Table of Contents

TITLE I – GENERAL PROVISIONS 1

Section I: General Provisions 1

Section 1.1 - 1. Title 1
Section 1.1 - 2. Rules of Interpretation 1
Section 1.1 - 3. Definitions 1
Section 1.1 - 4. Severability 2
Section 1.1 - 5. Reference to Other Sections 2
Section 1.1 - 6. Reference to Offices 2
Section 1.1 - 7. Errors and Omissions 3
Section 1.1 - 8. Official Time 3
Section 1.1 - 9. Reasonable Time 3
Section 1.1 - 10. Ordinances Repealed 3
Section 1.1 - 11. Ordinances Unaffected 3
Section 1.1 - 12. Effective Date of Ordinances 4
Section 1.1 - 13. Repeal or Amendment of Ordinances 4
Section 1.1 - 14. Penalties, Offenses, Rights and Liabilities 4
Section 1.1 - 15. Copies of Code 4
Section 1.1 - 16. Adoption of Statutes and Rules by Reference 5
Section 1.1 - 17. Enforcement 5
Section 1.1 - 18. Supplemental Administrative Penalties 6
Section 1.1 - 19. General Penalty 6

TITLE II: ADMINISTRATION 8

SECTION I - GENERAL PROVISIONS 8

Section 2.1 - 1. City Council Meetings 8
Section 2.1 - 2. Presiding Officer 9
Section 2.1 - 3. Minutes 9
Section 2.1 - 4. Order of Business 10
Section 2.1 - 5. Voting 10
Section 2.1 - 6. Ordinance, Resolutions, Motions, Petitions and Communications 10
Section 2.1 - 7. Suspension or Amendment of Rules 11
Section 2.1 - 8. Compensation of Mayor and Council Members 11
Section 2.1 - 9. Compensation of Officers and Employees 11
Section 2.1 - 10. Quorum for Conducting Business 11
Section 2.1 - 11. Fees and Charges 11
Section 2.1 - 12. Application of State Laws 11

SECTION II - DEPARTMENTS, BOARDS AND COMMISSIONS 13

Section 2.2 - 1. Establishment of Police Department 13
Section 2.2 - 2. Establishment of Fire Department 13
Section 2.2 - 3. Establishment of Planning Commission 13

Section 2.2 - 4. Establishment of Wastewater Committee 13
Section 2.2 - 5. Establishment of Streets Committee 13
Section 2.2 - 6. Establishment of Public Safety Committee 13
Section 2.2 - 7. Establishment of Parks and Trails Committee 13
Section 2.2 - 8. Establishment of Budget Committee 13
Section 2.2 - 9. Establishment of Airport Committee 13
SECTION III - EMERGENCY MANAGEMENT 14
TITLE III: PUBLIC WORKS 15
SECTION I - GARBAGE 15
Section 3.1 – Reserved 15
SECTION II - SEWER USE REGULATIONS 16
(Revisions included in this section from Ordinance Amendement 2016-01) 16
Purpose 16
Section 3.2 - 1. Definitions 17
Section 3.2 - 2. Control by the Utilities Superintendent 26
Section 3.2 - 3. Use of Wastewater Facilities 26
Section 3.2 - 4. Private Wastewater Disposal 27
Section 3.2 - 5. Building Sewers and Connection 38
Section 3.2 - 6. Use of Public Services – DELETED (2016-01) 39
Section 3.2 - 7. Destruction of System Components 39
Section 3.2 - 8. User Rate Schedule for Charges 39
Section 3.2 - 9. Powers and Authority of Inspectors 40
Section 3.2 - 10. Penalties 40
Section 3.2 - 11. Validity 41
SECTION III - SEWER SERVICE CHARGE SYSTEM 42
Section 3.3 - 1. Purpose 42
Section 3.3 - 2. Definitions 42
Section 3.3 - 3. Establishment of a Sewer Service Charge System 46
Section 3.3 - 4. Determination of Sewer Service Charges 47
Section 3.3 - 5. Sewer Service Fund 51
Section 3.3 - 6. Administration 51
Section 3.3 - 7. Penalties 52
Section 3.3 - 8. Severability and Validity 53
SECTION IV - RATES AND CHARGES 54
Section 3.4 - 1. Schedule of Wastewater Fees 54
Section 3.4 - 2. Definitions 54
TITLE IV TRAFFIC CODE 55
SECTION I - TRAFFIC REGULATIONS 55
Section 4.1 - 1. General Provisions 55
Section 4.1 - 2. Parades 57
SECTION II - PARKING REGULATIONS 62
Section 4.2 - 1. No Parking Where Posted 62
Section 4.2 - 2. Limited Parking 62

Section 4.2 - 3. Other Parking Restrictions 62
Section 4.2 - 4. Declaration of Snow Emergency; Parking Prohibited 63
Section 4.2 - 5. Overnight Parking..... 63
Section 4.2 - 6. Repairing of Vehicles..... 63
Section 4.2 - 7. Impoundment 64
Section 4.2 - 8. Prima Facie Violations 64
SECTION III - SNOWMOBILES 65
Section 4.3 - 1. Intent 65
Section 4.3 - 2. Definitions 65
Section 4.3 - 3. Application of Traffic Ordinances..... 65
Section 4.3 - 4. Restrictions..... 65
Section 4.3 - 5. Stopping and Yielding..... 66
Section 4.3 - 6. Persons Under 18 67
Section 4.3 - 7. Equipment 67
Section 4.3 - 8. Unattended Snowmobiles..... 67
Section 4.3 - 9. Emergency Operations Permitted..... 68
SECTION IV - RECREATIONAL VEHICLES 69
Section 4.4 - 1. Purpose and Intent..... 69
Section 4.4 - 2. Definition..... 69
Section 4.4 - 3. Operation Requirements..... 69
Section 4.4 - 4. Street Crossings..... 70
Section 4.4 - 5. Hours of Operation 70
Section 4.4 - 6. Minimum Equipment Requirement 70
Section 4.4 - 7. Designation of Public Areas for use 71
Section 4.4 - 8. Motorized Golf Carts 71
SECTION V - BICYCLES, ROLLER BLADES, ROLLER SKATES, ROLLER SKIS AND SKATEBOARDS..... 73
Section 4.5 - 1. Bicycles 73
Section 4.5 - 2. Roller Blades, Roller Skates, Roller Skis and Skateboards..... 75
TITLE V: GENERAL REGULATIONS 77
SECTION I - ABANDONED PROPERTY 77
Section 5.1 - 1. Disposition of Abandoned Property..... 77
Section 5.1 - 2. Abandoned Vehicles..... 77
Section 5.1 - 3. Definitions 78
Section 5.1 - 4. Violation to Abandon Motor Vehicles..... 79
Section 5.1 - 5. Authority to Impound Vehicles. 79
Section 5.1 - 6. Sale; Waiting Periods. 81
Section 5.1 - 7. Notice of Taking and Sale. 81
Section 5.1 - 8. Right to Reclaim. 82
Section 5.1 - 9. Operator's Deficiency Claim; Implied Consent to Sale. 82
Section 5.1 - 10. Disposition by Impound Lot. 83
Section 5.1 - 11. Disposal Authority. 83
Section 5.1 - 12. Contracts; Reimbursement by MPCA. 84
SECTION II - ANIMALS 85

Section 5.2 - 1. Definitions. 85
Section 5.2 - 2. Dogs and Cats. 86
Section 5.2 - 3. Non-Domestic Animals. 87
Section 5.2 - 4. Farm Animals. 87
Section 5.2 - 5. Impounding. 87
Section 5.2 - 6. Kennels. 89
Section 5.2 - 7. Nuisances. 89
Section 5.2 - 8. Seizure of Animals. 90
Section 5.2 - 9. Animals Presenting a Danger to the Health and Safety of the City.90
Section 5.2 - 10. Diseased Animals. 91
Section 5.2 - 11. Dangerous Animals. 91
Section 5.2 - 12. Dangerous Animals Requirements. 91
Section 5.2 - 13. Basic Care. 93
Section 5.2 - 14. Breeding Moratorium. 93
Section 5.2 - 15. Enforcing Officer. 93
Section 5.2 - 16. Pound. 93
Section 5.2 - 17. Interference with Officers. 93
Section 5.2 - 18. Penalty. 94
SECTION III - HEALTH AND SAFETY; NUISANCES 95
Section 5.3 - 1. General Provisions. 95
Section 5.3 - 2. Tree Diseases. 98
Section 5.3 - 3. Public Nuisance. 99
Section 5.3 - 4. Public Nuisances Affecting Health. 99
Section 5.3 - 5. Public Nuisances Affecting Morals and Decency. 99
Section 5.3 - 6. Public Nuisances Affecting Peace And Safety. 100
Section 5.3 - 7. Nuisance Parking and Storage. 103
Section 5.3 - 8. Inoperable Motor Vehicles. 104
Section 5.3 - 9. Building Maintenance and Appearance. 105
Section 5.3 - 10. Duties of City Officers. 106
Section 5.3 - 11. Abatement. 106
Section 5.3 - 12. Recovery of Cost. 108
Section IV – Weeds 109
Section 5.4 - 1. Short Title. 109
Section 5.4 - 2. Jurisdiction. 109
Section 5.4 - 3. Definitions; Exclusions. 109
Section 5.4 - 4. Owners Responsible For Trimming, Removal And The Like. 110
Section 5.4 - 5. Filing Complaint. 110
Section 5.4 - 6. Notice of Violations. 110
Section 5.4 - 7. Appeals. 111
Section 5.4 - 8. Abatement by City. 111
Section 5.4 - 9. Liability. 111
Section V – Open Burning 112
Section 5.5 - 1. Definitions. 112
Section 5.5 - 2. Prohibited Materials. 113

Section 5.5 - 3. Permit Required For Open Burning. 113
Section 5.5 - 4. Purposes Allowed For Open Burning. 113
Section 5.5 - 5. Permit Application For Open Burning; Permit Fees. 114
Section 5.5 - 6. Burning Ban or Air Quality Alert. 114
Section 5.5 - 7. Rules and Laws Adopted by Reference. 114
Section 5.5 - 8. Penalty. 114
SECTION VI - STREETS AND SIDEWALKS 115
Section 5.6- 1. General Provisions 115
Section 5.6- 2. Right-of-way Construction Regulations 115
TITLE VI: BUSINESS REGULATIONS 127
SECTION I - GENERAL LICENSING PROVISIONS 127
Section 6.1- 1. Licenses Required to Engage in Certain Businesses 127
Section 6.1- 2. Application for License 127
Section 6.1- 3. Issuance of License 128
Section 6.1- 4. Date and Duration of License 128
Section 6.1- 5. License Not Transferable 128
Section 6.1- 6. License Certificate to Be Displayed 128
Section 6.1- 7. Revocation or Suspension 128
Section 6.1- 8. Appeal and Review 129
SECTION II - COMMERICAL AMUSEMENTS 130
Section 6.2- 1. Circuses, Carnivals, Shows and Other Entertainment 130
SECTION III - LIQUOR REGULATIONS 130
Section 6.3- 1. General Provisions 130
Section 6.3- 2. Licensing 132
Section 6.3- 3. Municipal Liquor Stores 142
Section 6.3- 4. Penalties 144
SECTION IV - PEDDLERS AND SOLICITORS 145
Section 6.4- 1. Definitions 145
Section 6.4- 2. Exceptions to Definitions 146
Section 6.4- 3. Licensing; Exemptions 146
Section 6.4- 4. License Ineligibility 149
Section 6.4- 5. License Suspension And Revocation 149
Section 6.4- 6. License Transferability 150
Section 6.4- 7. Registration 151
Section 6.4- 8. Prohibited Activities 151
Section 6.4- 9. Exclusion by Placard 151
SECTION V - TATTOO AND BODY PIECERING SERVICES 153
Section 6.5- 1. Definitions 153
Section 6.5- 2. Prohibitions 153
Section 6.5- 3. Application for License; Fees; Issuance 153
Section 6.5- 4. Inspection of Facilities 154
Section 6.5- 5. Suspension of Revocation of License 154
Section 6.5- 6. Consent for Performing Procedures on Persons Under 18 155
Section 6.5- 7. Defenses to Violations 156

Section 6.5- 8. Training Standards; Records; Safety and Sanitation; Equipment 156
SECTION VI - TOBACCO REGULATIONS 158
RESERVEDSECTION VII - REGULATING LAWFUL GAMBLING..... 158
SECTION VII - REGULATING LAWFUL GAMBLING 159
Section 6.7- 1. Adoption of State Law By Reference 159
Section 6.7- 2. City May Be More Restrictive Than State Law 159
Section 6.7- 3. Purpose 159
Section 6.7- 4. Definitions 159
Section 6.7- 5. Applicability..... 159
Section 6.7- 6. Lawful Gambling Permitted 160
Section 6.7- 7. Council Approval 160
Section 6.7- 8. Application and Local Approval of Premises Permits 160
Section 6.7- 9. Local Permits 161
Section 6.7- 10. Revocation and Suspension of Local Permit 163
Section 6.7- 11. License and Permit Display 163
Section 6.7- 12. Notification of Material Changes to Application 164
Section 6.7- 13. Contribution of Net Profits to Fund Administered by City..... 164
Section 6.7- 14. Designated Trade Area..... 164
Section 6.7- 15. Records and Reporting..... 164
Section 6.7- 16. Hours of Operation 165
Section 6.7- 17. Severability..... 165
Section 6.7- 18. Penalty..... 165
SECTION VIII - GARAGE AND RUMMAGE SALES 166
Section 6.8- 1. Definition..... 166
Section 6.8- 2. Restrictions and Prohibitions 166
Section 6.8- 3. Exceptions 166
Section 6.8- 4. Penalty..... 166
SECTION IX - REGULATION OF PUBLIC DANCES AND SPECIAL EVENTS 167
Section 6.9- 1. Public Dances 167
Section 6.9- 2. Special Events..... 169
SECTION X - SEXUALLY ORIENTED BUSINESS 172
Section 6.10- 1. Purpose 172
Section 6.10- 2. Findings 172
Section 6.10- 3. Definitions 172
Section 6.10- 4. Exceptions 176
Section 6.10- 5. License Required 176
Section 6.10- 6. Persons Ineligible 176
Section 6.10- 7. Places Ineligible 177
Section 6.10- 8. License Application..... 177
Section 6.10- 9. Fees. 180
Section 6.10- 10. Granting of Licenses 180
Section 6.10- 11. Conditions of Licenses..... 182
Section 6.10- 12. Restrictions and Regulations..... 182
Section 6.10- 13. Suspensions and Revocations of License 183

Section 6.10- 14. Penalty 184
TITLE VII: GENERAL OFFENSES 185
SECTION I - DAMAGE TO PROPERTY 185
Section 7.1- 1. Reserved 185
SECTION II - DISCHARGING FIREARMS 185
Section 7.2- 1. Reserved 185
SECTION III - CURFEW FOR MINORS 185
Section 7.3- 1. Reserved 185
SECTION IV - FIREWORKS 185
Section 7.4- 1. Fireworks 185
Section 7.4 -2. Sale, Possession, and Use of Fireworks Prohibited 186
Section 7.4 – 3. Firewords displays; Permits; Operator Certification 187
Section 7.4 – 4. Exemptions for License or Permit Holder 191
Section 7.4 – 5. Construction of Section 624.20 to 624.25 191
Section 7.4 – 6. Officers may Seize Illegal Fireworks 191
Section 7.4 – 7. Violation 191
SECTION I - TITLE 197
Section 8.3- 1. RULES 200
Section 8.3- 2. DEFINITIONS 201
Section 8.4- 1. Application of the Ordinance. 233
Section 8.4- 2. Environmental Documents and Concurrent Permits. 235
Section 8.4- 3. Use of Pre-Existing Lots. 236
Section 8.4- 4. Non-conforming Structures and Uses. 238
Section 8.4- 5. Building Standards. 243
SECTION V – ZONING DISTRICTS AND DISTRICT REGULATIONS 246
Section 8.5- 1. General 246
Section 8.5- 2. Open District. (O) (Corresponds to DNR Special Protection District)253
Section 8.5- 3. Wooded Residential, Low Density (R-1). (Non-Shoreland) 255
Section 8.5- 4. Residential, Medium, Density (R-2) 259
Section 8.5- 5. Shoreline Residential, Medium Density (R-3). 263
Section 8.5- 6. Commercial Waterfront District (C-W) 273
Section 8.5- 7. Commercial District (C). (May not include shoreland) 277
Section 8.5- 8. Public Use. (PU) 281
Section 8.5- 9. Recreational. (REC) 283
Section 8.5- 10. Off-Water Resort Overlay District (OWROD) 287
SECTION VI – PERFORMANCE STANDARDS 293
Section 8.6- 1. Bond. 293
Section 8.6- 2. Signs. 293
Section 8.6- 3. Nuisance Standards. 297
Section 8.6- 4. Fences. 300
Section 8.6- 5. Storage. 303
Section 8.6- 6. Visual Standards - Screening. 305
Section 8.6- 7. Sanitation Standards. 307
Section 8.6- 8. Animals. 309

Section 8.6- 9. Tree Removal/Woodland Preservation/Soil Erosion Prevention.311
Section 8.6- 10. Parking..... 313
Section 8.6- 11. Drainage. 315
Section 8.6- 12. Grading in Shoreland Areas..... 316
Section 8.6- 13. Exterior Design Standards. 318
SECTION VII – SPECIAL PROVISIONS 320
Section 8.7- 1. Planned Unit Development (PUD). 320
Section 8.7- 2. Mobile Home/Manufactured Housing Development. 331
Section 8.7- 3. Campgrounds/Campsites. 333
Section 8.7- 4. Extractive Uses and Restoration. 335
Section 8.7- 5. Home Occupation. 337
Section 8.7- 6. Auto Salvage Yards/Junk Yards. 339
Section 8.7- 7. Landfills. 339
SECTION VIII – SUBDIVISION STANDARDS 341
Section 8.8- 1. Sketch Plan. 341
Section 8.8- 2. Preliminary Plat, Preliminary Condominium Plat or Metes and Bounds Subdivision resulting in at least one parcel less than 10 acres 341
Section 8.8- 3. Final Plat or Final Condominium Plat. 343
Section 8.8- 4. Design Layout Standards - Minimum. 344
Section 8.8- 5. Survey Standards..... 346
Section 8.8- 6. Street Improvement Standards..... 346
Section 8.8- 7. Sanitary Provision Standards. 346
Section 8.8- 8. Water Supply Standards..... 347
Section 8.8- 9. Drainage/Grading Standards..... 348
Section 8.8- 10. Dedication to the Public – Standards..... 350
SECTION IX - IMPROVEMENTS 353
SECTION X - ADMINISTRATION 355
Section 8.10 - 1. Zoning Administration..... 355
Section 8.10 - 2. Board of Adjustment. 357
Section 8.10 - 3. Planning Commission. 357
Section 8.10 - 4. City Council..... 359
Section 8.10 - 5. Conditional Use Permits..... 361
Section 8.10 - 6. Variances. 365
Section 8.10 - 7. Zoning Permits. 367
Section 8.10 - 8. Subdivision 369
Section 8.10 - 9. Fees. 375
Section 8.10 - 10. Financial Requirements..... 375
Section 8.10 - 11. Required Decision Making Time Frames..... 377
Section 8.10 - 12. Appeals..... 379
SECTION XI - ENFORCEMENT 381
Section 8.11 - 1. Violations and Penalties. 381
Section 8.11 - 2. Liability of City Officials. 381
Section 8.11 - 3. Equitable Relief. 381
Section 8.12 - 1. Separability..... 383

Section 8.12 - 2. Supremacy. 383
Section 8.12 - 3. Effectuation. 383
Section 8.12 - 4. Amendment. 383
Section 8.12 - 5. Notices. 384

TITLE I - GENERAL PROVISIONS

Section I: General Provisions

Section 1.1 - 1. Title

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

Section 1.1 - 2. Rules of Interpretation

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

Section 1.1 - 3. Definitions

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

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

Section 1.1 - 4. Severability

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

Section 1.1 - 5. Reference to Other Sections

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

Section 1.1 - 6. Reference to Offices

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

Section 1.1 - 7. Errors and Omissions

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

Section 1.1 - 8. Official Time

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

Section 1.1 - 9. Reasonable Time

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

Section 1.1 - 10. Ordinances Repealed

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

Section 1.1 - 11. Ordinances Unaffected

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

Section 1.1 - 12. Effective Date of Ordinances

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

Section 1.1 - 13. Repeal or Amendment of Ordinances

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

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

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

Section 1.1 - 15. Copies of Code

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

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

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

Section 1.1 - 17. Enforcement

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

5. Every licensee, owner, resident or other person in control of property within the City shall permit inspections of or entrance to the property by the City Clerk or any other authorized city officer or employee at reasonable times only to determine whether the provisions of this code enacted to protect the health, safety and welfare of the people are being complied with and to enforce these provisions. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses or city service to the property. Mailed notice shall be given to the licensee, owner, resident or other person in control of the property, stating the grounds for the termination, and the licensee, owner, resident or other person in control of the property shall be given an opportunity to appear before the City Clerk to object to the termination before it occurs, subject to appeal of the Clerk's decision to the City Council at a regularly scheduled or special meeting.
6. Nothing in this section shall be construed to limit the authority of the City to enter private property in urgent emergency situations where there is an imminent danger in order to protect the public health, safety and welfare.

Section 1.1 - 18. Supplemental Administrative Penalties

1. Reserved

Section 1.1 - 19. General Penalty

1. Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this code, including Minnesota Statutes specifically adopted by reference, shall be a sentence of not more than 90 days or a fine of not more than $1,000, or both.
2. Any person, firm or corporation who violates any provision of this code, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor, shall, upon conviction, be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence of a fine of not more than $300.
3. In either the case of a misdemeanor or petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

4. The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.
5. In addition to any penalties provided for in this section or in § 1.18, if any person, firm or corporation fails to comply with any provision of this code, the Council or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

TITLE II: ADMINISTRATION

SECTION I - GENERAL PROVISIONS

Section 2.1 - 1. City Council Meetings

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

5. Public meetings. All City Council meetings, including special, emergency and adjourned meetings of City Council committees, as well as meetings of City Commissions and Boards, shall be conducted in accordance with

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

Section 2.1 - 2. Presiding Officer

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

Section 2.1 - 3. Minutes

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

Section 2.1 - 4. Order of Business

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

Section 2.1 - 5. Voting

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

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

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

Section 2.1 - 7. Suspension or Amendment of Rules

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

Section 2.1 - 8. Compensation of Mayor and Council Members

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

Section 2.1 - 9. Compensation of Officers and Employees

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

Section 2.1 - 10. Quorum for Conducting Business

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

Section 2.1 - 11. Fees and Charges

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

Section 2.1 - 12. Application of State Laws

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

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

SECTION II - DEPARTMENTS, BOARDS AND COMMISSIONS

Section 2.2 - 1. Establishment of Police Department

1. RESERVED

Section 2.2 - 2. Establishment of Fire Department

1. RESERVED

Section 2.2 - 3. Establishment of Planning Commission

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

Section 2.2 - 4. Establishment of Wastewater Committee

1. RESERVED

Section 2.2 - 5. Establishment of Streets Committee

1. RESERVED

Section 2.2 - 6. Establishment of Public Safety Committee

1. RESERVED

Section 2.2 - 7. Establishment of Parks and Trails Committee

1. RESERVED

Section 2.2 - 8. Establishment of Budget Committee

1. RESERVED

Section 2.2 - 9. Establishment of Airport Committee

1. RESERVED

SECTION III - EMERGENCY MANAGEMENT

RESERVED

TITLE III: PUBLIC WORKS

SECTION I - GARBAGE

Section 3.1 – Reserved

SECTION II - SEWER USE REGULATIONS

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

Purpose

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

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

1. EFFECTIVE DATE

The provisions set forth in this Ordinance shall become effective on May 1, 2016.

