulations;*

(c) *Water supply regulations;*

(d) *Building codes;*

(e) *Safety regulations;*

(f) *Regulations concerning the appropriation and use of Public Waters as defined in M.S. Chapter 105, as it may be amended from time to time; and*

(g) *Applicable regulations of the Minnesota Environmental Quality Council.*

(6) *Any attached conditions are met, such as limits on overall density, minimum size of the planned unit development, restriction to residential uses, or minimum length of water frontage.*

(7) *The final plan for a planned unit development shall not be modified, amended, repealed, or otherwise altered unless approved in writing by the developer, the City Council and the Commissioner of Natural Resources.*

(8) *There is not more than one centralized boat launching facility, beach, dock, or other recreation facility for each planned unit development.*  
(Ord. 126, passed 6-28-76)

### ***SUBDIVISION REGULATIONS REQUIRED IMPROVEMENTS***

#### ***' 153.135 REQUIREMENTS.***

*Before the City Council approves a final plat, the subdivider shall give satisfactory assurances of the provision of " 153.136 through 153.143.*

## **Zoning**

### **' 153.136 MONUMENTS.**

*Steel monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shown on the final plat. All U.S., state, county or other official benchmarks, monuments or triangulation stations in or adjacent to the property shall be preserved in precise position.*  
(Ord. 126, passed 6-28-76)

### **' 153.137 STREETS.**

*All the streets shall be improved in accordance with the engineering specifications established by the City Council.*  
(Ord. 126, passed 6-28-76)

### **' 153.138 WATER SUPPLY FACILITIES.**

*Where there is an existing public water supply system on or near the subdivision, the City Council shall determine the feasibility of service and the requirements to be followed by the subdivider in connecting to the system. Where there is no existing public water supply, individual water supply systems will be permitted in accordance with minimum standards and regulations of the Minnesota Department of Health.*  
(Ord. 126, passed 6-28-76)

### **' 153.139 SANITARY SEWERAGE.**

*(A) In areas that have a sanitary sewage system on or near the proposed subdivision, the City Council shall determine the feasibility of service and the procedures to be followed by the subdivider in joining the system.*

*(B) In areas that are not to be served by sewer systems, on-site sewage disposal systems utilizing septic tank and soil absorption fields will be permitted only where soil borings and percolation tests indicate the systems will function adequately. Disposal systems shall be constructed to meet the requirements of the Minnesota Department of Health, the standards set out in ' 153.075 , and other state and local requirements. The subdivider shall carry out sufficient soil borings and percolation tests to adequately portray the character of the soil, ground water levels, and depth to bedrock. Each lot shall have at least 50% of its area free of all of the limiting conditions set forth in ' 153.075.*

*(C) The City Council may prohibit the installation of sewage disposal facilities utilizing septic tanks and soil absorption fields where such systems would impair water quality, and the City Council may*

*require alternative methods of waste treatment and disposal including, but not limited to, biological and or territory or incinerator or chemical toilets.*

## **Zoning**

*(D) Plans for private sewage disposal systems not utilizing septic tank and soil absorption fields as specified in division (C), shall be approved in writing by the Minnesota Pollution Control Agency or Minnesota Department of Health. The subdivider shall clearly indicate on the face of the plat and in any deed of conveyance that septic tank and soil absorption fields are not to be used.*  
(Ord. 126, passed 6-28-76)

### **<sup>1</sup> 153.140 STORM DRAINAGE.**

*Storm drainage facilities, where required, shall be designated to permit the unimpeded flow of natural watercourses; insure the drainage of all points along the line of streets; and provide positive drainage away from on-site sewage disposal facilities. In designing storm facilities, special consideration shall be given to protection against shoreland erosion and siltation of surface waters and preventing excess runoff on adjacent property.*  
(Ord. 126, passed 6-28-76)

### **<sup>1</sup> 153.141 STREET NAME SIGNS.**

*These shall be placed at all street intersections within or abutting the subdivisions and shall conform to the standard of design accepted for all street name signs by the Planning Commission.*  
(Ord. 126, passed 6-28-76)

### **<sup>1</sup> 153.142 SPECIFICATIONS.**

*All of the improvements shall conform to engineering standards and specifications as required by the City Council.*  
(Ord. 126, passed 6-28-76)