2. SCOPE

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

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

1. ABROGATION AND GREATER RESTRICTIONS

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

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

2. **INTERPRETATION**
   In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.
3. **SEVERABILITY**
   If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this Ordinance shall not be affected and shall remain in full force.
4. **REPEALOR**
   The adoption of this Ordinance repeals Section 3.2-5(1) of the East Gull Lake City code.
5. **CITY ADMINISTRATION**
   - **A.** The City of East Gull Lake shall administer the SSTS program and all provisions of this ordinance.
   - **B.** The Cities duties and responsibilities include, but are not be limited to, the following;
     1. Review all applications for SSTS
     2. Issue all permits required in this Ordinance
     3. Inspect all work regulated in this Ordinance
     4. Investigate all complaints regarding SSTS
     5. Issue certificates of installation, certificates of compliance or notices of noncompliance where applicable
     6. Enact enforcement provisions of this Ordinance as necessary
     7. Refer unresolved violations of this Ordinance to the City Attorney
     8. Maintain current records for each permitted SSTS including all site evaluation documents, design documents, inspection documents, and other applicable documents.
     9. The City shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program
     10. Submit annual reports to MPCA as required

Section 3.2 - 1. Definitions

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

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

3. **Authority.** The City of East Gull Lake, Minnesota or its representative thereof.
4. **BOD_5 or Biochemical Oxygen Demand.** The quantity of oxygen utilized in the biochemical oxidation of organic matter under the standard laboratory procedure in five (5) days at 20° Centigrade in terms of milligrams per liter (mg/l).
5. **Building Drain.** That part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the building wall.
6. **Building Sewer.** The extension from the building drain to the public sewer or other place of disposal, also referred to as a house connection or service connection
7. **City.** The area within the corporate boundaries of the City of East Gull Lake as presently established or as amended by ordinance or other legal actions at a future time. The term "City" when used herein may also be used to refer to the City Council and its authorized representative.
8. **Chemical Oxygen Demand (COD).** The quantity of oxygen utilized in the chemical oxidation of organize matter as determined by standard laboratory procedures, and as expressed in terms of milligrams per liter (mg/l).
9. **Class V Injection Well:** A shallow well used to place a variety of fluids directly below the land surface, which includes all subsurface sewage treatment systems serving two-family dwellings or larger and systems serving other sewage generating establishments that server more than 20 people. The US Environmental Protection Agency and delegated state groundwater programs permit these wells to inject wastes below the ground surface provided they meet certain requirements and do not endanger underground sources of drinking water. Class V motor vehicle waste disposal wells and large-capacity cesspools are specifically prohibited (see 40 CFR Parts 144 & 146).
10. **Cluster System:** A SSTS under some form of common ownership that collects wastewater from two or more dwellings or buildings and conveys it to a treatment and dispersal system located on an acceptable site near the dwellings or buildings
11. **Compatible Pollutant.** Biochemical Oxygen Demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the NPDES/SDS Permit if the treatment facilities are designed to treat such pollutants to a degree which complies with effluent concentration limits imposed by the permit.

12. **Control Manhole.** A structure specially constructed for the purpose of measuring flow and sampling of wastes.
13. **Design Flow:** The daily volume of wastewater for which an SSTS is designed to treat and discharge.
14. **Easement.** An acquired legal right for the specific use of land owned by others.
15. **ERC**. Equivalent Residential Connection for the purposes of calculating the user charge and debt service charge (connection charge), a building service with an anticipated park month volumetric flow not exceeding 300 gallons per day and an anticipated peak month average flow of 185 gallons per day or a service serving an individual dwelling unit; at a strength not greater than 250 mg/l of BOD_5 and 302 mg/l of total suspended solids.
16. **Failure to Protect Groundwater:** At a minimum, a SSTS that does not protect groundwater is considered to be a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance, described in MR Chapter 7080.1500 Subp. 4 D and E; and a system not abandoned in accordance with part 7080.2500. The determination of the threat to groundwater for other conditions must be made by a Qualified Employee or an individual licensed pursuant to Section 5 hereof. An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rule7080.1500, Subp.4(B) shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within ten months upon receipt of a notice of noncompliance and must meet Class I sizing requirements according to Minnesota Rule7080.1860.
17. **Fecal Coliform**. Any number of organisms common to the intestinal tract of man and animals whose presence in sanitary sewage is an indicator of pollution.
18. **Floatable Oil.** Oil, fat, or grease in a physical state, such that it will separate by gravity from wastewater.
19. **Garbage.** Animal and vegetable waste resulting from the handling, preparation, cooking, and serving of food.
20. **Imminent Threat to Public Health and Safety:** At a minimum a SSTS with a discharge of sewage or sewage effluent to the ground surface, drainage systems, ditches, or storm water drains or directly to surface water; SSTS that cause a reoccurring sewage backup into a dwelling or other establishment; SSTS with electrical hazards; or sewage tanks with unsecured, damaged, or weak maintenance access covers. The determination of protectiveness for other conditions must be made by a

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

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

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

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

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

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

33. **MPCA.** Minnesota Pollution Control Agency.
34. **National Categorical Pretreattment Standards.** Federal regulations established pretreatment standards for introduction of pollutants in publicly-owned wastewater treatment facilities which are determined to be not susceptible to treatment by such treatment facilities or would interfere with the operation of such treatment facilities, pursuant to Section 307(b) of the Act.
35. **National Pollutant Discharge Elimination System (NPDES) Permit.** A permit issued by the MPCA, setting limits on pollutants that a permittee may legally discharge into navigable waters of the United States pursuant to Sections 402 and 405 of the Act.
36. **Natural Outlet.** Any outlet, including storm sewers and combined sewers combined sewers, which overflow into a watercourse, pond, ditch, lake or other body of surface water or ground water.
37. **Non-contact Cooling Water.** The water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added, is heat.
38. **Normal Domestic Strength Waste.** Wastewater that is primarily introduced by residential units complying with Minnesota Rules, Chapter 7080.2150 subp3K. In accordance with Minnesota Rules, Chapter 7080.1550 subp 2B the system must provide additional treatment if wastewater does not comply with parameters of Minnesota Rules, Chapter 7080.2150 subp 3K.
39. **Notice of Noncompliance:** Notice of noncompliance" means a document written and signed by a certified inspector after a compliance inspection that gives notice that an ISTS is not in compliance as specified under part 7080.1500.
40. **Person.** Any individual, firm, company, association, society, corporation, or group.
41. **pH.** The logarithm of the reciprocal of the concentration of hydrogen ions in terms of grams per liter of solution.
42. **Pretreatment.** The treatment of wastewater from industrial sources prior to the introduction of the waste effluent into a publicly-owned treatment works. (See Subdivision 24.)
43. **Properly Shredded Garbage.** The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally

prevailing in public sewers with no particle greater than 1/2 inch (1.27 cm) in any dimension.

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

toxic pollutant in toxic amounts pursuant to Section 307(a) of the Act, or (4) whose discharge has a significant effect, either singly or in combination with other contributing industries, on the wastewater disposal system, the quality of sludge, the system's effluent quality, or emissions generated by the treatment system.

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

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

Section 3.2 - 2. Control by the Utilities Superintendent

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

Section 3.2 - 3. Use of Wastewater Facilities

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

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

Section 3.2 - 4. Private Wastewater Disposal

1. **ALL SSTS**
   Except as explicitly set forth in Section 207, all provisions of this Ordinance shall apply to any SSTS regardless of the date it was originally permitted.
2. **PROHIBITIONS**
   A. **Occupancy or Use of a Building without a Compliant SSTS**
   It is unlawful for any person to maintain, occupy, or use any building intended for habitation or that contains plumbing fixtures that is not provided with a wastewater treatment system that disposes of wastewater in a manner that does not comply with the provisions of this Ordinance.
   B. **Sewage Discharge to Ground Surface or Surface Water**
   It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Ordinance that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.
   C. **Sewage Discharge to a Well or Boring**
   It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rule 4725.2050, or any other excavation in the ground that is not in compliance with this ordinance.
   D. **Discharge of Hazardous or Deleterious Materials**
   It is unlawful for any person to discharge into any treatment system regulated under this Ordinance any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.
3. **PERMIT REQUIREMENTS**
   A. **Activities Not Requiring a Land Use Permit**
   A land use permit is not required for minor repairs or replacements of system components that do not alter the original function of the system; change the treatment capacity of the system; change the location of the system; or otherwise change the original system design, layout, or function. Examples are, but not limited to, pumps, baffles, and effluent screens or filters.
   B. **Activities Requiring a Land Use Permit**

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

C. Permit Requirements

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

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

D. Application Review and Response

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

E. Appeal

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

F. Permit Expiration

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

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

G. Transferability

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

H. Suspension or Revocation

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

I. SSTS Assessment Requirements

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

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

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

4. **EXISTING PERMITS**
   Unexpired permits which were issued prior to the effective date of this Ordinance shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system design, whichever is earlier.
5. **SSTS ON LOTS CREATED AFTER JANUARY 23, 1996**
   All lots created after January 23, 1996, must have a minimum of two soil treatment and dispersal areas that can support Type 1 systems as defined by Minnesota Rule 7080.2200.
6. **UPGRADE, REPAIR, REPLACEMENT AND ABANDONMENT**
   A. **SSTS Capacity Expansions**
      Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Ordinance at the time of the expansion.
   B. **Bedroom Addition**
      Any addition to a structure that includes bedroom(s) that require a land use permit from the City shall require that the SSTS meet the required design flow according to Minnesota Rule 7080.1860 or be upgraded to meet Class 1 sizing for both the septic tanks and soil absorption area. Any required upgrades shall be completed within two years.
   C. **Imminent Threat to Public Health or Safety**
      An SSTS posing an imminent threat to public health or safety shall be pumped within twenty four hours and managed as a holding tank in accordance with Minnesota Rule 7080.1500, Subp.4(A) and said SSTS shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Ordinance within ten months upon receipt of a notice of noncompliance and must meet Class I sizing requirements according to Minnesota Rule 7080.1860.
   D. **Abandonment**
      Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minnesota Rule7080.2500.
7. **SSTS IN FLOODPLAINS**
   SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minnesota Rule7080.2270 and all relevant local requirements are met.

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

9. **OPERATING PERMIT**

A. An Operating Permit shall be required for the following SSTS:

1. SSTS with high strength waste effluent standards that exceed Minnesota Rule 7080.2150, Subp.3(K)
2. Holding Tanks
3. SSTS serving three or more connections
4. Type III, Type IV and Type V SSTS
5. SSTS that exceed a daily flow of 2,500 gallons per day; or
6. MSTS designed under Minnesota Rules Chapter 7081

B. Operating Permits shall be a signed agreement between the City and the property owner and shall include monitoring, performance, mitigation, and reporting requirements.

C. A valid Operating Permit shall be considered a certificate of compliance if that system is in compliance with the requirements of the Operating Permit.

D. Owners of holding tanks and vaulted privies shall provide the City with a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner and prevents an illegal discharge in accordance with Minnesota Rule 7082.0100, Subd.3(G). This requirement is waived if the owner is a farmer who is exempt from licensing under Minn. Stat., § 115.56, Subd.3(b)(3).

E. Operating Permits shall be valid for the specific term stated on the permit as determined by the City.

F. An Operating Permit must be renewed prior to its expiration. If not renewed, the City may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within ninety calendar days of the expiration date, the City may require that the system be abandoned in accordance with Section 300 (E).

G. Operating Permits do not transfer to new property owners. New owners shall apply for an Operating Permit in accordance with Section 1005. The City shall not terminate the current permit until ninety calendar days after the date of sale unless an imminent threat to public health and safety

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

H. A report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the City on a form acceptable to the City on or before the compliance reporting date stipulated in the Operating Permit as required. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described in the Operating Permit.

I. The City may suspend or revoke any Operating Permit issued under this section for any false statements or misrepresentations of facts on which the Operating Permit was issued.

J. If suspended or revoked, the City may require that the treatment system be removed from service, operated as a holding tank, or abandoned.

K. At the Cities sole discretion, the Operating Permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

10. COMPLIANCE INSPECTION PROGRAM

A. City Responsibility

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

1. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors
2. The City shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, "property" does not include a residence or private building
3. No person shall hinder or otherwise interfere with the Cities employees in the performance of their duties and responsibilities pursuant to this Ordinance. Refusal to allow reasonable access to the property by the City shall be deemed a separate and distinct offense

B. A signed winter agreement, as per Section 303 D of the East Gull Lake Land Use Ordinance, may be accepted in lieu of a compliance inspection for property transfers,-between November 1 and April 30, provided the required information is submitted to the City by June 1 of the subsequent year. Failure to fulfill all of the obligations of the winter agreement shall be a violation of this Ordinance

C. New Construction or Replacement

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

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

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

D. Existing Systems

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

d. At any time as required by this Ordinance or the City deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.

2. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions, must be assessed, or verified

a. Watertightness assessment of all treatment tanks including a leakage report.

b. Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including vertical soils separation verification report unless soils have been verified according to Minnesota Rule7082.0700, Subp.4(B).

c. Sewage backup, surface seepage or surface discharge including a hydraulic function report.

3. The Certificate of Compliance must include a certified statement by a Qualified Employee or licensed inspection business, indicating whether the SSTS is in compliance with the requirements of this Ordinance. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those ordinance provisions with which the SSTS does not comply. An SSTS construction permit application must be submitted to the City if the required corrective action is not a minor repair

4. The Certificate of Compliance or notice of noncompliance must be submitted to the City no later than fifteen calendar days after the date the inspection was performed

5. Certificates of Compliance for existing SSTS shall remain valid for three years from the date of issue unless the City finds evidence of noncompliance

E. Transfer of Property

1. Any individual sewage treatment system located on real property lying within East Gull Lake shall be brought into compliance with the requirements of the East Gull Lake Subsurface Sewage Treatment System Ordinance upon conveyance of said real property.

2. Prior to the conveyance of any real property, the seller shall disclose in writing to the buyer information about the status and location of all known SSTS on the property by delivering to the buyer either a sworn affidavit by the seller that no SSTS exists on the property to the best of their knowledge after diligent investigation, or a certificate of compliance or notice of non-compliance meeting all provisions of this

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

3. If the seller fails to provide a Certificate of Compliance, the seller shall provide the buyer sufficient security in the form of an escrow with the City, a licensed real estate closer, licensed attorney-at-law, or a federal or state chartered financial institution. The escrow must list the City as having the "release authority". If the escrow is held by some entity other than the City, a copy of the escrow and written estimate must be submitted to the City. The amount escrowed shall be equal to 125% of a written estimate to install a complying ISTS provided by a licensed and certified installer. The buyer may, by mutual written agreement with the seller, assume the responsibility to fund the escrow. The seller or buyer may, by written agreement, assign a third party to receive the disbursement from the escrow account. After a complying SSTS has been installed and a certificate of compliance issued, the City must provide the holder of the escrow a copy of the Certificate of Compliance, and the City of East Gull Lake shall authorize the escrow to be released to the maker of the escrow or their assigns.

4. At the time of recording the conveyance of any real property within the unincorporated areas of East Gull Lake, the seller shall provide to the City one of the following: (A) a sworn affidavit by the seller certifying that no subsurface sewage treatment system exists on said property to the best of their knowledge after diligent investigation (affidavit), or (B) a Certificate of Compliance on forms approved by the City (certificate), or (C) a packet consisting of the following documents to be referred to as an escrow packet: 1) an escrow agreement as provided by subdivision "3" of this section, 2) an attached written estimate or contract to install a complying SSTS provided by a licensed and certified installer; and, 3) an attached SSTS permit application for the installation of the SSTS (packet), or (D) an SSTS permit application and SSTS Compliance Inspection Agreement for conveyances which take place between November 1st and April 30th when compliance cannot be determined (winter agreement). Failure to comply with a requirement of this subdivision does not impair the validity of the deed. Failure to present to the City an affidavit,

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

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

F. Commercial SSTS

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

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

G. Vertical Separation Reduction

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

11. SSTS PRACTITIONER LICENSING

A. No person shall engage in site evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance, or pumping of SSTS without an appropriate and valid license issued by MPCA in accordance with Minnesota Rules Chapter 7083 except as exempted in Rule 7083.0700.

B. An MPCA license is not required of an individual who is constructing a SSTS on land that is owned by the individual and functions solely as a dwelling for that individual pursuant to Minnesota Rule7083.0700. Installation of the system shall be based upon a design by a licensed designer. The system shall be inspected before it is covered and a twenty four hour notification to the City for inspection is required. Commercial SSTS and any other pressurized system cannot be constructed by anyone other than a licensed installer.

12. ENFORCEMENT

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

13. STATE NOTIFICATION OF VIOLATION

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

14. RECORD KEEPING

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

15. ANNUAL REPORT

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

16. FEES

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

17. DISPUTE RESOLUTION

Resolution of disputes between SSTS Certified Individuals regarding conflicting compliance inspections, determination of seasonally saturation of soils and other technical issues shall follow Minnesota Rule7082.0700, Subp.5.

Section 3.2 - 5. Building Sewers and Connection

1. Any new connection(s) to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to capacity for flow, BOD_5, and Suspended Solids, as determined by the Superintendent.
2. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. The building sewer from the front building may be extended to the rear building and the whole considered one building sewer. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such connection aforementioned.
3. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent or his representative, to meet all requirements of this ordinance.
4. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
5. Any person desiring a license to make a service connection with public sewers shall apply in writing to the City Council with satisfactory evidence that the applicant or employer is trained or skilled in the business and qualified to receive a license. All applications shall be referred to the Superintendent for recommendations to the Council. If approved the Council, such license shall be issued by the City Clerk upon the filing of a bond as hereinafter provided.

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

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

Section 3.2 - 7. Destruction of System Components

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

Section 3.2 - 8. User Rate Schedule for Charges

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

Section 3.2 - 9. Powers and Authority of Inspectors

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

Section 3.2 - 10. Penalties

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

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

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

Section 3.2 - 11. Validity

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

SECTION III - SEWER SERVICE CHARGE SYSTEM

Section 3.3 - 1. Purpose

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

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

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

Section 3.3 - 2. Definitions

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

1. **Administration.** Those fixed costs attributable to administration of the Wastewater treatment works (i.e. billing and associated bookkeeping and accounting costs).
2. **Apartment Unit.** Rental housing quarters used as residence for a family of one or more members or one or more unrelated persons.
3. **Availability Charge.** A charge of 35% of the connection charge for providing sewer service to vacant properties adjacent to the sewer lines. This charge will be credited upon payment of the full connection charge.
4. **Biochemical Oxygen Demand or BOD_5.** The quantity of oxygen utilized in the Biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C, expressed in milligrams per liter.
5. **City.** The area within the corporate boundaries of the City of East Gull Lake, as presently established or as amended by Ordinance or other legal actions at a future time. When used herein the term City may also refer to the City Council or its authorized representative.
6. **Commercial User.** A place of business that discharges sanitary waster as a distinct from industrial wastewater.
7. **Commercial Wastewaters.** Domestic wastewater emanating from a place of business as distinct from industrial wastewater.
8. **Connection Charge or Debt Service Charge.** A charge levied, including interest, on users of wastewater collection and treatment facilities for the cost of repaying money bonded to construct said facilities.

9. **Equivalent Residential Connection (ERC).** For the purposes of calculating the user charge and debt service charge (connection charge), a building service with an anticipated peak month volumetric flow not exceeding 300 gallons per day and an anticipated peak month average flow of 185 gallons per day or a service serving an individual dwelling unit, at a strength not greater 250 mg/l of BOD_5 and 302 mg/l of total suspended solids.
10. **Normal Domestic Strength Wastewater.** Wastewater that is primarily produced by residential users, with BOD_5 concentrations not greater than 250 mg/l and suspended solids concentrations not greater than 302 mg/l.
11. **Extra Strength Waste.** Wastewater having a BOD and/or TSS greater than domestic waste as defined in Section 3.3-2, Subdivision 10 above and not otherwise classified as an incompatible waste.
12. **Governmental User.** Users which are units, agencies or instrumentalities of federal, state or local government discharging Normal Domestic Strength wastewater.
13. **Guest House.** A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot; dependent upon the principal structure for primary utilities, services, entrance, parking and accesses; and not for rent or lease. Any accessory structure with kitchen or bathroom plumbing facilities shall be considered a dwelling guest quarters.
14. **Incompatible Waste.** Waste that either singly or by interaction with other wastes interferes with any waste treatment process, constitutes a hazard to humans or animals, creates a public nuisance or creates any hazard in the receiving waters of the wastewater treatment works.
15. **Industrial Users or Industries.**
    A. Entities that discharge into a publicly owned wastewater treatment works, liquid wastes resulting from the processes employed in industrial or manufacturing processes, or from the development of any natural resources. These are identified in the North American Industrial Classification System, latest edition, Bureau of Labor Statistics, as amended and supplemental under on of the following sectors:
        i. Sector 11. Agriculture, Forestry, Fishing, and Hunting.
        ii. Sector 21. Mining.
        iii. Sector 22. Utilities.
        iv. Sectors 31-33. Manufacturing.
        v. Sectors 48-49. Transportation and Warehousing

vi. Sector 54. Professional, Scientific, and Technical Services.

For the purpose of this definition, domestic waste shall be considered to have the following characteristics:

BOD_5 ..... less than 250 mg/l

Suspended Solids..... less than 302 mg/l.

B. Any non-governmental user of a publicly owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage process, or which institutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

16. **Industrial Wastewater.** The liquid processing wastes from an industrial manufacturing process, trade, or business including but not limited to all North American Industrial Classification System sectors 11, 21, 22, 31-33, 48-49, and 54 as distinct from domestic wastewater.
17. **Institutional User.** Users other than commercial, governmental, industrial, or residential users, discharging primarily Normal Domestic Strength wastewater (e.g. Non-profit organizations).
18. **North American Industry Classification System.** Bureau of Labor Statistics, latest edition. Categorizes Industries into two-digit industry sectors which are subdivided further into three-, four-, five-, and six-digit industry codes.
19. **Non-conforming Structure.** See City of East Gull Lake Zoning Ordinance.
20. **Operation and Maintenance.** Activities required to provide for the dependable and economical functioning of treatment works, throughout the design or useful life, which ever is longer of the treatment works, and at the level or performance for which the treatment works were constructed. Operation and Maintenance includes replacement.
21. **Operation and Maintenance Costs.** Expenditures for operation and maintenance, including replacement.
22. **Public Wastewater Collection System.** A system of sanitary sewers owned, maintained, operated and controlled by the City.
23. **Replacement.** Obtaining and installing of equipment, accessories, or Appurtenances which are necessary during the design life or useful life,

whichever is longer, of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

24. **Replacement Costs.** Expenditures for replacement.
25. **Residential Dwelling.** A dwelling structure on residential property used as the residence of a family of one or more members or one or more unrelated persons whether year around or seasonal.
26. **Residential User.** A user of the treatment facilities whose premises or building is used primarily as a residence for one or more persons, including dwelling units such as detached and semi-detached housing, apartments, and mobile homes; and which discharges primarily normal domestic strength sanitary wastes.
27. **Resort Unit.** A rental unit not used as a residence.
28. **Sanitary Sewer.** A sewer intended to carry only liquid and water carried wastes from residences, commercial buildings, industrial plants, and institutions, together with minor quantities of ground, storm, and surface, waters which are not admitted intentionally.
29. **Sewer Service Charge.** The aggregate of all charges, including charge for operation, maintenance and replacement; debt service; and other sewer related charges that are billed periodically to users of the City's wastewater treatment facilities.
30. **Sewer Service Fund.** A fund into which income from Sewer Service Charge is deposited along with other income, including taxes intended to retire debt incurred through capital expenditure for wastewater treatment. Expenditure of the Sewer Service Fund will be for operation, maintenance and replacement costs; and to retire debt incurred through capital expenditure for wastewater collection and treatment.
31. **Slug.** Any discharge of water of wastewater which in concentration of any given constituent or on 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 normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.
32. **Suspended Solids (SS) or Total Suspended Solids (TSS).** The total suspended matter that wither floats on the surface or is in suspension in water, wastewater or other liquids, and is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater, latest edition, and referred to as non-filterable residue.
33. **Toxic Pollutant.** The concentration of any pollutant or combination of Pollutants as defined in standards issued pursuant to Section 307(a) of the

Act, which upon exposure to or assimilation in to any organism will cause adverse effects.

34. **User Charge.** A charge levied on users of a treatment works for the user's proportionate share of the cost of operation and maintenance, including replacement.
35. **Users.** Those residential, commercial, governmental, institutional, and industrial establishments which are connected to the public sewer collection system.
36. **Wastewater.** The spent water of a community, also referred to as sewage. From the standpoint of source it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with any ground water, surface water and storm water that may be present.
37. **Wastewater Treatment Works or Treatment Works.** An arrangement of any Devices, facilities, structures, equipment, or processes owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping power, and other equipment and their appurtenances; extensions, improvements remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clear well facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

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

1. The City of East Gull Lake hereby establishes a Sewer Service Charge System whereby all revenue is collected from users of the wastewater treatment facilities will be used to affect all expenditures incurred for annual operation, maintenance, and replacement and for debt service on capital expenditure incurred in constructing the wastewater treatment works.
2. Each user shall pay its proportionate share operation, maintenance and replacement costs of the treatment works, based on the user's proportionate contribution to the total wastewater loading from all users based on the equivalent residential connections (ERC's).
3. Each user shall pay debt service charges to retire local capital costs as determined by the City Council. (Connection and availability charge based on ERC's).

4. Sewer Service rates and charge to users of the wastewater treatment facility shall be determined and fixed in a "Sewer Service Charge System" developed according to the provisions of this Ordinance. Any subsequent change in Sewer Service rates and charges shall be adopted by a City Council resolution and shall be published in the official newspaper.
5. Revenues collected for Sewer Service shall be deposited in a separate fund known as "The Sewer Service Fund". Income from revenues collected will be expended to offset the cost of Operation, Maintenance and Equipment Replacement for the facility and to retire the debt for capital expenditure.
6. Sewer Service Charges and the Sewer Service Fund will be administered in with the provisions of Section 3.3-6 of this Ordinance.

Section 3.3 - 4. Determination of Sewer Service Charges

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

   The allocation of users to these categories for the purposes of assessing User Charges and Debt Service Charges shall be the responsibility of the City Administrator. Allocation of users to user classes shall be based on the substantive intent of the definitions of these classes contained herein.
2. Each user shall pay Operation, Maintenance, and Replacement (OM&R) costs and connection (debt retirement) costs in the proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment plant based on the Equivalent Residential Connections (ERCs) of the Connection.
3. The ERCs for residential users and those users of other classes discharging "Normal Domestic Strength Wastewater" only, can be classified as "Commercial Users" for the purpose of rate determination.
   A. Residential Users
      i. Billable wastewater volume for a residential dwelling or apartment will be estimated at a peak month average of 185 gallons per day with a maximum of 300 gallons per day (1 ERC). As all properties are not metered, no deviation from these flows will be considered.

   B. Commercial, Indistrial, Institutional and Governmental Users

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

a. Resort unit, model unit
   1. normal occupancy 2 ..... 0.5 ERC
   2. normal occupancy 3 ..... 0.75 ERC
   3. normal occupancy 4 or more ..... 1.0 ERC

b. Resort unit used as residence
   or leased as residence ..... 1.0 ERC

~~c. Dormitory: 3 employees ..... 1.0 ERC~~

c. Dormitory: 5 beds..... 1.0 ERC

d. Day employees: 15 employees ..... 1.0 ERC

e. Conference Center:60 seats ..... 1.0 ERC

f. Church: 200 seats..... 1.0 ERC

g. Commercial:
   1. Retail stores, per each individual shop: 1.0 ERC
   2. Fast Food: 22 seats ..... 1.0 ERC
   ~~3. Restaurant: 75 meals ..... 1.0 ERC~~
   3. Restaurant, full service: 8 seats ..... 1.0 ERC
   4. Resort cafeteria/dining: 22 seats ..... 1.0 ERC
   5. Cocktail lounge: 60 seats ..... 1.0 ERC
   5. Coctail lounge: 23 seats ..... 1.0 ERC
   ~~6. Coffee shop: 60 seats ..... 1.0 ERC~~
   6. Coffee shop: 23 seats ..... 1.0 ERC
   ~~7. General offices..... 1.0 ERC~~
   7. Offices: total building 2400 Ft^2 ..... 1.0 ERC
   ~~8. Laundromat: 75 square feet ..... 1.0 ERC~~
   8. Commercial Laundry: 4 cycles/day,
      274 gallons ..... 1.0 ERC
   9. Public restroom ..... 1.0 ERC
   10. Maintenance Building: total building
      2400 ft2..... 1.0 ERC
   11. Massage rooms: 5 stations ..... 1.0 ERC
   12. Manacure/Pedicure stations: 9 stations1.0 ERC
   13. Meeting Rooms: 1650 ft^2 ..... 1.0 ERC
   14. Banquet Room/Food Catered:
      2060 ft^2 ..... 1.0 ERC
   15. Banquet Room/Food Catered with
      dishwashing: 1180 ft^2 ..... 1.0 ERC

ii. Commercial users may appeal the flow assigned to a particular connection for user charges only by installing and maintaining, at their own expense, sewer meters of a type approved by the City. Such meters shall be equipped with remote registering recorders located at an accessible site on the owner's property. Only peak month flow rates will be considered.

iii. The City may, at its discretion, require non-residential users to install sewer meters for the purpose of determining wastewater volume. When so required, such meters be of a type approved by the City, equipped with remote registering recorders, and located at an accessible site on the owner's property.

C. ERC Charges

i. As all properties are not metered, no deviation from these flows will be considered except through an adjustment in the table by City Council.

ii. As each ERC contributes an estimated maximum of 300 gpd, the ERCs will be the basis for the service charge.

iii. After the initial determination of the number of ERCs, the Sewer Superintendent shall determine the number of ERCs per connection. Appeals from his decision shall be made to the Wastewater Committee.

iv. Once established, the number of ERCs shall remain the same on the property unless an addition to the property is made. Only the involuntary removal or destruction of a non-conforming structure will be grounds for the City Council to cancel or reduce the number of ERCs on the property. This reduction shall apply to the user charge only. With the permission of the Council, an ERC can be transferred on the property from a structure being removed to a structure being constructed.

v. The number of ERCs shall be adjusted for the City as a whole on annual basis for user charge purposes.

vi. Any use not represented on the table shall be considered as in (iii) above. Failure to determine the ERCs by the Sewer Superintendent based on estimated flows shall require that the Council consider establishment of a new usage category.

4. Calculation of basis for availability charge shall be as follows: The City of East Gull Lake will charge property an availability charge if it is vacant, but served by a lateral sewer. The vacant property will be charged on the basis of 0.25 ERC per buildable lot or 0.25 ERC per 150'of frontage on the lateral sewer.
5. Determination of Sewer Service Charges. The Sewer Service Charge for a particular connection shall be determined as follows:

SSC	=	(U + C) x ERCs
SSC	=	Sewer Service Charge
U	=	User Charge for 1 ERC Residential
C	=	Connection and/or Availability Charge for Debt Service for 1 ERC
ERCs	=	Equivalent Residential Connections on Connection

6. Recovery of Construction Costs (Availability and Connection Charge):
   A. Connection charges based on ERCs will be recovered by a connection service charge, including interest and billed quarterly.
   B. Availability charges on vacant property served by a sewer lateral or pressure sewer for a deferred ERC will be 25% of an ERC. The availability charge at the time of connection of an ERC.
   C. Any of the charges in this section may be paid as one lump sum either upon connection or at a later time. Interest will be charged only for the period financed.
7. The Sewer Service Charges established in this Ordinance shall not prevent the Assessment of additional charges to users who discharge wastes with concentrations greater than Normal Domestic Strength or wastes of unusual character, or contractual agreements with such users, as long as the following conditions are met:
   A. The user pays Operation, Maintenance, and Replacement costs in proportion to the user's proportionate contribution of wastewater flows and loadings to the treatment plant, and no user is charged at a rate less than that of "Normal Domestic Strength Wastewater.
   B. The measurements of such wastes are conducted according to the latest edition of "Standard methods for the Examination of Water and Wastewater" in a manner acceptable to the City as provided for in Section 3.2 of the Ordinance.

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

Section 3.3 - 5. Sewer Service Fund

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

Section 3.3 - 6. Administration

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

1. The City Administrator shall maintain a proper system of accounts suitable for determining the operation and maintenance, equipment replacement, and debt retirement costs of the treatment works, and shall furnish the City Council with a report of such costs annually in January. The City Council shall annually determine whether sufficient revenue is being generated for debt retirement. The Council will also determine whether

the user charges are distributed proportionately to each user in accordance with Section 3.3-3, Subdivision 2 of this Ordinance and Section 204(b)(2)(a) of the Federal Water Pollution Control Act, as amended. The City shall thereafter, but not later the end of the year, reassess, and as necessary revise the Sewer Service Charge System then in use to ensure the proportionality of the user charges and to ensure the sufficiency of funds to maintain the capacity and performance to which the facilities were constructed, and to retire the construction debt.

2. In accordance with Federal and State requirements, each user will be notified annually in conjunction with a regular billing of that portion of the Sewer Service Charge attributable to operation, maintenance and replacement.
3. In accordance with Federal and State requirements, the City Administrator shall responsible for maintaining all records necessary to document compliance with the Sewer Service Charge System adopted.
4. Bills for Sewer Service Charges shall be rendered on a quarterly basis succeeding the period for which the service was rendered and shall be due 10 days from the date of rendering. Any bill not paid in full 60 days after the due date will be considered delinquent. At that time the City shall notify the delinquent owner/occupant in writing regarding the delinquent bill and subsequent penalty.
5. The owner of the premises shall be liable to pay for the service to such premises, and the service is furnished to the premises by the City only upon the condition that the owner of the premises is liable to the City.
6. Any additional costs caused by discharges to the treatment works of toxics or other incompatible wastes, including the cost of restoring wastewater treatment services, clean up, restoration of the receiving waters and environs, and sludge disposal shall be borne by the discharger(s) of said wastes, at no expense to the City.

Section 3.3 - 7. Penalties

1. Each and every sewer service charge levied ~~by~~ pursuant to this Ordinance is hereby made a lien upon the lot or premises served, and all such charges which are on October 1 of each year past due and delinquent shall be certified to the County Auditor as taxes or assessments on the real estate. Nothing in this Ordinance shall be held or construed as in any way stopping or interfering with the right of the City to levy taxes or assessments against any premises affected any delinquent or past due sewer service charges.

2. In addition to levying a lien, the City may, at its discretion, file suit in a civil action to collect such amounts as are delinquent and due against the occupant, owner, or user of the real estate, and shall collect as well all attorney's fees incurred by the City in filling the civil action. Such attorney's fees shall be fixed by order of the court.
3. In addition to all penalties and costs attributable and chargeable to recording notices of the lien or filing a civil action, the owner or user of the real estate being serviced by the treatment works shall be liable for interest balances at the rate of 12% per annum.

Section 3.3 - 8. Severability and Validity

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

SECTION IV - RATES AND CHARGES

Section 3.4 - 1. Schedule of Wastewater Fees

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

Section 3.4 - 2. Definitions

1. **Connection Charge or Debt Service.** A charge levied, including interest, on users of wastewater collection and treatment facilities for the cost of repaying money bonded to construct said facilities.
2. **Equivalent Residential Connection (ERC).** For the purposes of calculating the user charge and the debt service charge (connection charge), a building service with an anticipated peak month volumetric flow not exceeding 300 gallons per day and an anticipated peak month average flow of 185 gallons per day or a service serving an individual dwelling, at a strength not greater than 250 mg/l of BOD_5 and 302 mg/l of total suspended solids.
3. **Sewer Service Charge.** The aggregate of all charges, including charge for operation, maintenance and replacement; debt service; and other sewer related charges that are billed periodically to users of the City's wastewater treatment facilities. Sewer Service Charges are to be reviewed yearly and included in the budgeting process.
4. **User Charge.** A charge levied on users of a treatment works for the user's proportionate share of the cost of operation and maintenance, including replacement.

TITLE IV TRAFFIC CODE

SECTION I - TRAFFIC REGULATIONS

Section 4.1 - 1. General Provisions

1. State Highway Traffic Regulations Adopted By Reference
   A. The Highway Traffic Regulations Act is hereby adopted by reference. The regulatory provisions of M.S. Chapter 169, as it may be amended from time to time, are hereby adopted as a traffic ordinance regulating the use of highways, streets and alleys within the city and are hereby incorporated in and made a part of this section as completely as if set out in full herein.
   B. The penalty for violation of the provisions of state statutes adopted by reference in this section shall be identical with the penalty provided for in the statues for the same offense.

2. Trucks Prohibited on Certain Streets
   A. The City Council by resolution may designate streets on which travel by commercial vehicles in excess of 10,000 pounds axle weight is prohibited. The City shall cause appropriate signs to be erected on those streets. No person shall operate a commercial vehicle on posted streets in violation of the restrictions posted.
   B. The weight restrictions established in division (A) shall not apply to city or emergency vehicles, public school buses or to garbage and refuse trucks making regular collections and are under contract with the city, nor shall the weight restrictions in division (A) apply if a commercial vehicle must use the particular street in question for the purpose of local pick-up or delivery.

3. Stop Intersections. The city may designate intersections as a stop intersection and require all vehicles to stop at one or more entrances to those intersections. The city shall post signs at those designated intersections, giving notice of the designation as a stop intersection. It shall be unlawful for any person to fail to obey the markings or signs posted under this section.

4. Through Streets and One-way Streets. The City Council by resolution may designate any street or portion of a street as a through street or one-way street where necessary to preserve the free flow of traffic or to prevent accidents. No trunk highway shall be so designated unless the

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

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

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

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

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

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

Section 4.1 - 2. Parades

1. Definitions. For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.
   A. Parade. Any parade, march, ceremony, show, exhibition, pageant, or procession of any kind, or any similar display in or on any street, sidewalk, park, or other public place in the city.
   B. Parade Permit. A permit required by this subchapter
   C. Parking Lot. Any paved or unpaved area used by a place of business or shopping center for the parking of vehicles of their customers, but shall not include those operated for hire.

2. Permit Required
   A. No person or persons shall engage or participate in, aid, form or start any parade unless a parade permit has been obtained from the City Clerk or other authorized city official.
   B. This section shall not apply to:
      i. Funeral processions.
      ii. Students going to and from school classes or participating in educational activities; provided, that the conduct is under

the immediate direction and supervision of the proper school authorities.

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

3. Application Permit

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

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

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

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

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

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

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

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

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

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

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

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

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

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

xii. If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for the permit shall file a communication in writing from the person authorizing the applicant to apply for the permit on his or her behalf.

xiii. Any additional information reasonably necessary to a fair determination as to whether a permit should be issued.

D. There shall be paid at the time of filing an application for a parade permit a fee in an amount as established in the Ordinance Establishing Fees and Charges pursuant to this Code, as it may be amended from time to time.

4. Standards for Issuance of Permit. The City Clerk shall issue a permit when, from a consideration of the application and from other information obtained, he or she finds that:
   A. The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
   B. The conduct of the parade will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city;.
   C. The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly areas.
   D. The conduct of the parade will not interfere with the movement of firefighting equipment en route to a fire.
   E. The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

5. Notice of Rejection of Permit Application. If the City Clerk disapproves the application, he or she shall mail to the applicant within the three regular business days after the date on which the application was filed a notice of his or her action stating the reasons for his or her denial of the permit.
6. Appeal Procedure When Permit Denied. Any person aggrieved shall have the right to appeal the denial of a parade permit to the City Council. The appeal shall be taken within 30 days after notice of denial. The City Council shall act on the appeal within 30 days after its receipt.

7. Alternative Permit. The City Clerk or other authorized city official, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different than that named by the applicant. An applicant desiring to accept an alternate permit shall file a written notice of his or her acceptance. An alternate parade permit shall conform to the requirements of, and shall have the effect of, a parade permit under this subchapter.
8. Notice to City and Other Officials When Permit Issued. Immediately on the issuance of a parade permit, a copy thereof shall be sent to the City and County Sheriff.
9. Contents of Permit. Each parade permit shall state the following information:
    A. Starting time.
    B. Minimum speed.
    C. Maximum speed.
    D. Maximum interval of space to be maintained between the units of the parade.
    E. The portions of the street, sidewalk, park or other public place to be traversed that may be occupied by the parade.
    F. The maximum length of the parade in miles or fractions thereof.
    G. Other information as is reasonably necessary to the enforcement of this subchapter.

10. Duties of Permittee. A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The parade chairperson or other person heading or leading the activity shall carry the parade permit on his or her person during the conduct of the parade.

11. Public Conduct During Parades
    A. Interference. No person shall unreasonably hamper, obstruct, impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.
    B. Driving through parades. No driver of a vehicle except a police car or other emergency vehicle shall drive between the vehicles or persons comprising a parade when the vehicles or persons are in motion and are conspicuously designated as a parade.
    C. Parking on parade route. The Police Chief or other authorized city official shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a street or other

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

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

SECTION II - PARKING REGULATIONS

Section 4.2 - 1. No Parking Where Posted

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

Section 4.2 - 2. Limited Parking

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

Section 4.2 - 3. Other Parking Restrictions

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

certain types of vehicles, unless the motor vehicle is one of the types of vehicles specifically permitted.

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

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

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

Section 4.2 - 5. Overnight Parking

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

Section 4.2 - 6. Repairing of Vehicles

Minor repairs and tune-ups, such as replacement of spark plugs, spark plug wires, thermostat, radiator or heater hoses, oil changes and brake jobs shall be permitted on city streets; provided, that they can be accomplished within the same day and completed by 10:00 p.m. All other repairs shall be considered major repairs and

shall not be permitted on any city street, unless the repairs are made within an enclosed structure allowed within the zoning district. Damage to city streets because of repairs or lack of repairs shall be charged to the person responsible for the damage to the city streets.

Section 4.2 - 7. Impoundment

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

Section 4.2 - 8. Prima Facie Violations

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

SECTION III - SNOWMOBILES

Section 4.3 - 1. Intent

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

Section 4.3 - 2. Definitions

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

Section 4.3 - 3. Application of Traffic Ordinances

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

Section 4.3 - 4. Restrictions

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

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

B. On a public sidewalk provided for pedestrian travel.
C. On boulevards within any public right-of-way.
D. On private property of another without specific permission of the owner or person in control of the property.
E. Upon any school grounds, except as permission is expressly obtained from responsible school authorities.
F. On public property, playgrounds and recreation areas, except areas previously listed or authorized for the use by resolution of the City Council, in which case the use shall be lawful, and snowmobiles may be driven in and out of those areas by the shortest route.
G. On streets as permitted by this chapter at a speed exceeding 10 miles per hour.
H. During the hours of 10:00 p.m. to 7:00 a.m., Sunday through Thursday, and 12:01 a.m. to 8:00 a.m. on other days closer than 100 feet from any residence. This provision is not intended to prohibit snowmobiles from operating on city streets during the hours specified herein.

2. It is unlawful for any person to operate a snowmobile within the limits of the city:
   A. So as to tow any person or thing in a public street or highway except through use of a rigid tow bar attached to the rear of the snowmobile; provided, that a disabled snowmobile may be towed to a private residence or a place of business where snowmobiles are repaired without the use of a rigid tow bar.
   B. Within 100 feet of any fisherman, pedestrian, skating rink or sliding area where the operation would conflict with use or endanger other persons or operation.
   C. To intentionally drive, chase, run over or kill any animal.

Section 4.3 - 5. Stopping and Yielding

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

Section 4.3 - 6. Persons Under 18

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

Section 4.3 - 7. Equipment

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

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

Section 4.3 - 8. Unattended Snowmobiles

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

Section 4.3 - 9. Emergency Operations Permitted

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

SECTION IV - RECREATIONAL VEHICLES

Section 4.4 - 1. Purpose and Intent

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

Section 4.4 - 2. Definition

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

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

Section 4.4 - 3. Operation Requirements

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

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

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

Section 4.4 - 4. Street Crossings

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

Section 4.4 - 5. Hours of Operation

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

Section 4.4 - 6. Minimum Equipment Requirement

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

Section 4.4 - 7. Designation of Public Areas for use

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

Section 4.4 - 8. Motorized Golf Carts

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

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

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

Section 4.5 - 1. Bicycles

1. Definitions. For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.
    A. **Bicycle**. Every device propelled solely by human power upon which any person may ride, having two tandem wheels, except scooters and similar devices, and including any device generally recognized as a **Bicycle** though equipped with two front or rear wheels.

2. Traffic Laws Apply. Every person riding a bicycle on a street or upon any path set aside for the exclusive use of bicycles shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except as to special regulations in this chapter and except as to those provisions of this chapter which by their nature can have no application.

3. Manner and Number Riding
    A. It is unlawful for any person propelling a bicycle to ride other than upon or astride a permanent and regular seat attached thereto.
    B. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, except on a baby seat attached to the bicycle, provided that the seat is equipped with a harness to hold the child securely in the seat and that protection is provided against the child's feet hitting the spokes of the wheel, or in a seat attached to the bicycle operator.

4. Hitching Rides. It is unlawful for any person riding upon any bicycle, coaster, roller skates, roller blades, skate board, sled, or toy vehicle to attach the same or themselves to any vehicle upon a street.

5. Where to Ride
    A. Every person operating a bicycle upon a street shall ride as near to the right side of the street as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

B. Persons riding bicycles upon a street shall not ride more than two abreast except on paths or parts of streets set aside for the exclusive use of bicycles.

6. Right-of-Way; Sidewalks. Whenever a person is riding a bicycle upon a sidewalk, the person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing the pedestrian.

7. Carrying Articles. It is unlawful for any person operating a bicycle to carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handlebars.

8. Lighting and Brake Equipment
   A. Every bicycle, when in use at night time, shall be equipped with, or its operator shall carry a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front, and with a red reflector on the rear of a type approved by the Department of Public Safety which is visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector. No person may, at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead, operate a bicycle unless the bicycle or its operator is equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of headlamps on a motor vehicle. The reflective surfaces shall include reflective materials on each side of each pedal to indicate their presence from the front or the rear and wit h a minimum of 20 square inches on each side of the bicycle or its operator of white reflective material. All reflective materials used in compliance with this section shall meet the requirements as prescribed by the Commissioner of Public Safety.
   B. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

9. Sale with Reflectors. It is unlawful for any person to sell or offer for sale any new bicycle unless it is equipped with such reflectors as are prescribed in subdivision 8 of this section.

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

1. Definitions

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

A. **Commercial District.** That part of the City so designated by City Council resolution and described in this Ordinance.

B. **Operate.** To ride on or upon or control the operation of roller blades, roller skates, or a skateboard.

C. **Operator.** Every person who operates or is in actual physical control of roller blades, roller skates, or a skateboard.

D. **Roller Skis.** A pair of skis platformed with wheels attached which is intended to simulate skiing.

E. **Skateboard.** A device for riding-upon, usually while standing, consisting of an oblong piece of wood, or of other composition, mounted on skate wheels.

2. Unlawful Acts

A. It is unlawful for any person to operate roller blades, roller skates, roller skis or a skateboard under the circumstances set forth hereafter:

i. On any public sidewalk, street or public parking lot within the Commercial District.

ii. On private property of another without the express permission to do so by the owner of occupant of the property.

iii. In any careless, reckless, or negligent manner so as to endanger or be likely to endanger the safety of any person or property of any other person.

B. It is unlawful for any person operating roller blades, roller skates, roller skis or a skateboard to attach the same, or the person of the operator, to any vehicle upon a street.

C. Every person operating roller blades, roller skates, roller skis or a skateboard upon a street shall ride as close as possible to the right-hand curb of edge of the street.

D. Every person operating roller blades, roller skates, roller skies or a skateboard upon a street shall observe the same rules of the road as required of bicycles.