### **<sup>1</sup> 153.143 FINANCING.**

*Before a final plat is approved by the City Council, the subdivider shall satisfactorily demonstrate how the required improvements are to be provided. This could take the form of a letter of intent to provide the improvements as the subdivision develops and change the cost against the price of*

*the lots; or leave the ultimate provision of the improvements up to the purchasers of the land through the process of petition, city construction and property assessment; or whatever assurances would be acceptable to the City Council.*  
(Ord. 126, passed 6-28-76)

## **Zoning**

### **' 153.144 DEDICATIONS.**

(A) *The City Council may require that suitable sites in the subdivision be dedicated or reserved for future public use, such as schools, parks, playgrounds, public access and open spaces as needed by the subdivision.*

(B) *Any part of a street or other public way which is indicated on a comprehensive plan or plan component shall conform to the arrangement, width and location indicated, and shall be offered for dedication to the city.*

(C) *The City Council may require that easements for drainage ways of widths sufficient to accommodate storm water runoff be provided.*

(D) *The City Council may require that easements for public utilities be provided.*  
(Ord. 126, passed 6-28-76)

## ***SUBDIVISION REGULATIONS ADMINISTRATION***

### **' 153.155 ADMINISTRATOR.**

*It shall be the duty of the Clerk-Administrator-Treasurer or any other person authorized by the City Council, to cause the provisions of this chapter to be properly enforced and to administer the same.*  
(Ord. 126, passed 6-28-76)

### **' 153.156 BUILDING PERMITS.**

(A) *A building permit shall be obtained before the construction or moving of any structure or part thereof, and for installing, converting, or remodeling and structures or parts thereof.*

(B) *Before a building permit is issued, the terms of this chapter shall be met.*

2004 S-I  
84R

## ***Elbow Lake - Land Usage***

(C) *Application for a building permit shall be made to the Clerk-Administrator-Treasurer or any other person authorized by the City Council, on blank forms furnished by the city. Each application for a permit to construct or alter any building shall be accompanied by a plan drawn to scale showing the dimensions of the lot to be built upon and the size and location of the building and accessory building to be erected. Application for any kind of building permit shall contain such other information as may be deemed necessary for the proper enforcement of this chapter. The fee for a building permit shall be \$25, but no fee shall*

## **Zoning**

*be charged if the proposed work will change the outside dimensions by 50 square feet or less.*

*(D) The Clerk-Administrator-Treasurer or any other person authorized by the City Council may issue building permits if all provisions of this chapter are met or he may refer applications to the Planning Commission for review prior to issuance. The City Council shall be notified monthly of permits issued.*

*(E) Prior to construction a site inspection shall be made by authorized personnel appointed by the City Council.*

*(Ord. 126, passed 6-28-76)*

### **<sup>1</sup> 153.157 APPEALS.**

*There is hereby established a Board of Adjustment and Appeals which board shall hear any appeals from decisions of the Planning Board. The Board of Adjustment and Appeals decision shall be final, subject to judicial review. The City Council shall act as a Board of Adjustment and Appeals, and shall meet at such time and place as is necessary to carry on the business at hand. The Board of Adjustment and Appeals must meet within 30 days after written notice has been personally served upon the City Mayor. The Board shall have the powers set forth in M.S. <sup>1</sup> 462.359, Subd. 4, as it may be amended from time to time. Copies of all notices of any public hearings to consider variances, amendments, or special uses in the Shoreland Management Area shall be received by the Commissioner of Natural Resources at least ten days prior to such hearings.*

*(Ord. 126, passed 6-28-76)*

### **<sup>1</sup> 153.158 VARIANCE.**

*(A) In any case where, upon application of any responsible parties to the Board of Adjustment, it appears, that by reason of exceptional circumstances, the strict enforcement of any provision of the standards would cause unnecessary hardship or that strict conformity with the standards would be unreasonable, impracticable, or not feasible under the circumstances, the Board of Adjustment may permit a variance therefrom upon such conditions as it may prescribe consistent with the general purposes of this chapter and the intent of this and all other applicable state and local regulations and laws, provided that:*

2004 S-1

## **Zoning**

84S

*(1) The condition causing the hardship is unique to that property;*

*(2) The variance is proved necessary in order to secure for the applicant a right or rights that are enjoyed by other owners in the same area or district;*

*(3) The granting of the variance will not be contrary to the public interest or damaging to the rights of other persons or to property values in the neighborhood; and*

*(4) The granting of the variance will not be contrary to management policies of the area or district.*