3. Right-of-Way. The operator of roller blades, roller skates, roller skis or a skateboard emerging from any alley, driveway, or building, upon approaching a sidewalk or the sidewalk area extending across any alleyway, shall yield the right-of-way to all pedestrians approaching on the sidewalk or sidewalk area and upon entering the street shall yield the right-of-way to all vehicles approaching on the street.

4. House of Use. It is unlawful for any person to use roller blades, roller skates, roller skis or a skateboard upon a public street, sidewalk, or other roadway from 10:00 p.m. to 6:00 a.m., except on private property with express permission of owner, and except if the roller blades, roller skates, roller skies, skateboard or operator are equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of head lamps on a motor vehicle. The reflective material shall be a minimum of 40 square inches. All reflective materials used in compliance with this section shall meet the requirements as prescribed by the Commissioner of Public Safety.

5. Violations. A person apprehended by a peace office in violation of the provisions of this section, by his or he use of the public sidewalks, streets, and public parking lots, consent to the impoundment by a police officer of the roller blades, roller skates, roller skis or skateboard for a period of three days upon a first offense, a week upon the second offense and 30 days upon a third or additional offense. Any operator aggrieved by the impoundment by his or her roller blades, roller skates, roller skis or skateboard may petition the City Council for a hearing thereon at the next regular City Council meeting following the impoundment. This provision is in addition to the provisions for fines and penalties as set forth in this Ordinance.

TITLE V: GENERAL REGULATIONS

SECTION I - ABANDONED PROPERTY

Section 5.1 - 1. Disposition of Abandoned Property

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

Section 5.1 - 2. Abandoned Vehicles

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

Section 5.1 - 3. Definitions

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

1. **Abandoned Vehicle.**
   - **A.** A motor vehicle, as defined in MS. § 169.01 as it may be amended from time to time, that has remained illegally:
     - **i.** for a period of more than 48 hours on any property owned or controlled by a unit of government,
     - **ii.** or more than four hours on that property when it is properly posted.
   - **B.** On private property for a period of time, as determined under Subdivision 2 of Section 5.1-5, without the consent of the person in control of the property; and
   - **C.** Lacks vital component parts or is in an inoperable condition that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building.
   - **D.** A classic car or pioneer car, as defined in M.S. § 168.10 as it may be amended from time to time, is not considered an abandoned vehicle.
   - **E.** Vehicles on the premises of junk yards and automobile graveyards that are defined, maintained, and licensed in accordance with MS. § 161.242 as it may be amended from time to time, or that are licensed and maintained in accordance with local laws and zoning regulations, are not considered abandoned vehicles.
   - **F.** A vehicle being held for storage by agreement or being held under police authority or pursuant to a writ or court order is not considered abandoned, nor may it be processed as abandoned while the police hold, writ or court order is in effect.
2. **Department.** The Minnesota Department of Public Safety.
3. **Impound.** To take and hold a vehicle in legal custody. There are two types of impounds: public and nonpublic.
4. **Impound Lot Operator** or **Operator.** A person who engages in impounding or storing, usually temporarily, unauthorized or abandoned vehicles. **Operator** includes an operator of a public or nonpublic impound lot, regardless of whether tow truck service is provided.
5. **Junk Vehicle** A vehicle that:
   - **A.** Is three years old or older;

B. Is extensively damaged, with the damage including things as broken or missing wheels, motor, drive train or transmission;

C. Is apparently inoperable;

D. Does not have a valid, current registration plate; and

E. Has an approximate fair market value equal only to the approximate value of the scrap in it.

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

Section 5.1 - 4. Violation to Abandon Motor Vehicles.

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

Section 5.1 - 5. Authority to Impound Vehicles.

1. *Abandoned or junk vehicles.* The City Clerk or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle if the vehicle is on public property. If the abandoned or junk vehicle is located on private property, the vehicle shall not be removed or impounded until the provisions of subdivision 3 of section 5.1-5 are complied with.

2. *Unauthorized vehicles.* The City Clerk, or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any unauthorized vehicle under MS. § 169.041 as it may be amended from time to time. A vehicle may also be impounded after it has been left unattended in one of the following public or private locations for the indicated period of time:

A. In a public location not governed by MS. § 169.041 as it may be amended from time to time:

i. On a highway and properly tagged by a peace officer, four hours;

ii. Located so as to constitute an accident or traffic hazard to the traveling public, as determined by a peace officer, immediately; or

iii. That is a parking facility or other public property owned or controlled by a unit of government, properly posted, four hours; or

B. On private property, only with the express permission of the owner of the property, a resident or other person in control of the premises:

i. That is single-family or duplex residential property, immediately;

ii. That is private, nonresidential property, property posted, immediately;

iii. That is private, nonresidential property, not posted, 24 hours; or

iv. That is any residential property, properly posted, immediately.

C. If under subsection ii of subdivision B of this section, permission is not granted, then the city shall not remove and impound any vehicle until the procedure established in subsection ii of subdivision B of this section have been followed.

3. If the vehicle is on private property, the City Clerk or his or her designee or any peace officer employed or whose services are contracted for by the city may take into custody and impound any abandoned or junk vehicle on private property only with the permission of the owner of the property, a resident, or other person in control of the premises. If permission is denied, the city may declare the existence of the abandoned or junk vehicle to be a nuisance and proceed to abate the nuisance as provided for

in Section 5.3-3 through 5.3-9. Once the abatement procedure has been completed, the city may apply for an order from a court of competent jurisdiction authorizing the removal and impoundment of the vehicle and, after the order has been granted, the city may then remove and impound the vehicle.

Section 5.1 - 6. Sale; Waiting Periods.

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

2. *Sale after 45 days.* An impounded vehicle is eligible for disposal or sale under Section 5.1-11, *45* days after notice to the owner, if the vehicle is determined to be an unauthorized vehicle.

Section 5.1 - 7. Notice of Taking and Sale.

1. *Contents; notice given within five days.* When an impounded vehicle is taken into custody, the city or impound lot operator taking it into custody shall give notice of the taking within five days. The notice shall:
   - **A.** Set forth the date and place of the taking; the year, make, model and serial number of the impounded motor vehicle if the information can be reasonably obtained; and the place where the vehicle is being held;
   - **B.** Inform the owner and any lienholders of their right to reclaim the vehicle under Section 5.1-8; and
   - **C.** State that failure of the owner or lienholders to exercise their right to reclaim the vehicle and contents within the appropriate time allowed under Section 5.1-6 shall be deemed a waiver by them of all right, title and interest in the vehicle and contents and a consent to the transfer of title to and disposal or sale of the vehicle and contents pursuant to Section 5.1-11.

2. *Notice by mail or publication.* The notice shall be sent by mail to the registered owner, if any, of an impounded vehicle and to all readily identifiable lienholders of record. The Department makes this information available to impound lot operators for notification purposes. If it is

impossible to determine with reasonable certainty the identity and address of the registered owner and all lienholders, the notice shall be published once in a newspaper of general circulation in the area where the motor vehicle was towed from or abandoned. Published notices may be grouped together for convenience and economy.

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

Section 5.1 - 8. Right to Reclaim.

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

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

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

Section 5.1 - 10. Disposition by Impound Lot.

1. *Auction or sale.*
   - **A.** If an abandoned or unauthorized vehicle and contents taken into custody by the city or any impound lot is not reclaimed under Section 5.1-8, it may be disposed of or sold at auction or sale when eligible pursuant to Sections 5.1-6 and 5.1-7.
   - **B.** The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

2. *Unsold vehicles,* Abandoned or junk vehicles not sold by the city or public impound lots pursuant to subdivision 1 of this section shall be disposed of in accordance with Section 5.1-11.
3. *Sale proceeds; public entities.* From the proceeds of a sale under this section by the city or public impound lot of an abandoned or unauthorized motor vehicle, the city shall reimburse itself for the cost of towing, preserving and storing the vehicle, and all administrative, notice and publication costs incurred in handling the vehicle pursuant to this chapter. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lienholder for 90 days and then shall be deposited in the treasury of the city.
4. *Sale proceeds; nonpublic impound lots.* The operator of a nonpublic impound lot may retain any proceeds derived from a sale conducted under the authority of subdivision 1 of this section. The operator may retain all proceeds from sale of any personal belongings and contents in the vehicle that were not claimed by the owner or the owners agent before the sale, except that any suspected contraband or other items that likely would be subject to forfeiture in a criminal trial must be turned over to the appropriate law enforcement agency.

Section 5.1 - 11. Disposal Authority.

The city may contract with others or may utilize its own equipment and personnel for the inventory of impounded motor vehicles and abandoned scrap metal and may utilize its own equipment and personnel for the collection, storage and transportation of these vehicles and abandoned scrap metal. The city may utilize its own equipment and personnel only for the collection and storage of not more than five abandoned or

unauthorized vehicles without advertising for or receiving bids in any 120-day period.

Section 5.1 - 12. Contracts; Reimbursement by MPCA.

1. *MPCA review and approval.* If the city proposes to enter into a contract with a person licensed by the MPCA pursuant to this section or a contract pursuant to Section 5.1-11, the MPCA may review the proposed contract before it is entered into by the city, to determine whether it conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules. A contract that does so conform may be approved by the MPCA and entered into by the city. Where a contract has been approved, the MPCA may reimburse the city for the costs incurred under the contract that have not been reimbursed under Section 5.1-10. Except as otherwise provided in Section 5.1-11, the MPCA shall not approve any contract that has been entered into without prior notice to and without a request for bids from all persons duly licensed by the MPCA to be a party to a disposal contract pursuant to M.S. § 116.07, as it may be amended from time to time; nor that does not provide for a full performance bond; or does not provide for total collection and transportation of abandoned motor vehicles, except that the MPCA may approve a contract covering solely collection or transportation of abandoned motor vehicles where the MPCA determines total collection and transportation to be impracticable and where all other requirements herein have been met and the unit of government, after proper notice and request for bids, has not received any bid for total collection and transportation of abandoned motor vehicles.
2. *The city may perform work.* If the city utilizes its own equipment and personnel pursuant to its authority under Section 5.1-11, and the use of the equipment and personnel conforms to the MPCA's plan for solid waste management and is in compliance with MPCA rules, the city may be reimbursed by the MPCA for reasonable costs incurred which are not reimbursed under Section 5.1-10.
3. *The city required to contract work.* The MPCA may demand that the city contract for the disposal of abandoned motor vehicles and other scrap metal pursuant to the MPCAS plan for solid waste disposal. If the city fails to contract within 180 days of the demand, the MPCA, through the Department of Administration and on behalf of the city, may contract with any person duly licensed by the MPCA for the disposal.

SECTION II - ANIMALS

Section 5.2 - 1. Definitions.

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

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

E. Any poisonous, venomous, constricting, or inherently dangerous member of the reptile or amphibian families including rattlesnakes, boa constrictors, pit vipers, crocodiles and alligators.

F. Any other animal which is not explicitly listed above but which can be reasonably defined by the terms of this section, including but not limited to bears, deer, monkeys and game fish.

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

Section 5.2 - 2. Dogs and Cats.

1. *Running at large prohibited.* It shall be unlawful for the dog or cat of any person who owns, harbors, or keeps a dog or cat, to run at large. A person, who owns, harbors, or keeps a dog or cat which runs at large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading "Dogs or Cats Prohibited."
2. *Vaccination.*

   A. All dogs and cats kept harbored, maintained, or transported within the city shall be vaccinated at least once every three years by a licensed veterinarian for:

      i. Rabies - with a live modified vaccine; and

ii. Distemper.

B. A certificate of vaccination must be kept on which is stated the date of vaccination, owner's name and address, the animal's name (if applicable), sex, description and weight, the type of vaccine, and the veterinarian's signature. Upon demand made by the City Clerk, the Animal Control Officer or a police officer, the owner shall present for examination the required certificate(s) of vaccination for the animal(s). In cases where certificates are not presented, the owner or keeper of the animal(s) shall have seven days in which to present the certificate(s) to the City Clerk or officer. Failure to do so shall be deemed a violation of this section.

Section 5.2 - 3. Non-Domestic Animals.

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

Section 5.2 - 4. Farm Animals.

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

Section 5.2 - 5. Impounding.

1. *Running at large.* Any animal running at large is hereby declared a public nuisance. Any Animal Control Officer or police officer may impound any dog or other animal found running at large and shall give notice of the impounding to the owner of the dog or other animal, if known. The Animal Control Officer or police officer shall not enter the property of the owner of an animal found running at large or the owner of an animal unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal. In case the owner is unknown, the officer shall post notice at the city office that if the

dog or other animal is not claimed within the time specified in subdivision 3 of this section, it will be sold or otherwise disposed of. Except as otherwise provided in this section, it shall be unlawful to kill, destroy, or otherwise cause injury to any animal, including dogs and cats running at large.

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

4. *Unclaimed animals.* At the expiration of the times established in subdivision 3 of this section, if the animal has not been reclaimed in accordance with the provisions of this section, the officer appointed to enforce this section may let any person claim the animal by complying with all provisions in this section, or the officer may sell the animal to the University of Minnesota, or cause the animal to be destroyed in a proper and humane manner and shall properly dispose of the remains thereof. Any money collected under this section shall be payable to the City Clerk.

Section 5.2 - 6. Kennels.

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

Section 5.2 - 7. Nuisances.

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

5. *Other*. Any animals kept contrary to this section are subject to impoundment as provided in Section 5.2-5.

Section 5.2 - 8. Seizure of Animals.

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

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

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

If, in the reasonable belief of any person or the Animal Control Officer or police officer, an animal presents an immediate danger to the health and safety of any person, or the animal is threatening imminent harm to any person, or the animal is in the process of attacking any person, the person or officer may destroy the animal in a proper and humane manner whether or not the animal is on the property of its owner. Otherwise, the person or officer may apprehend the animal and deliver it to

the pound for confinement under Section 5.2-5. If the animal is destroyed, the owner or keeper of the animal destroyed shall be liable to the city for the cost of maintaining and disposing of the animal, plus the costs of any veterinarian examination. If the animal is found not to be a danger to the health and safety of the city, it may be released to the owner or keeper in accordance with subdivision 3 of Section 5.2-5.

Section 5.2 - 10. Diseased Animals.

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

Section 5.2 - 11. Dangerous Animals.

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

Section 5.2 - 12. Dangerous Animals Requirements.

1. *Requirements.* If the City Council does not order the destruction of an animal that has been declared dangerous, the City Council may, as an alternative, order any or all of the following:
    A. That the owner provide and maintain a proper enclosure for the dangerous animal as specified in subsection (C) of subdivision 3 of section 5.2-11;
    B. Post the front and the rear of the premises with clearly visible warning signs, including a warning symbol to inform children, that

there is a dangerous animal on the property as specified in M,S. § 347.51 as may be amended from time to time;

C. Provide and show proof annually of public liability insurance in the minimum amount of $300,000;

D. If the animal is a dog and is outside the proper enclosure, the dog must be muzzled and restrained by a substantial chain or leash (not to exceed six feet in length) and under the physical restraint of a person 16 years of age or older. The muzzle must be of a design as to prevent the dog from biting any person or animal, but will not cause injury to the dog or interfere with its vision or respiration;

E. If the animal is a dog, it must have an easily identifiable, standardized tag identifying the dog as dangerous affixed to its collar at all times as specified in M.S. § 347.51 as it may be amended from time to time, and shall have a microchip implant as provided by M.S. § 347. 151, as it may be amended from time to time;

F. All animals deemed dangerous by the Animal Control Officer shall be registered with the county in which this city is located within 14 days after the date the animal was so deemed and provide satisfactory proof thereof to the Animal Control Officer.

G. If the animal is a dog, the dog must be licensed and up to date on rabies vaccination. If the animal is a cat or ferret, it must be up to date with rabies vaccination.

2. *Seizure.* As authorized by MS. § 347.54, as it may be amended from time to time, the Animal Control Officer shall immediately seize any dangerous animal if the owner does not meet each of the above requirements within 14 days after the date notice is sent to the owner that the animal is dangerous. Seizure may be appealed to district court by serving a summons and petition upon the city and filing it with the district court.

3. *Reclaiming animals.* A dangerous animal seized under Section 5.2-12, may be reclaimed by the owner of the animal upon payment of impounding and boarding fees and presenting proof to animal control that each of the requirements under subdivision 2 of Section 5.2-12, is fulfilled. An animal not reclaimed under this section within 14 days may be disposed of as provided under subdivision 6 of Section 5.2-11, and the owner is liable to the city for costs incurred in confining and impounding the animal.

4. *Subsequent offenses.* If an owner of an animal has subsequently violated the provisions under Section 5.2-11 with the same animal, the animal must be seized by animal control. The owner may request a hearing as defined in subdivision 6 of Section 5.2-11. If the owner is found to have violated the

provisions for which the animal was seized, the Animal Control Officer shall order the animal destroyed in a proper and humane manner and the owner shall pay the costs of confining the animal. If the person is found not to have violated the provisions for which the animal was seized, the owner may reclaim the animal under the provisions of subdivision 3 of Section 5.2-12. If the animal is not yet reclaimed by the owner within 14 days after the date the owner is notified that the animal may be reclaimed, the animal may be disposed of as provided under subdivision 6 of Section 5.2-11 and the owner is liable to the animal control for the costs incurred in confining, impounding and disposing of the animal.

Section 5.2 - 13. Basic Care.

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

Section 5.2 - 14. Breeding Moratorium.

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

Section 5.2 - 15. Enforcing Officer.

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

Section 5.2 - 16. Pound.

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

Section 5.2 - 17. Interference with Officers.

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

any other manner to interfere with or hinder the officer in the discharge of his or her duties under this chapter.

Section 5.2 - 18. Penalty.

1. *Separate offenses.* Each day a violation of this chapter is committed or permitted to continue shall constitute a separate offense and shall be punishable under this section.
2. *Misdemeanor.* Unless otherwise provided, violation of this chapter shall constitute a misdemeanor punishable as provided in Section 1.1-19.
3. *Petty misdemeanor.* Violations of this chapter are petty misdemeanors punishable as provided in Section 1.1-19.

Section 5.3 - 1. General Provisions

1. Assessable Current Services
    A. *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.
        i. ***Current Service***. Shall mean one or more of the following: snow, ice, or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. § 463.15 through 463.26 as they may amended from time to time; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.
        ii. ***Snow, ice, din and rubbish***
            a. ***Duty of owners and occupants***. The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 24 hours after its deposit thereon. Failure to comply with this section shall constitute a violation.
            b. ***Removal by city.*** The City Clerk or other person designated by the City Council may cause removal from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 24 hours after any matter has been deposited thereon or after the snow has ceased to fall. The City Clerk or other designated person shall keep a record showing the cost of removal adjacent to each separate lot and parcel.

iii. ***Public health and safety hazards***. When the city removes or eliminates public health or safety hazards from private property under the following provisions of this chapter, the administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected and annually deliver that information to the City Clerk.

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

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

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

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

c. ***Repair by city***. If the sidewalk or alley is not repaired within 30 days after receipt of the notice, the City Clerk shall report the facts to the City Council and the City Council shall by resolution order the work done by contract in accordance with law. No person shall enter private property to repair

a sidewalk, except with the permission of the owner or after obtaining an administrative warrant. The City Clerk shall keep a record of the total cost of the repair attributable to each lot or parcel of property.

vi. ***Personal liability***. The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of the service. As soon as the service has been completed and the cost determined, the City Clerk, or other designated official, shall prepare a bill and mail it to the owner and thereupon the amount shall be immediately due and payable at the office of the City Clerk.

vii. ***Damage to public property***. Any person driving any vehicle, equipment, object or contrivance upon any street, road, highway or structure shall be liable for all damages which the surface or structure thereof may sustain as a result of any illegal operation, or driving or moving of the vehicle, equipment or object or contrivance; or as a result of operating, driving or moving any vehicle, equipment, object or contrivance weighing in excess of the maximum weight permitted by statute or this code. When the driver is not the owner of the vehicle, equipment, object or contrivance, but is operating, driving or moving it with the express or implied permission of the owner, then the owner and the driver shall be jointly and severally liable for any such damage. Any person who willfully acts or fails to exercise due care and by that act damages any public property shall be liable for the amount thereof, which amount shall be collectable by action or as a lien under M.S. § 514.67, as it may be amended from time to time.

viii. ***Assessment***. On or before October 31 of each year, the City Clerk shall list the total unpaid charges for each type of current service and charges under this section against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges against property benefited as a special assessment under the authority of M . S. § 429. 101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection along with current taxes

the following year or in annual installments, not exceeding ten, as the City Council may determine in each case.

Section 5.3 - 2. Tree Diseases.

1. *Trees constituting nuisance declared.* The following are public nuisances whenever they may be found within the city:
   A. Any living or standing elm tree or part thereof infected to any degree with the Dutch Elm disease fungus *Ceratocystis Ulmi (Buisman) Moreau* or which harbors any of the elm bark beetles *Scolytus Multistriatus (Eichh.)* or *Hylungopinus Rufipes (Marsh);*
   B. Any dead elm tree or part thereof, including branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide;
   C. Any living or standing oak tree or part thereof infected to any degree with the Oak Wilt fungus *Ceratocystis fagacearum;*
   D. Any dead oak tree or part thereof which in the opinion of the designated officer constitutes a hazard, including but not limited to logs, branches, stumps, roots, firewood or other oak material which has not been stripped of its bark and burned or sprayed with an effective fungicide;
   E. Any other shade tree with an epidemic disease.

2. *Abatement of nuisance.* It is unlawful for any person to permit any public nuisance as defined in subdivision 1 of this section to remain on any premises the person owns or controls within the city. The nuisance may be abated as provided in Sections 5.3-10 and 5.3-11.
3. *Record of costs.* The City Clerk shall keep a record of the costs of abatement done under this section for all work done for which assessments are to be made, stating and certifying the description of the land, lots, parcels involved, and the amount chargeable to each.
4. *Unpaid charges.* On or before September 1 of each year, the City Clerk shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The City Council may then spread the charges or any portion thereof against the property involved as a special assessment as authorized by M.S. § 429.101 as it may be amended from time to time and other pertinent statutes for certification to the County Auditor and collection the following year along with the current taxes.

Section 5.3 - 3. Public Nuisance.

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

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

Section 5.3 - 4. Public Nuisances Affecting Health.

The following are hereby declared to be nuisances affecting health:

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

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

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

1. All gambling devices, slot machines and punch boards, except as otherwise authorized by federal, state or local law;
2. Betting, bookmaking and all apparatus used in those occupations;

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

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

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

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

another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped;

8. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks or public grounds except under conditions as are permitted by this code or other applicable law;
9. Radio aerials or television antennae erected or maintained in a dangerous manner;
10. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk;
11. All hanging signs, awnings and other similar structures over streets and sidewalks, so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
12. The allowing of rain water, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
13. Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
14. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
15. Waste water cast upon or permitted to flow upon streets or other public properties;
16. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material in a manner conducive to the harboring of rats, mice, snakes or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health or safety hazards from accumulation;
17. Any well, hole or similar excavation which is left uncovered or in another condition as to constitute a hazard to any child or other person coming on the premises where it is located;
18. Obstruction to the free flow of water in a natural waterway or a public Street drain, gutter or ditch with trash of other materials;
19. The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;

20. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;
21. All other conditions or things which are likely to cause injury to the person or property of anyone.
22. *Noises prohibited*
    A. *General prohibition.* No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of the public as described in Minnesota statute 609.74. This general prohibition is not limited by the specific restrictions of this section.
    B. *Defective vehicles or loads.* No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.
    C. *Loading, unloading, unpacking.* No person shall create loud or excessive noise in loading, unloading, or unpacking any vehicle.
    D. *Radios, phonographs, paging systems, and the like.* No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet, and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building, shall be prima facie evidence of a violation of this section.
    E. *Schools, churches, hospitals, and the like.* No person shall create any excessive noise on a street, alley or public grounds adjacent to any school, institution of learning, church or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.
23. *Hourly restriction of certain operations*
    A. *Domestic power equipment.* No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or other similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m.

on any weekday or between the hours of 9:00 a.m. and 9:00p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.

B. *Refuse hauling.* No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 10:00p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

C. *Construction activities.* No person shall engage in or permit construction activities involving the use of any kind of electric, diesel, or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday.

24. *Noise impact statements.* The Council may require any person applying for a change in zoning classification or a permit or license for any structure, operation, process, installation or alteration or project that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the Council. It shall evaluate each such statement and take its evaluation into account in approving or disapproving the license or permit applied for or the zoning change requested.
25. Reflected glare or light from private exterior lighting exceeding *0.5* footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one footcandle when abutting any commercial or industrial parcel.
26. Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel and one footcandle when abutting any commercial or industrial parcel.

Section 5.3 - 7. Nuisance Parking and Storage.

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

enjoyment of their property and neighborhood, and (1) otherwise adversely affects property values and neighborhood patterns.

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

Section 5.3 - 8. Inoperable Motor Vehicles.

1. It shall be unlawful to keep, park, store or abandon any motor vehicle which is not in operating condition, partially dismantled, used for repair of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling or salvage of any kind, or which is not properly licensed for operation with the state, pursuant to M . S. § 168B .011, Subd. 3, as it may be amended from time to time.
2. This section does not apply to a motor vehicle enclosed in a building and/or kept out of view from any street, road or alley, and which does

not foster complaint from a resident of the city. A privacy fence is permissible.

3. Any motor vehicles described in this section constitute a hazard to the health and welfare of the residents of the community in that such vehicles can harbor noxious diseases, furnish a shelter and breeding place for vermin and present physical danger to the safety and well-being of children and citizens; and vehicles containing fluids which, if released into the environment, can and do cause significant health risks to the community.

Section 5.3 - 9. Building Maintenance and Appearance.

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

vi. Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.

vii. Chimneys, antennae, air vents, and other similar projections must be structurally sound and in good repair. These projections must be secured properly, where applicable, to an exterior wall or exterior roof,

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

Section 5.3 - 10. Duties of City Officers.

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

Section 5.3 - 11. Abatement.

1. *Notice.* Written notice of violation; notice of the time, date, place and subject of any hearing before the City Council; notice of City Council order; and notice of motion for summary enforcement hearing shall be given as set forth in this section.
    A. *Notice of violation.* Written notice of violation shall be served by a peace officer or designated person on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.
    B. *Notice of City Council hearing.* Written notice of any City Council hearing to determine or abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by certified or registered mail. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant

refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.

C. *Notice of City Council order.* Except for those cases determined by the city to require summary enforcement, written notice of any City Council order shall be made as provided in M.S. § 463.17 (Hazardous and Substandard Building Act), as it may be amended from time to time.

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

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

Council shall determine whether or not the condition identified in the notice to the owner or occupant is a nuisance, whether public health, safety or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subdivision 1 of this section, and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

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

Section 5.3 - 12. Recovery of Cost.

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

Section IV – Weeds

Section 5.4 - 1. Short Title.

This subchapter shall be cited as the "Weed Ordinance.

Section 5.4 - 2. Jurisdiction.

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

Section 5.4 - 3. Definitions; Exclusions.

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

iv. Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding 12 inches;
v. Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants;
vi. The term ***WEEDS*** does not include shrubs, trees, cultivated plants or crops.

D. In no event shall cultivated plants or crops include plants which have been defined by state statute or administrative rule as being noxious or detrimental plants.

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

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

Section 5.4 - 5. Filing Complaint.

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

Section 5.4 - 6. Notice of Violations.

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

3. Certified mailing to the City Clerk or others is deemed filed on the date of posting to the United States Postal Service.

Section 5.4 - 7. Appeals.

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

Section 5.4 - 8. Abatement by City.

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

Section 5.4 - 9. Liability.

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

Section V – Open Burning

Section 5.5 - 1. Definitions.

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

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

include wood that is green with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreational fires when cut into three foot lengths.

Section 5.5 - 2. Prohibited Materials.

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

Section 5.5 - 3. Permit Required For Open Burning.

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

Section 5.5 - 4. Purposes Allowed For Open Burning.

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

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

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

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

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

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

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

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

Section 5.5 - 8. Penalty.

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

SECTION VI - STREETS AND SIDEWALKS

Section 5.6- 1. General Provisions

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

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

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

ii. *Obstruction permit.* An obstruction permit is required to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

B. *Permit extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless the person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and a new permit or permit extension is granted.

C. *Delay penalty.* In accordance with Minn. Rules part 7819.1000 subp. 3, as it may be amended from time to time and notwithstanding subdivision 2 of this section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by the Ordinance Establishing Fees and Charges, adopted pursuant to section 2.1-11 of this code, as it may be amended from time to time.

D. *Permit display.* Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Clerk, Utilities Superintendent or other person designated by the Council.

4. Permit Applications. Application for a permit shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

A. Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following information:

i. Each permittee's name, gopher one-call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers.

ii. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee

shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

iii. A certificate of insurance or self-insurance:

a. Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state, or a form of self-insurance acceptable to the Clerk, Utilities Superintendent or other person designated by the Council;

b. Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the registrant, its officers, agents, employees, and permittees, and placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property;

c. Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all coverages;

d. Requiring that the Clerk, Utilities Superintendent or other person designated by the Council be notified 30 days in advance of cancellation of the policy or material modification of a coverage term;

e. Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the Clerk, Utilities Superintendent or other person designated by the Council in amounts sufficient to protect

the city and the public and to carry out the purposes and policies of this chapter.

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

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

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

7. Right-of-Way Patching and Restoration.
    A. *Timing.* The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work

was prohibited as unseasonal or unreasonable under this subchapter.

B. *Patch and restoration.* The permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

i. *City restoration.* If the city restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If following the restoration, the pavement settles due to the permittee 's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with having to correct the defective work.

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

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

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

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

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

8. Supplementary Applications.

A. *Limitation on area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.

B. *Limitation on dates.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

9. Denial of Permit. The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that

the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

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

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

12. Work Done with out a Permit.

A. *Emergency situations.*

i. Each person with facilities in the right-of-way shall immediately notify the city of any event regarding its facilities which it considers to be an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the owner shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

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

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

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

14. Revocation of Permits.

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

i. The violation of any material provision of the right-of-way permit;
ii. An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
iii. Any material misrepresentation of fact in the application for a right-of-way permit;
iv. The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittees control; or
v. The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued.

B. *Written notice of breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the city shall make a written demand upon the permittee to remedy that violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

C. *Response to notice of breach.* Within 24 hours of receiving notification of the breach, the permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. The permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

D. *Reimbursement of city costs.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with the revocation.

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

16. Location of Facilities.
    A. *Compliance required.* Placement, location, and relocation of facilities must comply with applicable laws, and with Minn. Rules parts 7819.3100, 7819.5000 and 7819.5100, as they may be amended from time to time, to the extent the rules do not limit authority otherwise available to cities.
    B. *Corridors.* The city may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.
    C. *Limitation of space.* To protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use, the Clerk, Utilities Superintendent or other person designated by the Council shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making those decisions, the Clerk, Utilities Superintendent or other person designated by the Council shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

17. Damage to other Facilities**.** When the city does work in the right-of-way and finds it necessary to maintain, support, or move facilities to protect it, the Clerk, Utilities Superintendent or other person designated by the Council shall notify the local representative as early as is reasonably possible and placed as required. The costs associated therewith will be billed to that registrant and must be paid within 30 days from the date of billing. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of- way which it or its facilities damages. Each facility owner shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an emergency occasioned by that owner's facilities.

18. Right-of-way Vacation. If the city vacates a right-of-way which contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules part 7819.3200, as it may be amended from time to time.
19. Indemnification and Liability. By applying for and accepting a permit under this chapter, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rules 7819.1250, as it may be amended from time to time.
20. Abandoned Facilities; Removal of Abandoned Facilities. Any person who has abandoned facilities in any right-of-way shall remove them from that right-of- way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the Clerk, Utilities Superintendent or other person designated by the Council.
21. Appeal. A right-of-way user that has been denied registration; has been denied a permit; has had permit revoked; or believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee as imposition will be in writing and supported by written findings establishing the reasonableness of the decision.
22. Reservation of Regulatory and Police Powers. A permittees or registrants rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

TITLE VI: BUSINESS REGULATIONS

SECTION I - GENERAL LICENSING PROVISIONS

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

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

Section 6.1- 2. Application for License

1. All original applications for licenses, unless otherwise specifically provided, shall be made to the City Clerk or other authorized official in writing upon forms to be furnished by him or her and shall contain:
    A. The applicant's full name, address, and telephone number, and the full name of each officer, partner or business associate, if applicable.
    B. His or her present occupation and principal place of business.
    C. His or her place of residence for the preceding five years.
    D. The nature and location of the intended business or enterprise.
    E. The period of time for which the license is desired.
    F. A description of the merchandise, goods or services to be sold.
    G. If a motor vehicle is to be used, a full description of the motor vehicle, including the make, model, year, color, license number, and vehicle registration (VIN) number of the vehicle.
    H. Other information concerning the applicant and his or her business as may be reasonable and proper, having regard to the nature of the license desired.

2. Any change in the information required by division (1) of this Section must be reported to the City Clerk or other authorized official within 14 days of that change.
3. Renewal of an annual license may be granted to a licensee in good standing on the basis of the original application, unless otherwise provided. However, if a request for renewal is not submitted to the City Clerk or other authorized official within 21 days after the date of expiration for the preceding license, the applicant must fill out an original application.

4. With each original or renewal application, the applicant shall deposit the fee required for the license requested.
5. It shall be unlawful to knowingly make any false statement or representation in the license application.

Section 6.1- 3. Issuance of License

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

Section 6.1- 4. Date and Duration of License

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

Section 6.1- 5. License Not Transferable

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

Section 6.1- 6. License Certificate to Be Displayed

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

Section 6.1- 7. Revocation or Suspension

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

E. Upon conviction of a licensee for any federal, state or municipal law or ordinance involving the creation of a nuisance, a breach of the peace, interference with the rights of property owners, or any other offense constituting a threat to the public health, safety, morals or general welfare of the public.

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

Section 6.1- 8. Appeal and Review

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

SECTION II - COMMERICAL AMUSEMENTS

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

1. General
    A. Each person, desiring to conduct, stage or give a circus, carnival, theatrical exhibition, public show, athletic game or other entertainment, for which there is a charge for admission, shall first obtain a license and pay the license fee or fees as established by the Ordinance Establishing Fees and Charges adopted pursuant to Section 2.1-11 of this code, as that ordinance may be amended from time to time.
    B. Local school entertainment, charitable organizations, lecture courses, and lectures on historic, literary or scientific subjects are not subject to the provisions of this Section; provided that the entertainment is not for profit.

2. In addition to any other requirements, the applicant for a license shall give at least one week's notice in writing to the City Clerk or other authorized official, stating the dates of the performances and the location at which the performances are to be presented. The City Clerk shall give his or her consent to the issuance of the license if he or she deems that the location is suitable for the purpose; that it will properly accommodate the patrons; that the nature of the performance or exhibition does not pose a threat to the health, safety or general welfare of the public; and that the use of the location will not create too great a burden upon the Police Department or the Fire Department.
3. No circus, carnival, theatrical exhibition, public show, athletic game or other entertainment shall be given for more than two consecutive days, except in cases where the City Council by resolution allows a longer period, or where the exhibition is to be conducted on municipal property and the use thereof for a longer period shall have been approved by the City Council.

SECTION III - LIQUOR REGULATIONS

Section 6.3- 1. General Provisions

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

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

2. City May Be More Restrictive Than State Law

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

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

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

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

4. Nudity on the Premises of Licensed Establishments Prohibited

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

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

B. It is unlawful for any licensee to permit or allow any person or persons on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a nontransparent material. It is unlawful for any person to be on the licensed premises when the person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material.

C. A violation of this Section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine, or 3.2 percent malt liquor license or the imposition of a civil penalty under the provisions of Section 6.3-4.

5. Consumption in Public Places

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

Section 6.3- 2. Licensing

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

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

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

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

F. Sunday on-sale intoxicating liquor licenses, only after authorization to do so by voter approval at a general or special election as provided by MS. § 340A.504, Subd. 3, as it may be amended from time to time. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant as defined in Subdivision 3 of Section 6.3-1, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with the service of food. The maximum fee for this license, which shall be established by the Council under the provisions of Subdivision 4 of this Section, shall not exceed $200, or the maximum amount provided by M.S. § 340A.504, Subd. 3c, as it may be amended from time to time.

G. Combination on-sale/off-sale intoxicating liquor licenses if the city has a population less than

H. Temporary on-sale intoxicating liquor licenses, with the approval of the Commissioner of Public Safety, which may be issued only in connection with a social event sponsored by a club, charitable, religious, or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to any one organization in one calendar year.

I. On-sale wine licenses, with the approval of the Commissioner of Public Safety to: theaters, restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M.S. § 340A.404, Subd. *5,* as it may be amended from time to time, and which meet the definition of restaurant in Subdivision 3 of Section 6.3-1; and to licensed bed and breakfast facilities which meet the criteria in M.S. § 340A.401, Subd. 1, as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of Subdivision 4 of this section shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license who also holds an on-sale 3.2 percent malt liquor license is authorized to sell malt liquor with a content over 3.2 percent (strong beer) without an additional license.

J. One day consumption and display permits with the approval of the Commissioner of Public Safety to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.

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

4. License Fees; Pro Rata

A. No license or other fee established by the city shall exceed any limit established by MS. Ch. 340A, as it may be amended from time to time, *for* a liquor license.

B. The Council may establish from time to time in the Ordinance Establishing Fees and Charges the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this Section. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

C. The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.
D. All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.
E. A refund of a pro rata share of an annual license fee may occur only if authorized by MS. § 340A.408, Subd. 5, as it may be amended from time to time.

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

times effective proof of financial responsibility is a cause for revocation of the license.

7. Description of Premises. The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.
8. Applications for Renewal. At least 90 days before a license issued under this Section is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.
9. Transfer of License. No license issued under this Section may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.
10. Investigation
    A. *Preliminary baclcground and financial investigation.* On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee of $500 which shall be in addition to any license fee. If the cost of the preliminary investigation is less than *$500,* the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.
    B. C*omprehensive background and financial investigation.* If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be $500, less any

amount paid for the initial investigation if the investigation is to be conducted within the state, and $10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.

11. Hearing and Issuance. The Council shall investigate all facts set out in the application and not investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.
12. Restrictions on Issuance
    A. Each license shall be issued only to the applicant for the premises described in the application.
    B. Not more than one license shall be directly or indirectly issued within the city to any one person.
    C. No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges, or other financial claims of the city are delinquent and unpaid.
    D. No license shall be issued for any place or any business ineligible for a license under state law.
    E. No license shall be issued to any person who is not a resident of the state. If the applicant is a corporation, all of the shareholders shall be residents of the state. The provisions of this division (E) shall not apply to any license existing on the effective date of this Section or to the renewal of an existing license.
    F. No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church to the closest side of the structure on the premises within which liquor is to be sold.

13. Conditions of License. The failure of a licensee to meet any one of the conditions of the license specified below shall result in a suspension of the license until the condition is met.
    A. Within 90 days after employment, every person selling or serving liquor in an establishment which has an "on-sale" license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee.
    B. Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this Section and the law equally with the employee.
    C. Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect, and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.
    D. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
    E. Compliance with financial responsibility requirements of state law and of this Section is a continuing condition of any license.

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

D. No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.
E. Any violation of any condition of this Section may be grounds for revocation or suspension of the license.

15. Minors on Premises
    A. No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multi-purpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.
    B. No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions that are held in a portion of the premises where liquor is not sold.

16. Restrictions on Purchase and Consumption. No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of M.S. § 340A.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.
17. Suspension and Revocation
    A. The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation, or provision of this Section relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M. S. § 14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.
    B. The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this Section or M.S. Ch. 340A, as it may be

amended from time to time or any rules promulgated under that Section as they may be amended from time to time.

i. For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, or violation of Subdivision 4 of Section 6.3-1, the license shall be revoked.

ii. The license shall be suspended by the Council after a finding under division (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this Section for at least the minimum periods as follows:

a. For the first violation within any three-year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.

b. For a second violation within any three-year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

c. For the third violation within any three-year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.

d. For a fourth violation within any three-year period, the license shall be revoked.

iii. The Council shall select the day or days during which the license will be suspended.

C. Lapse of required proof of financial responsibility shall effect an immediate suspension of any license issued pursuant to this Section or state law without further action of the Council. Notice of cancellation or lapse of a current liquor liability policy shall also constitute notice to the licensee of the impending suspension of the license. The holder of a license who has received notice of lapse of required insurance or of suspension or revocation of a license may request a hearing thereon and, if a request is made in writing to the Clerk, a hearing before the Council shall be granted within ten days. Any suspension under this division (B) shall continue until the Council determines that the financial responsibility requirements of state law and this Section have again been met.

D. The provisions of Section 6.3-4 pertaining to administrative penalty may be imposed in addition to or in lieu of any suspension or revocation under this Section.

Section 6.3- 3. Municipal Liquor Stores

1. Applications of this SubSection. This Section, consisting of divisions 1 through 6, applies only to a city that has in existence on the effective date of this Section a municipal liquor store.
2. Existing Municipal Stores Continued. If the city has in existence on the effective date of this Section a municipal liquor store for the sale of intoxicating liquor, the store is continued. Except as provided in division 6 of this Section, no intoxicating liquor may be sold at retail elsewhere in the city.
3. Location. The municipal liquor store shall be located at a suitable place in the city as the Council determines by motion. However, no premises upon which taxes, assessments, or other public charges are delinquent shall be leased for municipal liquor store purposes. The Council shall have the right to establish additional off-sale and on-sale stores at other locations as it may, from time to time, by motion, determine.
4. Operation
   A. *Manager.* The municipal liquor store shall be in the immediate charge of a Liquor Store Manager selected by the Council and paid compensation as is fixed by the Council. The Manager shall not be a person who would be prohibited by law or any provision of this Section from being eligible for an intoxicating liquor license. The Manager shall furnish a surety bond to the city, conditioned upon the faithful discharge of the duties of the office, in a sum as specified by the Council. The bond premium may be paid by the city or the Manager, in the discretion of the Council. The Manager shall operate the municipal liquor store under the Council's direction and shall perform those duties in connection with the store as may be established by the Council. The Manager shall be responsible to the Council for the conduct of the store in full compliance with this Section and with the laws relating to the sale of intoxicating liquor and 3.2 percent malt liquor.
   B. *Other employees.* The Council may also appoint additional employees as may be required and shall fix their compensation. All employees, including the Manager, shall hold their positions at the pleasure of the Council. No person under the age of 18 shall be employed in the store. The Council may require the employees to furnish surety

bonds conditioned for the faithful discharge of their duties in a sum as specified by the Council. The premium on the bond may be paid by the city or the employees, as the Council determines.

C. *Municipal liquor store fund.* All of the revenues received from the operation of a municipal liquor store shall be deposited in a municipal liquor store fund from which all ordinary operating expenses, including compensation of the Manager and employees, shall be paid. Surpluses accumulating in the fund may be transferred to the general fund of the city or to any other appropriate fund of the city by resolution of the Council, and may be expended for any municipal purpose. The handling of municipal liquor store receipts and disbursements shall comply with the procedure prescribed by law and charter for the receipts and disbursements of city funds generally.

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

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

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

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

the provisions of this Section. The issuance of these licenses is governed by the provisions of this Section.

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

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

Section 6.3- 4. Penalties

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

3. The term "violation" as used in this Section includes any and all violations of the provisions of this Section, or of M.S. Ch. 340A, as it may be amended from time to time or any rules promulgated under that chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three-year period. Revocation shall occur within 60 days following a violation for which revocation is imposed.

SECTION IV - PEDDLERS AND SOLICITORS

Section 6.4- 1. Definitions

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

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

Section 6.4- 2. Exceptions to Definitions

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

Section 6.4- 3. Licensing; Exemptions

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

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

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

T. The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

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

this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.

C. Fundraisers working on behalf of an otherwise exempt person or group, such as a school or service club, except that individuals who are professional fundraisers shall not be exempt from the licensing requirements of this Section.

Section 6.4- 4. License Ineligibility

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

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

Section 6.4- 5. License Suspension And Revocation

1. *Generally.* Any license issued under this Section may be suspended or revoked at the discretion of the City Council for violation of any of the following:
    A. Fraud, misrepresentation or incorrect statements on the application form.
    B. Fraud, misrepresentation or false statements made during the course of the licensed activity.

C. Conviction of any offense for which granting of a license could have been denied under Section 6.4-4.
D. Violation of any provision of this Section.

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

Section 6.4- 6. License Transferability

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

Section 6.4- 7. Registration

All solicitors, and any person exempt from the licensing requirements of this Section under Section 6.4-4, shall be required to register with the city. Persons engaging in door-to-door advocacy shall not be required to register. The term **Door-to-Door Advocacy** includes door-to-door canvassing and pamphleteering as vehicles for the dissemination of religious, political and other ideas. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Clerk shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be non- transferable.

Section 6.4- 8. Prohibited Activities

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

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

Section 6.4- 9. Exclusion by Placard

No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating "No Peddlers, Solicitors or Transient Merchants," or "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable

statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.

SECTION V - TATTOO AND BODY PIECERING SERVICES

Section 6.5- 1. Definitions

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

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

Section 6.5- 2. Prohibitions

No person shall do any of the following:

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

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

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

process the application. The applicant shall include the fee established under the city's Ordinance Establishing Fees and Charges authorized by Section 2.1-11 as it may be amended from time to time, or as established by the Board of Health.

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

Section 6.5- 4. Inspection of Facilities

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

Section 6.5- 5. Suspension of Revocation of License

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

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

1. No person shall perform a tattooing procedure, body piercing procedure, or ear piercing procedure with an ear piercing gun on an individual who is under 18 years of age unless consent has been given by the individual's parent, guardian, or custodian in accordance with division 2 of this section. The consent must include both the custodial and non-custodial parents, where applicable.
2. A parent, guardian or custodian of an individual under age 18 who desires to give consent to a business to perform on the individual under age 18 a tattooing procedure, body piercing procedure, or ear piercing procedure performed with an ear piercing gun shall do both of the following:
    A. Appear in person at the business at the time the procedure is performed;
    B. Sign a document provided by the business that explains the manner in which the procedure will be performed and methods for proper care of the affected body area following performance of the procedure.

3. Prohibitions Relating to Person Under 18
    A. Unless consent has been given in accordance with section 6.5-6, no individual who is under age 18 shall obtain or attempt to obtain a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.
    B. No individual who is under age 18 shall knowingly show or give false information concerning the individual's name, age, or other identification for the purpose of obtaining a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.
    C. No individual shall knowingly show or give any false information as to the name, age, or other identification of an individual who is under age 18 for the purpose of obtaining for the individual under age 18 a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.
    D. No individual shall impersonate the parent, guardian or custodian of an individual who is under age 18 for the purpose of obtaining for the individual under age 18 a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun.

Section 6.5- 7. Defenses to Violations

1. An operator or employee of a business that performs tattooing services, body piercing services, or ear piercing services performed with an ear piercing gun may not be found guilty of a violation of section 6.5-6(1) or any federal, state or local laws, rules or regulations in which age is an element of the provisions if:
    A. The individual obtaining a tattooing service, body piercing service, or ear piercing service performed with an ear piercing gun, at the time of so doing, exhibited to the operator or employee of the tattooing, body piercing, or ear piercing business a driver's or commercial driver's license or an identification card issued under state law showing that the individual was then at least age 18.
    B. The operator or employee made a bona fide effort to ascertain the true age of the individual obtaining a tattooing, body piercing, or ear piercing service by checking the identification presented, at the time of the service, to ascertain that the description on the identification compared with the appearance of the individual and that the identification had not been altered in any way; and
    C. The operator or employee had reason to believe that the individual obtaining a tattooing, body piercing, or ear piercing service was at least age 18.