### **Zoning**

*(B) No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do; nor for any other reason than a proved hardship.*

*(C) Public notice that a specific variance will be considered at the next regular meeting of the Board of Adjustment shall be placed in a newspaper of general circulation at least ten days before a public hearing.*

*(D) Notice shall be sent to all property owners within 350 feet of the property for which the appeal is filed.*

*(E) A copy of all variances granted shall be forwarded to the Commissioner of Natural Resources within ten days of such action.*

*(Ord. 126, passed 6-28-76)*

### **' 153.159 SPECIAL USE PERMITS.**

*(A) A special use is one that may or may not be compatible with other uses in the district within which it is located. The compatibility must be judged on the basis of the particular circumstances and may require the imposing of conditions. The procedure for issuance of special use permits as provided for in this chapter is as follows:*

*(1) The applicant for a special use permit shall file his application in writing in the office of the Clerk-Administrator-Treasurer and pay a fee of five dollars when the application is filed. Said fee shall be payable to the city.*

*(2) The Clerk-Administrator-Treasurer or any other person designated by the Council shall refer the application to the Planning Commission. Property owners within 350 feet of the property in question shall be given notice within 48 hours of filing of an application and shall be given not less than seven days notice of pending of same and when same will be considered.*

2004 S-1

84T

### **Elbow Lake - Land Usage**

*(3) The Planning Commission shall consider the application at its next regular meeting or a special meeting, held no later than seven days following notification of property owners as noted in division (A)(2).*

*(4) The applicant or his representative shall appear before the Planning Commission and answer any questions concerning the proposed special use.*

*(5) The Planning Commission shall consider possible adverse effects of the proposed special use and what additional requirements may be necessary to prevent such adverse effects.*

*(6) The report of the Planning Commission shall be referred to the City Council and placed on the agenda of the Council at its next regular meeting following referral from the Planning Commission.*

*(7) The City Council shall take action on the application within 72 hours after receiving the*

## **Zoning**

*report of the Planning Commission. If it grants the special use permit, the City Council may impose special conditions it considers necessary to protect the public health, safety and welfare.*  
(Ord. 126, passed 6-28-76)

### **' 153.160 AMENDMENTS AND CHANGES.**

(A) *An amendment to this chapter may be initiated by the City Council, the Planning Commission or by petition of affected property owners.*

(B) *Any affected property owner petitioning for an amendment to this chapter shall make application in writing to the Clerk-Administrator-Treasurer. The application shall be accompanied by a fee of \$25 payable to the city.*

(C) *Public notice concerning an amendment to the zoning ordinance will be considered at the next regular meeting of the Planning Commission and shall be placed in a newspaper of general circulation at least ten days before the public hearing.*

(D) *In addition to the general notice to the public, separate notice ten days before the hearing shall be required for all property owners residing within 350 feet of the area where a request concerning a zoning change will be the subject of the hearing.*

(E) *The County Board and Town Board of the township within the proposed amendment is located shall receive notification if within the extra territorial limits of this chapter.*

(F) *No change shall be made until the proposed change has been referred to the Planning Commission for report thereon and an attested copy of such report has been filed with the Council.*

2004 S-I

## **Zoning**

84U

*Failure of the Planning Commission so to report within 45 days or such longer period as may be designated by the Council after such reference shall be deemed to be approval of the proposed change.*  
(Ord. 126, passed 6-28-76)

### **' 153.161 ENFORCEMENT AND PENALTIES.**

(A) *Any person who unlawfully violates any of the terms and provisions of this chapter shall be charged with a misdemeanor, punishable by a fine of not more than \$300, or by imprisonment not exceeding 90 days. All fines for violations shall be credited to the city.*

(B) *In the event of a violation or a threatened violation of this chapter, the City Council or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the City Attorney to institute such action.*



## **Zoning**

*(C) Any taxpayer or taxpayers of the city may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by this chapter. (Ord. 126, 6-28-76)*

### **' 153.162 METES AND BOUNDS DESCRIPTION.**

*(A) No conveyance of land shall be recorded or filed if the land is described in the conveyance by metes and bounds or by reference to an unapproved, registered land survey made after the effective date of this chapter. The foregoing provision does not apply to a conveyance if the land described:*

*(1) Was a separate parcel of record at the date of adoption of this chapter.*

*(2) Was the subject of a written agreement to convey entered into prior to such time;*