2. In any action or proceeding before a court of record in which a defense is raised under this section, the Registrar of Motor Vehicles or the Registrar's Deputy who issued a driver's or commercial driver's license or an identification card shall be permitted to submit certified copies of the records, in the Registrar's or Deputy's possession, of the issuance in lieu of the testimony of the personnel of the Bureau of Motor Vehicles at the hearing, action or proceeding.

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

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

C. Comply with the safety and sanitation requirements for preventing transmission of infectious diseases, as established in any federal, state or local laws, rules or regulations;

D. Require the individuals who perform tattooing and body piercing procedures to disinfect and sterilize all invasive equipment or parts of equipment used in performing the procedures by using methods that meet the disinfection and sterilization requirements established in any federal, state or local laws, rules or regulations;

E. Ensure that weekly tests of the business's heat sterilization devices are performed to determine whether the devices are functioning properly. In *having* the *devices* tested, the operator of the business shall use a biological monitoring system that indicates whether the devices are killing microorganisms. If a test indicates that a device is not functioning properly, the operator shall take immediate remedial action to ensure that heat sterilization is being accomplished. The operator shall maintain documentation that the weekly tests are being performed. To comply with the documentation requirement, the documents must consist of a log that indicates the date on which each test is performed and the name of the person who performed the test or, if a test was conducted by an independent testing entity, a copy of the entity's testing report. The operator shall maintain records of each test performed for at least two years.

2. Each operator of a business that offers ear piercing services performed with an ear piercing gun shall require the individuals who perform the ear piercing services to disinfect and sterilize the ear piercing gun by using chemical solutions that meet the disinfection and sterilization requirements established in any federal, state or local laws, rules or regulations.

SECTION VI - TOBACCO REGULATIONS

RESERVED

SECTION VII - REGULATING LAWFUL GAMBLING

Section 6.7- 1. Adoption of State Law By Reference

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

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

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

Section 6.7- 3. Purpose

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

Section 6.7- 4. Definitions

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

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

Section 6.7- 5. Applicability

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

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

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

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

Section 6.7- 6. Lawful Gambling Permitted

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

Section 6.7- 7. Council Approval

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

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

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

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

Section 6.7- 9. Local Permits

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

A. Name and address of the organization requesting the permit.
B. Name and address of the officers and person accounting for receipts, expenses, and profits for the event.
C. Dates of gambling occasion for which permit is requested.
D. Address of premises where event will occur.
E. Copy of rental or leasing arrangement, if any, connected with the event, including rental to be charged to organization.
F. Estimated value of prizes to be awarded.

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

E. Exempted or excluded lawful gambling will not take place at a premises the organization owns or rents.
F. Exempted or excluded lawful gambling will not be limited to a premises for which an on- sale liquor license has been issued.
G. An organization will have a permit to conduct exempted or excluded lawful gambling activities on more than one premises in the city.
H. More than one licensed, qualified organization will be conducting exempted or excluded lawful gambling activities at any one premises.
I. Failure of the applicant to pay permit fee provided by subdivision 3 of this section within the prescribed time limit.
J. Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

Otherwise the council shall approve the application.

9. Local permits shall be valid for one year after the date of issuance unless suspended or revoked.

Section 6.7- 10. Revocation and Suspension of Local Permit

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

Section 6.7- 11. License and Permit Display

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

Section 6.7- 12. Notification of Material Changes to Application

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

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

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

Section 6.7- 14. Designated Trade Area

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

Section 6.7- 15. Records and Reporting

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

Section 6.7- 16. Hours of Operation

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

Section 6.7- 17. Severability

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

Section 6.7- 18. Penalty

Any person who violates:

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

SECTION VIII - GARAGE AND RUMMAGE SALES

Section 6.8- 1. Definition

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

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

Section 6.8- 2. Restrictions and Prohibitions

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

Section 6.8- 3. Exceptions

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

Section 6.8- 4. Penalty

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

SECTION IX - REGULATION OF PUBLIC DANCES AND SPECIAL EVENTS

Section 6.9- 1. Public Dances

1. Regulation of Public Dances. All public dances held in this city shall be conducted in accordance with the provisions of this chapter.

2. Definitions. The terms stated below shall have the following meanings:
   A. **Public Dance.** Any dance where the general public may participate, whether or not a charge for admission for dancing is made.
   B. **Public Dancing Place.** Any room or space or other area, whether indoors or outside, which is open to the general public for the purpose of participating in public dancing.

3. Permit Required. No person shall conduct a public dance in this city unless a permit has been obtained from the City Clerk prior to the holding of the dance. The fees for a permit shall be as established by the Ordinance Establishing Fees and Charges, adopted pursuant to Section 2.1-11 of this code, as that ordinance may be amended from time to time. In addition to this fee, the applicant shall pay the cost to the city of providing a licensed peace officer or officers to be present at the dance. The City Council shall establish criteria for determining the number of licensed peace officers required to be present at any dance. No permit shall be issued until the fee and the cost for providing the peace officer or officers has been paid.
4. Application for Permit. Any person desiring a permit to hold a public dance in this city shall submit an application for a permit on the form provided by the City Clerk, submitted to the City Clerk at least ten days before the date of the proposed dance. The application shall set forth the name and address of the applicant, who shall be the person responsible for conducting the public dance, and any business, committee or organization sponsoring the dance, the place where the dance is to be held, the date of the dance and the time of its beginning and end. Proof of all insurance required by this chapter shall be submitted with the application and no permit shall be issued until proof of insurance has been received. A request for any use of a city building or other city property shall be included with the permit application, and no permit shall be issued until the fees for the use of the city building or other city property have also been paid.

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

than *0.5* foot-candles in any area where dancing is occurring, permitted or encouraged is prohibited.

14. Noise. All public dances shall be subject to the provisions of this code regulating noise.

Section 6.9- 2. Special Events

1. Purpose and Findings. The purpose of this chapter is to protect the health, safety and welfare of the citizens of this city by regulating the time, place and manner of conduct of special events and by establishing permit requirements for conducting special events as such are herein defined. The City Council finds that special events often exceed the city's capacity to provide usual city services. These city services include, but are not limited to sanitary, fire, police and utility services. The City Council also finds these regulations necessary to ensure that such events are conducted with sufficient consideration given to public safety issues, including, among other things, the impact of these events on parking and vehicular traffic within the city.
2. Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
   A. **Person.** A natural person, association, organization, club, group formed for a common purpose, partnership of any kind, limited liability company, corporation or any other legal entity.
   B. **Special Events.** An outdoor gathering of at least *25* individuals, whether on public or private property, assembled with a common purpose for a period of one hour or longer. Special events include, but are not limited to concerts, fairs, carnivals, circuses, parades, flea markets, marathons, walkathons, festivals, races, bicycle events, celebrations or any other gathering or events of similar nature. Special events do not include noncommercial events held on private property, such as graduation parties or social parties.

3. Permit Required. No person shall hold, conduct or participate in a special event within the city, unless a permit has been issued for such event upon timely written application made to the city.
4. Application For Permit. Written application for special event permits must be made at least 30 days in advance of the event's proposed date in a form prescribed by the City Council. This application period shall not begin to run until a complete application has been filed with the city. Application forms shall be made available in the office of the City Administrator, A fee, in the amount specified in the Ordinance

Establishing Fees and Charges, shall be paid to the city along with the completed application form. In addition to the fee, the applicant shall pay all additional costs incurred by the city as a direct result of the special event. Failure to provide a complete application or to pay the fee, as herein required, is sufficient reason to deny the special event permit.

5. Issuance of Permit, Conditions and Posting
    A. Special event permits will be issued upon City Council approval. The Council may attach reasonable conditions to the permit as are deemed necessary to protect the health, safety and welfare. Such conditions may pertain to any of the following:
        i. Location and hours during which the event may be held.
        ii. Sanitation/availability of potable water.
        iii. Security/crowd management.
        iv. Parking and traffic issues.
        v. Emergency and medical services.
        vi. Clean-up of premises and surrounding area/trash disposal.
        vii. Insurance.
        viii. Lighting.
        ix. Fire service/safety.
        x. Temporary construction, barricades/fencing.
        xi. Removal of advertising/promotional materials.
        xii. Noise levels.
        xiii. Alcohol consumption.
        xiv. Any other conditions which the Council deems necessary.

    B. Upon Council approval, the City Clerk shall issue a permit to the person(s) named in the permit application. The permit shall clearly state the conditions, if any, imposed by the Council. Copies of the permit shall be posted in three prominent locations during the special event.

6. Exceptions to the Permit The permit requirement contained in this chapter does not apply to the following:
    A. Special events sponsored and managed by the city.
    B. Funerals and funeral processions.
    C. The grounds of any school, playground, place of worship, hotel conference center, stadium, athletic field, arena, auditorium or similar permanent place of assembly when used for regularly established assembly purposes.

7. Penalty
    A. Any permit holder violating any of the provisions of this chapter relating to public dances shall be guilty of a misdemeanor and punished as provided in Section 1.1-19, and their public dance permit is suspended immediately at the time of any arrest or citation for violating this chapter.
    B. Any person who violates any condition of a special event permit or any provision of this chapter shall be guilty of a misdemeanor punishable as prescribed by Section 1.1-19.
    C. Enforcement of this division may, at the Councils discretion, take any of the following forms:
        i. Citation/criminal prosecution;
        ii. Injunctions, declaratory judgements or other civil remedies;
        iii. Permit revocation;
        iv. Disbursement of persons gathered.

SECTION X - SEXUALLY ORIENTED BUSINESS

Section 6.10- 1. Purpose

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

Section 6.10- 2. Findings

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

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

Section 6.10- 3. Definitions

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

1. **Sexually Oriented Business.** Shall include the following:

A. A business that meets any of the following criteria, measured on a daily, weekly, monthly, or yearly basis:
    i. Has more than *25%* of its inventory, stock-in-trade, or publicly displayed merchandise in sexually oriented materials.
    ii. Devotes more than 25% of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to sexually oriented materials.
    iii. Derives more than 25% of its gross revenues from sexually oriented materials.

B. A business that engages for any length of time in a sexually oriented use as defined in this section or any other use that has an emphasis on specified sexual activities or specified anatomical areas.

2. **Sexually Oriented Materials.** Visual, printed, or aural materials, and other objects or devices, that:
    A. Contain, depict, simulate or describe specified sexual activities or specified anatomical areas.
    B. Are marketed for use in conjunction with, or are primarily used only with or during specified sexual activities.
    C. Are designed for sexual stimulation.

3. **Sexually Oriented Use.** Any of the following activities and businesses, even if the activity exists for only a short-time:
    A. **Adult Body Painting Studio.** An establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or non-transparent, to the body of a patron when the person is nude.
    B. **Adult Bookstore.** An establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotape, videotape, movies, or motion picture film if it meets the criteria established in the definition of "sexually oriented business," as defined in this section.
    C. **Adult Cabaret.** A business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on:
        i. The depiction of nudity, specified sexual activities or specified anatomical areas.

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

D. **Adult Companionship Establishment.** A business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

E. **Adult Conversation/RAP Parlor.** A business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

F. **Adult Health/Sport Club.** A health/sport club that is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

G. **Adult Hotel or Motel.** A hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

H. **Adult Massage Parlor/Health Club.** A massage parlor or health club that provides massage services distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

I. **Adult Mini-Motion Picture Theater.** A business or establishment with a capacity of less than 50 persons that, as a prevailing practice, presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

J. **Adult Modeling Studio.** A business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

K. **Adult Motion Picture Arcade.** Any place to which the public is permitted or invited where coin or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion

picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

L. **Adult Motion Picture Theater.** A motion picture theater with a capacity of 50 or more persons that, as a prevailing practice, presents material distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas for observation by patrons.

M. **Adult Novelty Business.** An establishment or business that has a variety of items for sale if it meets the criteria established in subdivision A of the definition of "sexually oriented business" defined in this section.

N. **Adult Sauna.** A sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

O. **Adult Steam Room/Bathhouse Facility.** *A* building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

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

A. Less than completely and opaquely covered human genitals, pubic area, buttocks, anus, or female breast below a point immediately above the top of the areola.

B. Human male genitals in a state of sexual arousal, whether or not completely and opaquely covered.

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

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

coprophilia; cunnilingus; fellatio; necrophilia; pedophilia; piquerism or zooerastia.

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

Section 6.10- 4. Exceptions

This chapter does not regulate the following:

1. Material with significant literary content or social commentary.
2. A business where sexually oriented materials are sold, bartered, distributed, leased, furnished, or otherwise provided for off-site use or entertainment, if the sexually oriented material on each item is blocked from view by an opaque cover as required under M.S. § 617.293, as it may be amended from time to time, and each item is in an area accessible only by an employee of the business.
3. A person or organization exempted under M.S. § 617.295.
4. Activity regulated under M.S. § 617.25 1.
5. Displaying works of art showing specified anatomical areas, so long as no sexually oriented materials are for sale, and the business does not have a liquor license.
6. Movies rated G, PG, PG-13, NC-l7 or R.

Section 6.10- 5. License Required

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

Section 6.10- 6. Persons Ineligible

No license may be issued to a person who:

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

Section 6.10- 7. Places Ineligible

No license may be issued for:

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

Section 6.10- 8. License Application

1. The application for a sexually oriented business license under this chapter must be made on a form supplied by the city and must provide the following information:

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

partnership is required to file a certificate as to trade name under the provisions of M.S. Ch. 333, as it may be amended from time to time, a copy of the certificate must be attached to the application;

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

P. The amount of the investment that the applicant has in the business, land, building, premises, fixtures, furniture or stock-in-trade, and proof of the source of the money;

Q. A list of responsible persons, including the names of owners, managers and assistant managers, who may be notified or contacted by state or city employees in case of emergency. These persons must be residents of the state;

R. Whether the applicant holds a current license for a sexually oriented business or similar business from another governmental unit;

S. Whether the applicant has ever been denied a license for a sexually oriented business or similar business from another governmental unit; and

T. Other information that the city deems appropriate.

2. No person may make a false statement or material omission in a license application or investigation. A false statement or material omission is grounds for denial, suspension or revocation of a license.
3. Each licensee has the continuing duty to properly notify the Director of Community Development of a change in the information or facts required to be furnished on the application for a license. This duty continues throughout the period of the license. Failure to comply with

this section will constitute cause for revocation or suspension of the license.

4. The application for the renewal of an existing license must be made at least 90 days prior to the date of the expiration of the license and must be made on the form which the city provides.

Section 6.10- 9. Fees.

1. An applicant for a license must pay to the city the investigation fee specified in the Ordinance Establishing Fees and Charges, adopted pursuant to Section 2.1-11 of this code, as that ordinance may be amended from time to time. This fee will be for the purpose of conducting a preliminary background and financial investigation of the applicant. If the city believes that the public interest so warrants, it may require a similar investigation at the time of renewal of a license. If an investigation is ordered at the time of license renewal, the applicant must pay the fee specified above, except that the fee will be the smaller of the stated dollar amount or the actual cost of the investigation. There will be no refund of the investigation fee after the investigation has begun.
2. The annual fees for a license are set forth in the Ordinance Establishing Fees and Charges, adopted pursuant to Section 2.1-11 of this code, as that ordinance may be amended from time to time.
3. Each license expires on December31 of the year in which it is issued. Fees for licenses issued during the license year will be prorated according to the number of months remaining in the year. For this purpose an unexpired fraction of a month will be counted as a whole month having elapsed.
4. No refund of a fee will be made except as authorized by ordinance.

Section 6.10- 10. Granting of Licenses

1. No license may be issued until the Police Department, or the county Sheriff, if the city has no Police Department, has conducted an investigation of the representations set forth in the application, the applicant's moral character, and the applicant's financial status. All applicants must cooperate this investigation.
2. No license, except for a renewed license, may be issued for a sexually oriented business until the Council has held a public hearing. Notice of the hearing must be made in the same manner as that specified in Chapter 151 of this code, for a zoning ordinance amendment affecting district boundaries. The Council must grant the license unless the applicant or the location does not meet the requirements of the city code, the

application was incomplete, or the application contained false information or a material omission. If the application is denied, the city must notify the applicant with the reason(s) stated for denial. Notification must be sent certified, United States mail, return receipt requested, to the address provided on the license application. If the Council fails to act on the application within 45 days after receipt of a complete application, the application will be deemed approved. An applicant wishing to appeal the action of the City Council may seek a writ of certiorari before the Minnesota Court of Appeals.

3. Council Discretion.
   A. The City Council may issue a license before an investigation, notice and public hearing for an applicant who:
      i. Had a license within the previous five years for the establishment that is specified in the application and that is continuing to operate under a license;
      ii. Wishes to resume operation of the business without sufficient time, through no fault of his or her own, to meet the normal procedural requirements;
      iii. Had no criminal license convictions, or license suspensions or revocations during the prior licensed period; and
      iv. Otherwise qualifies and meets the requirements for a license.

   B. In this situation, the City Council may immediately issue an interim license to the applicant for a period of no longer than 90 days. The applicant must then proceed through the specified requirements for an investigation, notice, and public hearing. At the public hearing the Council will decide whether the license should continue in effect or be revoked. The applicant has no greater right to continuation of the license than he or she would have had to issuance of a new license following the normal procedure without the interim license.
4. A license will be issued only to the applicant and for the premises described in the application. No license may be transferred to another person or place without application in the same manner as an application for a new license. Transfer of 25% or more of the stock of a corporation or of a controlling interest of it, whichever is less, will be deemed a transfer of the license. If the licensee is a corporation that is wholly owned by another corporation, the same provisions about the transfer of a stock or a controlling interest will apply to that parent corporation, any

second parent corporation that wholly owns the parent corporation, and all other similarly situated parent corporations up through the chain of ownership. Transfer of this amount of stock without prior Council approval is a ground for revocation or suspension of the license. In addition, each day the licensee operates under the license after a transfer has taken place without obtaining Council approval will be a separate violation of this chapter.

5. In the case of the death of a licensee, the personal representative of a licensee may continue operation of the business for not more than 90 days after the licensees death.

Section 6.10- 11. Conditions of Licenses

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

Section 6.10- 12. Restrictions and Regulations

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

1. No owner, manager or employee may allow sexually oriented materials or entertainment to be visible or perceivable in any manner, including aurally, at any time from outside of the business.
2. No owner, manager or employee may allow a person under the age of 18 to enter the business.
3. No owner, manager or employee may allow a person under the age of 18 to have access to sexually oriented materials, whether by sight, purchase, touch or other means.
4. No owner or manager may employ a person under the age of 18 on the licensed premises.
5. No owner, manager, or employee may have been convicted of a sex crime, as identified in M.S. § 609.293 to 609.352, 609.746 to 609.749, 609.79 or 5188.01, as they may be amended from time to time, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity, or domestic abuse within the past five years.
6. No business may exceed 10,000 square feet in gross floor area.

7. No owner, manager or employee may allow a patron, employee, or other person on the premises to physically contact, in public view, a specified anatomical area of himself or herself or of another person, except that a live performer may touch himself or herself.
8. A live performer must remain at all times a minimum distance of ten feet from members of the audience, and must perform on a platform intended for that purpose, that must be raised at least two feet from the level of the floor on which the audience is located. No performer may solicit or accept money, a tip, or other item from a member of the audience.
9. No business may have booths, stalls, partitioned portions of a room, or individual rooms, except as follows:
    A. Restrooms are allowed as long as they are no larger than reasonably necessary to serve the purposes of a restroom, no other activities are provided or allowed in the rooms, and there are no chairs, benches, or reclining surfaces in the rooms; and
    B. Storage rooms and private offices are allowed, if the storage rooms and offices are used solely for running the business and no person other than the owner, manager and employees is allowed in them.

10. A licensee must not be open for business to the public:
    A. Between 1:00 a.m. and 8:00a.m. on the days of Monday through Saturday; and
    B. Between 1:00a.m. and 12:00 noon on Sundays.

Section 6.10- 13. Suspensions and Revocations of License

1. *Delinquent taxes.* The City Council may suspend or revoke a license issued under this chapter for operation on a premises on which real estate taxes, assessments or other financial claims of the city or of the state are due, delinquent, or unpaid, unless the non-payment is not under the control of the licensee. If an action has been commenced under MS. Ch. 278, as it may be amended from time to time, questioning the amount or validity of taxes, the Council may on application by the licensee waive strict compliance with this provision; no waiver may be granted, however, for taxes, or a portion of them, that remain unpaid for a period exceeding one year after becoming due, unless the one-year period is extended through no fault of the licensee.
2. *Violations*
    A. The Council may either suspend for up to 60 days or revoke a license for a violation upon a finding that the licensee or an agent or

employee of the licensee has failed to comply with an applicable statute, regulation or ordinance relating to the subject matter of this chapter or violated the statutes in subsection (B) of subdivision 2 of this section. No suspension or revocation will take effect until the licensee has been afforded an opportunity for a hearing pursuant to M.S. § *14.57* to 14.69, as they may be amended from time to time, with the exception of the suspension provided for in subdivision (B) of subsection 2 of this section.

B. Conviction of a sex crime, as identified in M.S, § 609.293 to 609.352, 609.746 to 609.749, 609.79 or 51 8B .01, as they may be amended from time to time, or related statute dealing with sexual assault, sexual conduct, harassment, obscenity or domestic abuse by the licensee will result in the immediate suspension pending a hearing on revocation of a license issued under this chapter.

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

Section 6.10- 14. Penalty

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

TITLE VII: GENERAL OFFENSES

SECTION I - DAMAGE TO PROPERTY

Section 7.1- 1. Reserved

SECTION II - DISCHARGING FIREARMS

Section 7.2- 1. Reserved

SECTION III - CURFEW FOR MINORS

Section 7.3- 1. Reserved

SECTION IV - FIREWORKS

Section 7.4- 1. Fireworks

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

paper streamers, party poppers, string poppers, snappers, and drop pops, each consisting of not more than twenty-five hundredths grains of explosive mixture. The use of items listed in this paragraph is not permitted on public property. This paragraph does not authorize the purchase of items listed in it by persons younger than 18 years of age. The age of a purchaser of items listed in this paragraph must be verified by photographic identification.

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

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

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

Section 7.4 – 3. Firewords displays; Permits; Operator Certification

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

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

E. After a permit has been granted under either paragraph (b) or (d), sales, possession, use and distribution of fireworks for a display are lawful for that purpose only. A permit is not transferable.

F. The state fire marshal shall adopt and disseminate to political subdivisions rules establishing guidelines on fireworks display safety that are consistent with sections 7.4 - 1 to 7.4 - 6 and the most recent editions of the Minnesota State Fire Code and the National Fire Protection Association Standards, to insure that fireworks displays are given safely. In the guidelines, the state fire

marshal shall allow political subdivisions to exempt the use of relatively safe fireworks for theatrical special effects, ceremonial occasions, and other limited purposes, as determined by the state fire marshal.

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

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

9. **Database.** The commissioner of public safety shall maintain a database of the information required under this section for purposes of (1) law enforcement, (2) investigative inquiries made under subdivision 1, and (3) the accumulation and statistical analysis of information relative to fireworks displays.

Section 7.4 – 4. Exemptions for License or Permit Holder

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

Section 7.4 – 5. Construction of Section 624.20 to 624.25

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

Section 7.4 – 6. Officers may Seize Illegal Fireworks

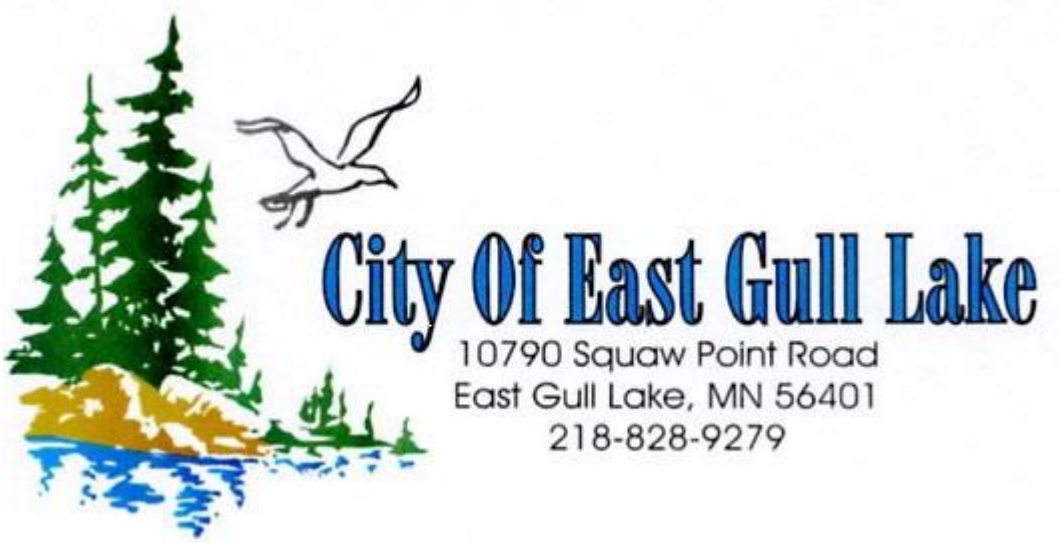
The state fire marshal, or any sheriff, police officer, constable, or local fire marshal, shall seize, take, remove, or cause to be removed, at the expense of the owner, all stocks of fireworks or combustibles offered or exposed for sale, stored, or held in violation of sections 7.4 - 1 to 7.4 - 6.

Section 7.4 – 7. Violation

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

1. if the violation involves explosive fireworks in an amount of 35 pounds gross container weight or more, to imprisonment for not more than one year, or to payment of a fine of not more than $3,000, or both;

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



LAND USE, ZONING AND SUBDIVISION ORDINANCE

Ordinance No.	DateAdopted
2014-01	July 1, 2014/Published 7/7/2014
2011-05	June 7, 2011/Published 6/10/11
2011-04	June 7, 2011/Published 6/10/11
2011-03	April 5, 2011/Published 4/14/11
2011-02	April 5, 2011/Published 4/14/11
2011-01	April 5, 2011/Published 4/14/11
01-2011	January 4, 2011
04-2010	July 6, 2010
03-2010	July 6, 2010
02-2010	July 6, 2010
01-2010	
06-2009	December 1, 2009
05-2009	November 10, 2009
04-2009	November 10, 2009
03-2009	August 4, 2009
02-2009	August 4, 2009
01-2009	June 2, 2009
Resolution 12-2-08	December 2, 2008
Policy 08-03	September 2, 2008
01-2008	June 11, 2008
Addition of Section 5.3 (7B), 5.4 (7D), 5.5 (7N) and 6.13	
01-2008	June 11, 2008
Policy 08-02	May 7, 2008
Policy 08-01 Amendment to section 5.3,5.4 and 5.5; Addition of Section 5.3 (7A), 5.4 (7C), and 5.5 (7M)	June 3, 2008
Policy 07-02	December 4, 2007
Policy 07-01	December 4, 2007
Amendment to Section 10.12 (1), (2),(3), and (4)	November 8, 2007

Amendment to Section 5.3 (3), 5.4 (3), and 5.5 (3)	November 8, 2007
Amendment to Section 3.2 (104), 5.3 (5),5.4 (5) and 5.5 (5)	November 8, 2007
01-2007	September 17, 2007
Addition of Section 5.10	August 1, 2006
Amendment to Section 4.4 (3) and 4.4 (4)	July 5, 2005
Amendment to Section 5.5 (6)	February 14, 2005
Addition of Section 4.4 (10)	September 7, 2004
Addition to Section 3.2 (210) and 5.6 (3)	July 6, 2004
Addition of Section 5.5 (7K) and 5.5 (7L)	June 5, 2003
Addition of Section 3.2 (149 and 167)	June 5, 2003
Amendment to Section 3.2 (130)	November 4, 2002
Addition of Section 4.3 (4)	February 13, 2002
Zoning Ordinance	Adopted December 14, 2001
35-13	March 6, 2001
35-12	October 3, 2000
35-11	September 5, 2000
35-10	July 11, 2000
35-09	April 4, 2000
35-08	February 2, 2000
35-07	April 6, 1999
35-06	March 2, 1998
35-05	September 8, 1997
35-04	July 7, 1997
35-03	March 3, 1997
35-02	June 3, 1996
Classification change of Ruth Lake from NE to GD	April 21, 1992
35-01	December 2, 1991
Zoning Ordinance #35	Adopted July 2, 1990

SECTION I - TITLE

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

SECTION II – INTENT AND PURPOSE

This Ordinance is established pursuant to the authority granted by Minnesota Statutes, in particular the Municipal Planning Act, Minnesota Statutes 1983 Sections 462.351 to 461.364, the Municipal Shoreland Act, Minnesota Statutes 1973 Section 379, Minnesota Statutes 1980 Sections 462.351 to 462.364, The Land Subdivision and Condominiums Acts, Chapters 462, 505, 515, 515A and 515B and Policies in Minnesota Statutes, Section 105,115 and 116, and any Amendments thereto. This Ordinance hereby repeals "Zoning Ordinance #35 for the City of East Gull Lake", adopted July 2, 1990 and with revisions through the year 2000 and "Subdivision Ordinance #36 for the City of East Gull Lake" adopted July 2, 1990 and with revisions through the year 2000.

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

(1) Protecting the public health, safety, comfort, convenience and general welfare.

(2) Inaugurating and effectuating the goals of the Comprehensive Plan.

(3) Promoting order in development by dividing the area of the City into zones and regulating therein the location, construction, reconstruction, alteration and use of the structures and land.

(4) Conserving the natural and scenic beauty and attractiveness of the City, for the health and welfare of the public.

(5) Providing for adequate light, air and access to property by regulating the use of the land and buildings and the bulk of structures in relation to surrounding properties.

(6) Providing for the administration of the provisions of the ordinance and defining the authority and duties of the Administrator, Planning Commission, Board of Adjustment and City Council under this ordinance.

SECTION III – RULES AND DEFINITIONS

Section 8.3- 1. RULES

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

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

Section 8.3- 2. DEFINITIONS

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

1. **Abandoned Building.** A building as defined hereinafter on public or private property, which no longer serves a practical use and, due to its location or structural condition, is considered a safety hazard in the opinion of the Zoning Administrator. ***(Ordinance Amendment 35-01 December 2, 1991)***
2. **Abandoned Motor Vehicle.** A motor vehicle as defined in Minnesota Statutes Chapter 169.01 that (a) has remained on public property in an inoperable condition for more than 48 hours, or (b) has remained on private property for more than 48 hours without the permission of the owner, or (c) has remained on private property for more than thirty days and is inoperable or is unlicensed unless kept in a garage or other storage structure.
3. **Abutting.** Making direct contact with or immediately bordering.
4. **Accessory Structure:** A building or other structure that is supportive, secondary and subordinate in use and/or size to the principle structure on the same parcel or lot which, because of the nature of its use, can reasonably be located at or greater than minimum structure setbacks. Includes all structures not considered the principle structure including, but not limited to, T.V. towers antennas, dish antennas, outdoor swimming pools, outdoor hot-tubs, detached garages, sheds, guest quarters and boathouses.
5. **Accessory Use.** A use naturally and normally incident and subordinate to the main use of the premises.
6. **Addition.** A physical enlargement of an existing structure.

7. **Adjacent.** In close proximity to or neighboring, not necessarily abutting.
8. **Agent.** Any person acting on behalf of a landowner in dealing with activities under the jurisdiction of the Ordinance, including but not limited to realtors, contractors or attorneys.
9. **Agricultural Use.** The use of land for agricultural purposes including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses used for packing, treating or storing the product, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.
10. **Airport.** Any premises used or intended for use for the landing and taking off of aircraft including any structures used or intended for use for aircraft services.
11. **Alteration.** A change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or by moving from one location to another, of a building or a structure.
12. **Animals, Domestic.** Common household pets, such as dogs and cats, kept for amusement, companionship, decoration or interest.
13. **Animals, Food.** Fish, fowl, cattle, swine, sheep and others raised for the purposes of food consumption.
14. **Animals, Wild.** Animals, such as wolves, tigers, lions and snakes, that are not normally a domestic animal or farm animal and would ordinarily be confined in a zoo or found in the wild.
15. **Animal Boarding Facility.** An establishment that houses animals, other than those belonging to the occupant, overnight or over an extended period of time.

16. **Animal Grooming Establishment.** An establishment principally engaged in grooming animals in which overnight boarding is prohibited.
17. **Animal Husbandry.** The care or breeding of domestic animals such as cattle, hogs, sheep, horses, poultry, dogs (more than two) or cats (more than three) for the occupants of a property.

Animal Unit. A unit of measure based on the approximate production of wastes from 1000 pounds of live weight of poultry or animals.

Animal Units	
One (1) slaughter weight steer or heifer	1
One (1) mature dairy cow or horse	1.4
One (1) swine over 55 pounds	0.4
One (1) sheep	0.1
One (1) goose	0.1
One (1) duck	0.05
One (1) turkey	0.18
One (1) chicken	0.1

18. **Apartment.** A room or suite of rooms that is designed for, intended for, or occupied as a residence by a family or individual, and is equipped with sanitary facilities.
19. **Appeal.** An application for the review of an order, requirement, decision, determination or interpretation of this Ordinance made by an administrative officer in the application and/or enforcement of this Ordinance.
20. **Architectural Projection.** A non-functional or ornamental feature on a building or other structure that does not extend to, or from, the ground.
21. **Artist's Studio.** A fine arts workshop of a painter, sculptor, potter, weaver, carver, jeweler, photographer or other similar art that requires artistic skill, where the public is received or where the artist is engaging in

retail sales. Not generally utilitarian, related to personal hygiene or adornment.

22. **Attached.** Two buildings or structures that combine to form one building or structure through the use of at least one common wall, not including a breezeway.
23. **Attorney.** The attorney duly appointed by the Council to represent the City of East Gull Lake.
24. **Auto Salvage Yard.** A lot or yard where four or more motor vehicles are stored while parts are removed, where crushing occurs or where storage pending crushing may occur.
25. **Auto Trip.** Transport in a vehicle that includes both an arrival and a departure from a location.
26. **Balcony.** Same as a deck.
27. **Bathroom.** A room containing a shower or bathtub or a sink and toilet.
28. **Basement.** The space below the first story of a structure which is greater than four (4) feet in height.
29. **Bed and Breakfast Dwelling.** A dwelling, single family, licensed through the Cass County Public Health Services, where, for compensation, meals and lodging are provided for three or more unrelated persons, but not exceed eight persons. The owner of the parcel must live on the premises.
30. **Bedroom.** A portion of a dwelling unit intended to be used for sleeping purposes, which may contain closets and may have access to a bathroom.
31. **Billboards.** A commercial sign which directs attention to a business, activity, service, entertainment or a product not exclusively related to the premises or property where such sign is located.

32. **Block.** An area of land bounded by streets, exterior boundary lines and/or bodies of water.

33. **Bluff.** A topographic feature such as a hill, cliff or embankment having all of the following characteristics:

    A. Part or the entire feature[1] is located in a shoreland area.
    (Ordinance 02-2010, 07/06/2010[1])

    B. The slope rises at least twenty-five (25) feet above the ordinary high water mark of the water body.

    C. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet above the ordinary high water level averages thirty (30) percent or greater.

    D. The slope must drain towards the water body.

    An area with an average slope of less than eighteen (18) percent over a distance for fifty (50) feet or more shall not be considered part of the bluff.

34. **Bluff Impact Zone.** A bluff and the land located within twenty (20) feet inland from the top of the bluff.

35. **Boat Access.** A ramp, road or other conveyance on a residential lot which allows the launching and removal of a boat with a vehicle and trailer.

36. **Boat House.** A structure designed and used solely for the storage of boats or boating equipment.

37. **Boarding House.** Same as Bed and Breakfast dwelling.

38. **Board of Adjustment.** The Board, appointed by the City Council, to hear appeals from actions of the Zoning Administrator, and variance requests.

39. **Breezeway.** A covered or enclosed walkway that physically connects two or more buildings or structures. Shall not materially connect the two or more buildings or structures.

40. **Buildable Area.** Any site, lot, parcel or any portion thereof that does not contain designated flood plain, wetlands or areas in excess of twenty-five (25) percent slope.

41. **Building.** Any structure used or intended for storage, shelter or occupancy.

~~42. **Building Height.** The vertical distance between the highest adjoining ground level at the building or ten (10) feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height between the eaves and the highest ridge of gable, hip or gambrel roofs or ten feet below the peak, whichever is greater.~~ (deleted with Ordinance amendment 05-2011)

42. **Building Height.** The vertical distance between the highest ground level at the building or ten (10) feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or the highest gable of a pitched or hipped roof, excluding a non-functional or decorative feature on a building or other structure that does not extend to, or from, the ground.

43. **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.

44. **Building Permit.** A permit authorizing an Applicant under this Code to undertake construction or other development activity.

45. **Campground.** Any area, whether publicly or privately owned, consisting of designated campsites with appropriate facilities and

management services designed for temporary occupation by tents or recreational vehicles.

46. **Camping.** Habitation of a temporary structure.
47. **Campsite.** A parcel within a resort or campground designated for the occupancy of one family on a periodic basis in a tent or recreational vehicle.
48. **Cemetery, Unplatted.** Any human remains or burials found outside of platted, recorded or identified cemeteries pursuant to Minnesota Statutes, Chapter 307.08.
49. **Child Care, Center.** A facility that is maintained, for the whole or part of the day, for the care of five or more children who are eighteen (18) years of age or younger and who are not related to the owner, operator or manager thereof, whether such facility is operated with or without compensation for such care and with or without stated educational purposes. The term shall not include any facility licensed as a foster care home or any facility defined as a Child Care, Family Home.
50. **Child Care, Family Home.** A primary residence where, for the whole or part of the day, an owner of the residence, licensed as a child care provider, cares for five or more children who are eighteen (18) years of age or younger and who are not related to the owner, whether such facility is operated with or without compensation for such care.
51. **Church.** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship and related community activities.

52. **City Clerk.** The appointed person responsible for administration of the City affairs.

53. **City Council.** The duly elected governing body of the City.

54. **City Sewer or Water System.** A system of municipally maintained utilities, approved by the State, and serving more than one building or property.

55. **Commercial Use.** The principle use of land or buildings for the sale, lease, rental, trade of products, goods or services.

56. **Commissioner.** The Commissioner of the Department of Natural Resources.

57. **Community Park.** A park designed to provide recreational opportunities to serve the entire community.

58. **Comprehensive Plan.** Also referred to as Community Plan. A compilation of policy statements, goals, standards and maps for guiding the physical, social and economic development, both private and[1] public, of the City and its environs and may include, but is not limited to, the following items: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for plan execution. (***Ordinance 02-2010, 07/06/2010[1]***)

59. **Conditional Use.** A land use or development as defined by the Ordinance that would not be appropriate without restriction, but may specifically be allowed without restrictions of conditions as determined by the Planning Commission and the Council upon a finding that (a) the use or development is an appropriate Conditional Land Use in the Land Use zone, (b) the use or development, with conditions, conforms to the comprehensive land use plan, (c) the use, with conditions, is compatible with the existing neighborhood and (d) the use, with conditions, would

not be injurious to the public health, safety, welfare, morals, order, comfort, convenience, appearance or prosperity of the City.

60. **Condominium Ownership or Common Interest Community.** A form of ownership within a multi-owner building or complex wherein the boundaries are defined by a condominium plan or common interest community in accordance with Minnesota Statutes 1980, Chapter 515A or 515B or subsequent revisions.

61. **Contiguous.** The sharing of a common border at more than a single point. Lots, parcels or boundaries may be considered contiguous where separated by rights-of-way, rivers or streams.

62. **Controlled Access Lot.** Any lot which is designated for the exclusive use by non-riparian landowners within a subdivision as a means to gain access to a lake, river or stream.

63. **Council.** The City Council, as established by State Law.

64. **Crawl Space.** The space below the first story of a structure not more than four feet high and not intended for human habitation.

65. **Cul-de-sac.** A short local street terminating in a vehicular turnaround.

66. **Deck.** An uncovered, unscreened structure or on grade patio not including on-grade walks four (4) feet wide or less. If replacing boards or replacing a pre-existing deck in the same footprint, a permit is not required[1]. (Ordinance 03-2010, 07/06/2010[1])

67. **Dock.** A platform extending water ward from the shoreline intended for ingress and egress for moored watercraft or to provide access to water for swimming, fishing or other water orientated activities.

68. **Dormitory.** A building, or portion thereof, providing group sleeping accommodations in one room, with shared bath and toilet facilities.

69. **Duplex, ~~Triplex or Quad~~.** **(deleted with Ordinance 07-2014)** A structure on a single lot having two~~, three or four dwelling~~ **(deleted with Ordinance 07-2014)** units[1] respectively being attached by common walls, and each being equipped with separate sleeping, cooking, eating, living and sanitation facilities. (**Ordinance 04-2009, 11/10/2009[1]**) **Units may be used for long term rentals subject to other sections of this ordinance. (Ordinance 07-2014)**

70. **Dwelling, Guest Quarters.** A structure, not for sale or lease, used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling on the lot. **The unit shall be used long term for a family member or short term for guests of the family occupying the primary dwelling unit on the premises. (Ordinance 07-2014)** Any accessory structure with kitchen or bathroom facilities shall be considered a dwelling, guest quarters.

71. **Dwelling, Multi-Family.** Two or more dwelling units attached together by any point ~~including duplexes, triplexes, townhouses and multi-level units~~ **(deleted with Ordinance 07-2014)** regardless of type of ownership.

72. **Dwelling, Single Family.** A dwelling unit totally separated from any other dwelling unit.

73. **Dwelling, Townhouse.** A type of multi-family housing consisting of dwelling units attached by common party walls. Ownership may be defined by Plat or Condominium Plan.

74. **Dwelling Site.** A designated location for residential use by one or more persons using temporary or movable shelter including camping and recreational vehicle sites.

75. **Dwelling Unit.** A structure or portion of a structure or other shelter designed as a short or long term living quarters for one or more persons including rental or time share accommodations such as a motel, hotel resort rooms and resort cabins.

76. **Dwelling Width.** The smallest horizontal dimension of the major portion of a dwelling.

77. **Earth Tone. A** shade of color that, when viewed from a distance, is indistinguishable from the colors of the surrounding landscape.

78. **Engineer.** The Engineer duly appointed by the Council to perform technical services for the City of East Gull Lake.

79. **Exterior Storage.** Storage of goods, materials, equipment, manufactured products outside a fully enclosed building.

80. **Extractive Use.** The use of land for removal of sand, gravel, rock, industrial minerals, other non-metallic minerals or pea not regulated under Minnesota Statutes Sections 93.44 to 93.51.

81. **Family.** An individual, or two or more persons related by blood, marriage, adoption, or a relationship legally recognized in Minnesota, or not more than five unrelated persons maintaining a common household.

82. **Fence.** A constructed barrier, including berms, intended to prevent escape or intrusion, or to mark a boundary, to shield or screen view, or to perform any similar function.

83. **Filling.** The act of depositing any clean earthen material.

84. **Final Floor Plan.** A drawing prepared by a Registered Architect, Registered Engineer, or Registered Land Surveyor depicting the

condominium subdivision of real estate and related information conforming to the requirements of Minnesota Statutes 1980, Section 515A.2-110.

85. **Final Condominium Plat.** A drawing prepared by a Registered Architect, Registered Engineer or Registered Land Surveyor depicting the condominium subdivision of real estate and related information conforming to the requirements of Minnesota Statutes 1980, Section 515A.2-110.

86. **Final Plat.** A drawing, in final form, showing a proposed subdivision containing all information and detail required by state statutes and by the Subdivision Ordinance to be presented to the Planning Commission and the City Council for approval, and which, if approved, may be duly filed with the County Recorder.

87. **Floodplain.** The areas adjoining a water course, intermittent or permanently flowing, which have been or will be covered by the runoff waters of a storm with a 1% chance of occurrence any year (100 year storm).

88. **Floodway.** The channel of the water course and those portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood (100 year chance of occurrence.)

89. **Footprint.** The horizontal extent to which a structure covers the ground plane as represented in a plan view including cantilevered building elements but excluding eaves and similar architectural projections of the roof plane.

90. **Forest Land Conversion.** The clear cutting of forested lands to prepare for a new land use other than the re-establishment of a subsequent forest stand.

91. **Foundation.** A concrete, concrete block or treated wood portion of a structure which totally encloses the perimeter of the structure, supports the bearing loads of the super-structure and penetrates the ground to provide frost protection.

92. **Frontage.** The uninterrupted front boundary line of a lot, or the length of such line, that abuts on a street or protected water.

93. **Garage, Attached.** A part of the principle structure which shall not exceed 1,280 square feet that is designed and used by the occupants of the principle structure for the storage of not more than four (4) motor vehicles.

94. **Garage, Detached.** An accessory structure not attached to the principle structure on the property designed and used for the storage of not more than four (4) motor vehicles.

95. **Gazebo.** A freestanding accessory structure with no kitchen, sleeping, sanitary facilities or pressurized water intended as weather and insect protection for such activities as picnicking and lake viewing.

96. **Grading.** The movement of dirt, by mechanical means, so as to alter the existing topography of a property.

97. **Green Space.** Privately owned property permanently dedicated by covenant or deed restriction to vegetate ground coverage with allowance for use as recreational facilities, tree coverage, water course, sewage disposal or similar uses. Public property permanently dedicated to park, vegetative buffer, tree coverage or water courses.

98. **Group Care Facilities.** A facility which provides residential services for individuals that are handicapped, aged, disabled or undergoing rehabilitation. This includes uses such as homes for the physically

handicapped, mentally retarded, chemically dependent, foster children, maternity shelters and half-way houses.

99. **Hardship, Undue.** The property in question cannot[1] be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property and were not created by the landowner, and a variance, if granted, would not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if reasonable use exists under the terms of the Ordinance. ***(Ordinance 02-2010, 07/06/2010[1])***

100. **Home Occupation.** A use of commercial nature conducted by an occupant entirely within the dwelling or accessory buildings which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the residential character thereof.

101. **Home Occupation, Type I.** A home occupation, the commercial nature of which involves providing a service to a limited number of people who are predominantly acquaintances. Generates less than ten auto trips per week. No employees beyond owner. No signage or other advertising done either on or off-site. Would include businesses that are similar in nature to tutoring or music lessons performed on an individual basis.

~~102. [+]**Home Occupation, Type II.** A home occupation, the commercial nature of which involves providing a service to people or organizations that do not receive the service at the property from which is it being provided. Generates less than twenty-five auto trips per week, including deliveries and employees. No more than two employees, in addition to the owner, working on site. No signage done either on or off-site. Would include businesses[+] that are similar in nature to telephone sales,~~

~~consulting, or web design. (*Ordinance 02-2010, 07/06/2010*[1])~~ *(deleted with Ordinance 04-2011)*

~~**103. [1]Home Occupation, Type III[1].** A home occupation, the commercial nature of which involves providing a service or product to people or organizations on site and includes two or more of the following:~~

~~1. Generates over twenty five, but less than sixty auto trips per week, including deliveries, or~~

~~2. Employs more than two employees working on-site in addition to the owner working on-site, or~~

~~3. Includes on-site retail sales of items manufactured on-site, or~~

~~4. On-site storage or warehousing of work related materials and products, or~~

~~5. Is identified by on-site signage.~~

~~Or any one of the following:~~

~~1. Generates over sixty auto trips per week, or~~

~~2. Generates noise, odor, dust, fumes, vibrations, glare, or similar effects beyond the property in which the use is conducted.~~

~~(*Ordinance amendment/affidavit of publication, 12/20/07*[1])~~ (deleted with Ordinance amendment 04-2011)

104. Hotel. A building containing three (3) or more individual rooms, without kitchens, used for overnight lodging by the general public on a short-term basis for a fee, with or without meals, and which has common reservation and cleaning services, combined utilities, and on-site management and reception services.