*(3) Was a separate parcel of not less than 2 2 acres in area and 150 feet in width on the effective date of this chapter or in a single parcel of land of not less than five acres and having a width of not less than 300 feet.*

*(B) In any case in which compliance with the foregoing restriction will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the City Council may waive such compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded. Any owner or agent of the owner of land who conveys a lot or parcel in violation of the provisions of this subdivision shall forfeit and pay to the municipality a penalty of not less than \$100 for each lot or parcel so conveyed.*

*(Ord. 126, passed 6-28-76)*

**Zoning**  
***Elbow Lake - Land Usage***

**APPENDIX A: ON-SITE PARKING REQUIREMENTS**

<i>Use</i>	<i>Required Spaces or Area</i>
<i>Residential</i>	

## Zoning

**TABLE IV: ZONING MAP CHANGES**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
182	5-5-97	Rezoning certain property to CI, commercial-industrial
--	10-1-12	Rezoning Lots 3, 4, 5, and 6, Block 4, Citizens Addition, from Residence A (RA) to Commercial A (CA); rezoning Lots 1, 2, 7, and 8, Citizens Addition, from Agricultural (A) to Commercial (CA)



**Zoning**  
**Elbow Lake - Table of Special Ordinances**

**PARALLEL REFERENCES**

References to Minnesota Statutes  
References to Minnesota Rules  
References to Ordinances

## **Zoning**

1

**Zoning**  
**Elbow Lake - Parallel References**

## **Zoning**

### **REFERENCES TO MINNESOTA STATUTES**

<i><b>M.S. Section</b></i>	<i><b>Code Section</b></i>
7.08	151.08
12.25	32.01, 32.04
12.31	32.06
14.57 - 14.70	112.26, 112.99
14.57 - 14.69	115.13
15.99	153.80, 153.82, 153.83
88.16 - 88.22	90.70
93.44 - 93.51	151.08, 151.40
103I.301 - 103I.345	51.06
Ch. 105	151.01, 153.03
105.37(14),(15)	151.08
105.42	151.37
105.485	151.58
Ch. 115	153.03
115.01(8)	52.01
115.07	52.01
Ch. 116	153.03
Ch. 134	31.01
134.11	31.01
144.391	111.01
157.16	112.03
157.16(3)(d)	112.03
162.359	153.77
168B.011, Subd. 3	90.15
Ch. 169	70.01
169.045, Subd. 7	76.06
169.14	91.02
169.522	76.06
216B.097	53.06
Ch. 238	113.16
260.185	130.99
Ch. 278	115.13
326.40	51.70
326.40, Subd. 2	51.70
327.31, Subd. 3	153.05



**Zoning**  
**Elbow Lake - Parallel References**

<i><b>M.S. Section</b></i>	<i><b>Code Section</b></i>
Ch. 329	110.03
Ch. 333	115.08
Ch. 340A	112.01, 112.02, 112.15, 112.18, 112.26, 112.99
340A.101	112.03, 112.17
340A.401(1)	112.17
340A.404(4)(a)	112.17
340A.404(4)(b)	112.17
340A.404(5)	112.17
340A.408(2)(b)	112.17
340A.409	112.20
340A.414(6)	112.17
340A.504	112.42
340A.504(3)(c)	112.17
340A.509	112.02
340A.801	112.20
347.51	94.32
347.54	94.32
347.151	94.32
Ch. 349	114.01, 114.02, 114.15
349.11 - 349.21	114.99
349.11 - 349.23	114.06, 114.07
349.12	114.04
349.12, Subd. 25	114.13
349.16	114.13
349.166	114.09
349.213	114.02
360.063	152.01
364.03, Subd. 3	115.06
366.102	53.06
379.462	153.03
412.141	30.02
412.321 - 412.391	31.04
412.341	31.04
415.01	53.06
429.101	90.01, 90.02, 90.43
444.075	53.06
Ch. 462	151.01
462.357, Subd. 6	151.08, 151.09
462.357, Subd. 7	153.77
462.358	153.84
462.361	153.81

**Zoning**  
**References to Minnesota Statutes**

5

<i><b>M.S. Section</b></i>	<i><b>Code Section</b></i>
463.15 - 463.26	90.01
463.17	90.20
Ch. 505	151.74, 153.84
505.02(1)	151.72
514.67	90.01
518B.01	115.12, 115.13
609.293 - 609.352	115.12, 115.13
609.746 - 609.749	115.12, 115.13
609.75 - 609.763	114.06, 114.99
609.79	115.12, 115.13
617.251	115.04, 154.04
617.293	115.04, 154.04
617.295	115.04, 154.04
624.20, Subd. 1(c)	130.03
624.717	130.02
626.84, Subd. 1(g)	30.19
626.862	10.20
3401.414	112.44

**Zoning**  
**Elbow Lake - Parallel References**

## **Zoning**

### **REFERENCES TO RULES**

<i><b>Minn. Rules Part</b></i>	<i><b>Code Section</b></i>
Ch. 1340	151.36
Ch. 1510	90.70
Ch. 4715	51.31
Ch. 4725	51.06
6120.2500 - 6120.3900	151.01, 151.03
6120.3200, subpart 3	151.21
6120.3300	151.20
6120.5000 - 6120.6200	151.36
Ch. 7030	90.18
Ch. 7080	52.16, 151.42, 151.58

**Zoning**  
**Elbow Lake - Parallel References**

## **Zoning**

### **REFERENCES TO ORDINANCES**

<i><b>Ord. No.</b></i>	<i><b>Date Passed</b></i>	<i><b>Code Section</b></i>
13	2-13-1889	T.S.O. III
33	5-23-1900	T.S.O. III
37	4-10-1905	T.S.O. III
36	4-10-1905	T.S.O. III
38	5-1-1905	T.S.O. I
48	6-7-26	T.S.O. III
49	6- -26	72.02
51	- -	92.01
63	1-18-38	Ch. 74, Sch. I
67	7-29-40	T.S.O. II
80	2-6-50	72.01
83	10-1-51	71.02
89	4-6-53	T.S.O. II
90	12-7-53	T.S.O. II
95	4-4-60	50.07
97	4-3-61	150.02
104	7-1-63	33.01
107	10-4-65	31.04
109	2-17-66	31.03
110	6-9-67	T.S.O. II
117	4-1-68	31.02
121	1-6-69	130.01
123	10-6-69	T.S.O. II
126	1-4-71	153.01 - 153.05, 153.15 - 153.17, 153.30 - 153.36, 153.50 - 153.62, 153.75 - 153.79, Ch. 153, App. I
131	2-5-73	73.01, 73.02
135	9-17-73	153.05, 153.32, 153.34, 153.59
136	9-23-74	152.01 - 152.03, 152.15 - 152.18, 152.30 - 152.37
139	11-4-74	70.01
140	2-10-75	153.76
141	2-10-75	T.S.O. I
144	11-3-75	30.01

**City Policies**  
**Elbow Lake - Parallel References**

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
145	5-3-76	150.01
151	2-6-78	72.02
152	7-5-78	71.01
154	3-14-79	73.01, 73.02
155	7-2-79	91.03
156	7-2-79	50.03
157	--	T.S.O. II
158	9-8-80	50.03
163	--	T.S.O. II
166	--	50.01 - 50.06
168	2-6-84	31.01
169	--	T.S.O. II
172	4-30-90	113.01, 113.15 - 113.35, 113.45 - 113.47
173	3-4-91	30.03
175	6-7-92	91.01 - 91.05
178	11-4-93	T.S.O. II
179	11-1-93	T.S.O. II
180	12-13-93	151.01 - 151.09, 151.20, 151.21, 151.35 - 151.42, 151.55 - 151.58, 151.70 - 151.75, 151.85 - 151.91
181	10-7-96	30.02
182	5-5-97	T.S.O. IV
183	--	94.01, 94.04, 94.15 - 94.20, 94.30, 94.31, 94.35
184	10-6-97	111.01 - 111.11, 111.99
185	3-1-99	94.01, 94.04, 94.15 - 94.20, 94.30, 94.31, 94.35
187	--	90.15 - 90.21
188	7-17-01	52.01, 52.02, 52.15 - 52.19, 52.99
189	5-6-02	112.01 - 112.03, 112.15 - 112.26, 112.40 - 112.44, 112.99
190	5-2-05	Adopting Ordinance
192	12-5-05	31.04
193	3-6-06	31.01
--	8-4-08	53.01 - 53.07
--	11-2-09	76.01 - 76.07, 76.99
--	12-7-09	Ch. 75, Sch. I
--	12-7-09	90.15
--	12-6-10	T.S.O. II
--	4-2-12	94.36
--	10-1-12	T.S.O. IV





## City Policies

## City Policies