105. House of Worship. Same as church.

106. **Impervious Surface.** The horizontal area of buildings, patios, walks, driveways, accessory structures and other surfaces generally impervious to the penetration of stormwater, including gravel drives and parking.

107. **Industrial Use.** The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities or other wholesale items.

108. **Intensive Vegetation Clearing.** The complete removal of trees or shrubs in a continuous path, strip row or block.

109. **Interval Ownership.** Form of ownership of real property, condominium land or space further defined by a reoccurring time interval, resulting in more than one owner of the same property, also known as "timeshare".

110. **Junk Yard.** An area where used waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleared, parked, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber products, bottles, and used building materials. Storage of materials in conjunction with the construction of a manufacturing process shall not be included. Three or more automobiles without current licenses constitute a junk yard. Such use shall not include putrid wastes such as garbage.

111. **Lake Classification.** The formal classification provided by the Department of Natural Resources for each body of Public Waters within the City.

112. **Landscaping.** Plantings such as trees, grass, shrubs, and decorative timbers, arbors, rocks and water displays.

113. **Leaseback by Owner.** An arrangement between an owner of property and a leasing agent or resort to promote and operate the property for rental purposes.

114. **Licensed Engineer.** A person licensed as a professional engineer by the State of Minnesota.

115. **Licensed Survey.** A person licensed as a professional surveyor by the State of Minnesota.

116. **Litter.** Waste materials including but not limited to, cans, bottles, plastic and paper wrappings or containers.

117. **Lot.** A parcel, piece or portion of land described by Metes and Bounds, registered land survey, auditor's plat, or subdivision plat and separated from other parcels or portions of land by said description for purposes of sale, lease, mortgage, building or separation.

118. **Lot Area.** The horizontal area of a lot bounded by the lot lines and the ordinary high water line if bounded by water.

119. **Lot, Corner.** A lot situated at the junction of and abutting on two or more intersecting streets or a lot at the point of deflection in alignment of one street with the internal angle less than 135 degrees.

120. **Lot, Front.** The boundary of a lot which abuts on a public right of way, or if a corner lot, the shortest of the two boundaries. If the lot abuts public water, the lake side shall be considered the lot front.

121. **Lot Line.** The property lines bounding a lot except that where the description extends into a public right of way, the right of way line shall be considered the lot line.

122. **Lot, Pre-existing.** A lot which is one unit of a subdivision plat heretofore duly approved and filed or one unit of an auditor's subdivision, or registered land survey, or a lot created by Metes and Bounds that has

been recorded in the office of the County Recorder prior to the effective date of this Ordinance.

123. **Lot Tier Depth.** The lot depth of a normal lot conforming to the shoreland requirements; General Development Lake first tier – 200 feet, second and additional tiers – 267 feet; Recreational Development Lake – 267 feet, Natural Environmental Lake – 400 feet.

124. **Lot Tiers.** Successive strips of land parallel with the ordinary high-water line, each one tier depth wide, and extending across the parcel.

125. **Lot Width.** The shortest distance between lot lines measured at the midpoint of the building line.

126. **Maintenance.** The normal upkeep of a structure including the replacement of windows, siding, roofs, nonbearing walls or interior remodeling that does not expand the footprint of the existing structure, add volume to the usable living space or intensify a non-conforming use.

127. **Manufactured Home.** A structure, transportable in one or more sections, which, when erected on site, is a minimum of 640 square feet, is built on a permanent foundation, contains the heating, plumbing and electrical systems within and meets the requirements of the Uniform Building Code.

128. **Marina.** A dock or set of docks on a single parcel that contains more than seven watercraft or more watercraft than first tier dwelling units, whichever is greater.

129. **Mature Tree.** A living tree greater than four (4) inches in diameter.

130. **Metes and Bounds.** A method of property description utilizing directions and distances commencing from and terminating at an identifiable point.

131. **Mobile Home.** A factory-built dwelling designed intrinsically as a trailer.

132. **Motel.** A building containing guest rooms or units, each of which has a separate entrance directly from the outside of the building, or corridor, with parking space reserved for each unit, and which is designed, used or intended to be used primarily for the accommodation of transient guests.

133. **Multi-Level Dwelling.** A type of multi-family housing consisting of dwelling units stacked one above the other, creating a party floor or floors between units.

134. **Natural Drainage way.** All land surface areas which, by nature of their contour or configuration, collect, store and channel surface or runoff water.

135. **Neighborhood.** The area adjacent to or surrounding existing or proposed development characterized by common use or uses, density, style and age of structures and environmental characteristics.

136. **Non-conforming.** The building, structure or land lawfully existing prior to and not in conformance with the provisions of this ordinance.

137. **Nuisance.** By authority and direction of Minnesota Statute, 1980, Section 412.221, Subdivision 23 and 24; and Section 429.31, Subdivision 8; and Section 145.22 and 145.23, nuisance is anything that interferes with the use or enjoyment of property, endangers personal health or public safety, or is offensive to the senses such as excessive smoke, odor, noise, heat, vibration, glare, traffic generation, visual impact and other similar interferences or offenses.

138. **Nursery.** A business growing and selling trees, flowering or decorative plants and shrubs.

139. **Nursing Home.** Any institution or facility required to be licensed as such under Minnesota Statutes, Sections 144.50 to 144.56 by the State Board of Health.

140. **Off-street parking.** A designated space or area of land with a paved or all-weather surface not within a public street or right-of-way and used for the parking of vehicles.

141. **Open District.** A zoning district defined by natural features to be unsuitable for any dwelling and unsuitable for any other development except in accordance with the use permit process. Corresponds to the DNR Special Protection District.

142. **Open Storage:** Storage of material outside of a building.

143. **Ordinary High Water Mark.** The boundary of public waters and wetlands consisting of an elevation delineating the highest water level which has been maintained for sufficient period of time to leave evidence on the landscape, commonly that point where the natural vegetation changes form predominantly aquatic to predominantly terrestrial. For water courses the ordinary high water level is the elevation of the top of the bank of the channel, for reservoir and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

144. **Owner.** An individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity having proprietary interest in the land and/or building.

145. **Parking Space.** A 10 foot by 20 foot site off public right of way, maintained and sized to accommodate the parking of one automobile.

146. **Party Wall or Floor.** A common wall which divides two independent dwelling units or businesses.

147. **Perennial Ice Ridges.** The recurrent pushing action of a lake's ice sheet against the shore causing sediment buildup on shorelines.

148. **Permitted Use.** A Land Use conforming to the character of a zoning district which is permitted by ordinance requiring only a zoning permit issued by the Zoning Administrator.

149. [1]**Pervious Material.** Materials that are designed to serve as a replacement for surface materials which are considered impervious within the Code. Pervious materials are utilized to mitigate the impacts of stormwater runoff. ***(Ordinance 02-2009, 08/04/2009[1])***

150. **Pet.** An animal commonly associated with human habitation, not considered under animal units and not raised for production of income.

151. **Planned Unit Development (PUD).** A Land Use characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common green space, density increases, and mix of structure types and Land Uses. ~~Does not include a duplex where specifically allowed in a zoning district on a single parcel of land.~~ **(deleted with Ordinance 07-2014)**

152. **Planned Unit Developments, Commercial.** Uses that provide transient, short-term lodging spaces, rooms, or parcels and their operation are essentially service orientated. These shall include but not be limited to hotel/motel accommodations, resorts, recreational vehicle and camping parks and other primarily service oriented activities.

153. **Planned Unit Development, Residential.** Residential Planned Unit Development means a use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks,

townhouses, cooperatives and full fee ownership residences would be considered as Residential Planned Unit Developments. Includes time share condominiums not part of a resort.

154. **Planning Commission.** The body duly appointed by the City Council to determine the development of the City and make recommendations to the City Council on comprehensive plans, zoning district boundaries, use permits, subdivision of land and capital improvements.

155. **Porch.** A covered platform attached to a structure with or without screening material, canvas or blind material, or regular pane glass intended for weather and insect protection. Contains no kitchen, permanent sleeping areas, or sanitary facilities. Treated the same as a deck for setback requirements.

156. **Porch, Enclosed.** A covered platform attached to a structure with more permanent enclosures than those described in "porch". If the enclosed porch contains any sleeping area, kitchen, laundry, sanitary facilities, heat, insulation, air conditioning, or considered in the opinion of the Planning Commission as a 3 season porch due to construction, it is an addition to the home, requiring a permit and subject to all bulk and density requirements applied to permanent structures.

157. **Preliminary Plat or Plan.** A plan prepared in accordance with the Subdivision Ordinance depicting the proposed subdivision of property by Final Plat or Final Floor Plan.

158. **Principal Structure or Use.** The single primary structure or use on a lot, as distinguished from accessory uses or structure.

159. **Protective Covenants.** Restrictions placed on the property by the owner and duly filed with the County Recorder. These may also be used

in Planned Unit Developments to establish homeowners associations, restrict shoreline development and provide for common facilities.

160. **Public Waters.** Any waters as defined in Minnesota Statutes Sec. 105.37, Subd. 14 & 15. However no lake, pond or flowage of less than 10 acres in size in municipalities need be regulated for the purposes of the shoreland management rule. A body of water created by a private user where there was no previous shoreline may, at the discretion of the local government, be exempted from the shoreland management. The official determination of the size and physical limits of drainage areas of rivers and streams should be made by the DNR Commissioner.

161. **Recorder.** The County Recorder of Cass County.

162. **Recreational Vehicle.** Vehicles for recreational use that can be driven, towed or hauled. These vehicles may be designed to be temporary living space for camping or travel use. RV's shall include travel trailers, camper trailers, truck campers, self-propelled motor homes and other similar vehicles.

163. **Resort.** Any buildings, structures or enclosures kept, used, maintained or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public and primarily to those seeking recreations, for periods of one day, one week or longer, and having for rent three or more cottages, rooms or enclosures along with any related facilities such as restaurants, bars, golf courses or other recreational amenities.

164. **Restaurant.** An establishment where the principle business is the preparation, service and sale of food and beverages to be consumed by customers at tables or counters located within the building on the premises.

165. **Right-of-Way.** A parcel of property dedicated to the public, connecting to other public right of ways, which affords primary access by pedestrians and vehicles to abutting properties.

166. **Riprap.** A pile of large, angular boulders built seaward of the shoreline to prevent erosion by waves or currents.

167. **Screening.** Fencing, an earthen berm or vegetative growth that visually separates one object from another.

168. **Semi Public Use.** The use of land by private non-profit organizations to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

169. **Sensitive Resource Management.** The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, acceptability to flooding or occurrence flora or fauna in need of special protection.

170. **Setback.** The minimum horizontal distance between a structure, sewage treatment system or other facility and an ordinary high water level, sewage treatment system, top of bluff, road, highway, property line or other facility. Three (3) feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.

171. **Setback, Interior Lot.** In a Planned Unit Development, the closest horizontal distance between the lot line and the foundation or wall of a structure when the lot line is not the exterior boundary of the development. Three (3) feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.

172. **Setback, Side, Exterior.** The closest horizontal distance between the exterior boundary side lot line and the foundation or wall of a structure. This setback takes precedence over setback, interior lot, where any conflict exists. Three (3) feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.

173. **Setback, Road.** The closest horizontal distance between the road right-of-way line and the foundation or wall of a structure. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.

174. **Setback, Waterfront.** The closest horizontal distance between the ordinary high water mark and the foundation or wall or edge of a structure. Three feet of roof overhang, stoops not exceeding 30 square feet and steps from stoop to ground not over 4 feet wide may protrude into the setback.

175. **Sewage Treatment System.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Chapter 7080 of the State Rules and Regulations.

176. **Sewer System.** Pipe lines or conduits, pumping stations and forcemain and all other constructions, devices, appliances or appurtenances used for conducting sewage or industrial waste or other waste to a point of ultimate disposal.

177. **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 normal structure setback.

178. **Shoreland.** Land located within the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond or

flowage; and 300 feet from a river or stream, or 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 water for lesser distances and when approved by the DNR Commissioner.

179. **Shoreline Property.** A lot directly abutting a public water, generally located in the first lot tier adjoining the public water.

180. **Signs.** A name, identification, description, display, illustration, advertisement or device which is displayed for the purpose of attracting attention to a person, product, place, activity, institution or business. Does not include street identification signs, temporary real estate sale signs, temporary signs endorsing a political candidate, party or issue during an election season, temporary event signs not exceeding 48 square feet or other temporary signs of a similar nature approved in writing by the Zoning Administrator.

181. **Signs, Offsite.** Any sign not located on the contiguously owned property with the use which is advertised.

182. **Signs, Onsite.** Any sign located on the contiguously owned property with the use which is advertised.

183. **Significant Historical Site.** Any archeological site, standing structure, or other property that meets these criteria for eligibility to the National Register of Historical Places, or is listed in the State Register of Historical Sites or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes Sec. 307.08. A Historical Site meets this[1] criteria if it is presently listed on either Register or if it is determined to meet the qualifications for listing after review by the Minnesota State

Archeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historical sites. (***Ordinance 02-2010, 07/06/2010[1]***)

184. **Sketch Plan.** A plan drawn to scale used for planning and discussion purposes only.

185. **Steep Slope.** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness due to the site's soil characteristics as mapped and described in available County Soils Surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. 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, but which are not bluffs.

186. **Street.** A public right-of-way that provides primary vehicular access to abutting property and shall include avenue, road or highway. Street classifications are defined in the Comprehensive Plan unless defined in a roadway classification plan or other similar road specific plan.

187. **Street, Arterial**. A street that has the primary function of rapidly move traffic to or through the City. May provide access to abutting land. Arterial streets are, in general, county or state highways that begin and terminate outside of the City limits or connect to other arterial streets within the City.

188. **Street, Collector**. A street that has the primary function of receiving and distributing traffic to and from local streets and providing distribution of traffic within. May provide access to abutting lots. In general,

collector streets begin and terminate at arterial streets or other collector streets.

189. **Street, Local**. A street, the function of which is to provide localized access to individual parcels. Does not normally carry through traffic. Traffic volumes and traffic speeds are expected to be low.

190. **Structure**. Any building, appurtenance including decks or other facility constructed, placed or erected by man except aerial or underground utility lines such as sewer, electric, telephone, telegraph, gas lines and except walks or steps on grade not more than 4 feet wide, stoops not exceeding 30 square feet, fenced, temporary furniture, planter, or decorative material and retaining walls consisting of wood or decorative block.

191. **Subdivider.** The owner, agent, person, corporation, partnership or legal entity proposing to subdivide property under his control.

192. **Subdivision.** The division of real estate into two or more parcels for the purpose of sale, rent or lease, including Planned Unit Development.

193. **Subdivision by Plat.** The subdivision into two or more parcels of any size by the authority of Minnesota Statutes, Chapter 505, with documents prepared by a Registered Land Surveyor and duly approved by the Planning Commission and Council.

194. **Subdivision by Condominium Plan.** The subdivision of a building or the subdivision of real estate into two or more spaces or parcels of any size by the authority of Minnesota Statutes, Chapter 515A, with documents prepared by a Registered Land Surveyor and duly approved by the Planning Commission and Council.

195. **Subdivision by Metes and Bounds.** Any division of real estate resulting in two or more parcels which are not platted, but divided by description prepared and signed by a Registered Land Surveyor.

196. **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 operation of business. Marinas, resorts and restaurants with transient docking facilities are examples of such use.

197. **Temporary.** A use or structure that lasts longer than three days and is discontinued within 14 days. Any use or structure existing longer than 14 days, except for signs, shall be considered permanent unless a specific date of discontinuation, agreeable to the Planning and Zoning Administrator to be reviewed by the Planning Commission, has been submitted, in writing, to the City.

198. **Temporary Structure.** A structure of a temporary character including but not limited to house boats, fish houses, recreational vehicles, tents or shacks, used as dwellings for more than a 5 day period per year. Any new dwelling constructed or placed after the date of this Ordinance and not on a permanent foundation shall be considered a temporary structure.

199. **Toe of Bluff.** A) The lower point of a 50 foot segment with an average slope exceeding 18%.

200. **Top of the Bluff.** The higher point of a 50 foot segment with an average slope exceeding 18%.

201. **Townhouse Dwelling.** A type of multi-family housing consisting Of dwelling units attached by common party walls. Ownership may be defined by Plat or Condominium Plan.

202. **Tree.** A woody plant 4 inches or more in diameter or 8 feet or more in height.

203. **Variance.** A legally permitted deviation from the provisions of this ordinance as deemed necessary by the Board of Adjustment when the strict interpretation of the Ordinance would create undue hardship and be impractical because of circumstances, relating to lot size, shape, topography or other characteristics of the property, and when the deviation from the Ordinance, with any attached conditions, will still be in keeping with the spirit and intent of the Ordinance. Variances cannot create a Land Use not permitted in a zone.

204. **Vegetation Removal, Clear Cutting.** The removal of more then 75% and up to 100% of a stand of trees and brush over 10 feet in height on a lot or parcel of land up to 40 acres.

205. **Vegetation Removal, Open Cutting.** The removal of more than 25% and up to 75% of a stand of trees and brush over 10 feet in height on a lot or parcel of land up to 40 acres.

206. **Vegetation Removal, Select Cutting.** Removal of dead, diseased or damaged trees or shrubs, removal of trees for placement of structures and drives, and further removal of only individual trees to uniformly thin up to 25% of a stand, on a lot or parcel of land up to 40 acres. Complete brush removal is allowable including trees under 10 feet in height.

207. **Vegetation Removal, Steep Slopes.** Removal of dead, diseased or damaged trees or shrubs and further removal of only individual trees to uniformly thin up to 25% of a stand, on a lot or parcel of land with a bluff. Brush removal is only allowable where required to a accommodate stairways, lifts and landings.

208. **Walkway.** A parcel of property dedicated to the public for non-vehicular access purposes.

209. [1]**Waterslide:** A slide located at the edge of a pool that is greater than 6 feet in elevation from the pool deck to the slide entry platform, including but not limited to flume or chute slides that use water to transport the user, or drop slides with a drop of more than two inches from the edge of the landing to the water surface. ***(Ordinance amendment,06/05/03[1])***

210. **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 is located closer to public waters than the normal structure setback. Examples of such structures and facilities include boat houses, gazebos, screen houses, fish cleaning houses and detached decks.

211. **Wetland.** Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For the purposes of this definition, wetlands must have the following three attributes:
    1. have a predominance of hydric soils,
    2. are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions, and
    3. under normal circumstances support a prevalence of such vegetation.

212. **Warehousing.** The principle use is the storage of materials or equipment within an enclosed building.

213. **Warehousing, Commercial.** The rental or sale of warehousing space.

214. **Zoning Administrator.** The duly appointed person responsible for the enforcement and administration of this Ordinance.

215. **Zoning District.** An area of the City of East Gull Lake defined on the zoning map, having uniform zoning provisions.

216. **Zoning District Overlay.** A zoning district containing regulations superimposed upon other zoning district regulations and superceding the underlying zoning district regulations.

217. **Zoning Map.** The map of the City of East Gull Lake, amended from time to time, which defines the boundaries of the zoning districts.

218. Zoning Permit. A permit issued by the Zoning Administrator to allow the construction of a structure or to allow a Land Use when the provisions of this ordinance have been met, when approval of any use permits or variances have been granted and when the fees are paid. A zoning permit may have administrative conditions specific to the subject site when called for by the Ordinance.

SECTION IV – GENERAL PROVISIONS

Section 8.4- 1. Application of the Ordinance.

1. The provisions of this Ordinance shall be held to be the minimum requirements for the maintaining of the public health, safety and welfare of the inhabitants of the City of East Gull Lake, Minnesota.

2. Where the provisions of the Ordinance are either more restrictive or less restrictive then applicable provision of other laws, ordinances, statutes, resolutions, covenants or regulations of any kind, the more restrictive condition, standard or requirement shall prevail.

3. Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed or altered and no structure or land shall be used for any purpose or[1] in any manner which is not in conformity with this ordinance. ***(Ordinance 04-2010,07/06/2010[1])***

4. No newly constructed structure or newly approved use of property, subject to conditions of approval for a Variance, Conditional Use Permit or other Land Use application, shall be occupied or used, in whole or part, for any purpose until the Zoning Administrator and Planning Commission Member have conducted a final inspection of the subject property and a *Land Use Certificate of Compliance* has been issued. Any existing structure or use of property subject to conditions of approval for a Variance, Conditional Use Permit or other Land Use application shall have a *Land Use Certificate of Compliance* issued within twelve (12) months of the approval of the variance or Conditional Use Permit. The *Land Use Certificate of Compliance,* when issued, shall state that the building or use appears to be in compliance with the conditions of approval.

5. The provisions of this Ordinance shall be applicable to any subdivision of property within the City and within a two-mile area surrounding the City after the effective date of this Ordinance.

    a. Subdivision by Plat or Condominium Plat shall be approved by the Planning Commission and Council.

b. Subdivision by Metes and Bounds shall be approved by the Planning Commission and Council if either of the resulting parcels is less than 20 acres and 500 feet of width for residential lots of 5 acres and 300 feet of width for commercial lots, and shall be limited to no more than one split of a parcel into two parcels in a three year period of time. An additional parcel for right of way or commonly owned driveway access may also be allowed. The proposed legal description for subdivision of land by Metes and Bounds shall be prepared and certified by a Registered Land Surveyor. Approval by the City Council shall be indicated by the stamp of approval affixed by the City Clerk to said legal description. The County recorder or Registrar of Deeds may accept each such Certificate for filing and recording upon compliance with these provisions.

6. Ambiguities in the Ordinance shall be resolved by interpretation of the Planning and Zoning Administrator. If an applicant wishes to appeal the interpretation of the Administrator, an appeal can be made, by a conditional application if applicable, through a hearing of the Planning Commission.

Section 8.4- 2. Environmental Documents and Concurrent Permits.

1. It shall be the property owner's responsibility to secure necessary concurrent permits such as Pollution Control Agency, State Waste Disposal Permits; Health Department Permits; DNR Planned Unit Development Permits; Corps of Engineers Permits, DNR Public Water Permits and DNR Water Appropriation Permits. Approval by the City does not imply approval by other agencies.

2. The City will prepare an Environmental Assessment Worksheet (EAW) where a proposed project exceeds the limits defined in the Environmental Quality Council's Rules and Regulations for Environmental review program or as requested by the Planning Commission or petitioned by the public.

3. The administration of an EAW or EIS shall be in accordance with the rules and regulations of the Minnesota Environmental Quality Board. The Zoning Administrator shall be responsible to the City Council and have the authority to administer the environmental document. The Planning Commission shall review each document and make recommendations to the City Council whose decision shall be final.

Section 8.4- 3. Use of Pre-Existing Lots.

1. [1]A nonconforming single lot of record located within shoreland area may be allowed as a building site without variances from lot size requirements, provided that:
   a. All structure and septic system setback distance requirements can be met;
   b. A Type 1 sewage treatment system consistent with Minnesota Rules, c chapter 7080 and the City of East Gull Lake SSTS regulations, can be installed or the lot is connected to a public sewer; and
   c. The impervious surface cover does not exceed the requirements of the underlying zone. (***Ordinance 06-2009, 12/09/2009[1]***)

2. [1]In a group of two (2) or more contiguous lots of record under common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements;
   a. The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with Minnesota Rules, chapter 6120;
   b. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a Type 1 sewage treatment system consistent with Minnesota Rules, chapter 7080 and the City of East Lake SSTS regulations;
   c. Impervious surface coverage must not exceed the requirements of the underlying zone; and
   d. Development of the lot must be consistent with the City of East Gull Lake Comprehensive Plan. (***Ordinance 06-2009, 12/09/2009[1]***)

3. [1]A lot subject to Section 8.4-3(2) not meeting the requirements of Section 8.4-3 (2) must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible. (***Ordinance 06-2009, 12/09/2009[1]***)

4. [1]Notwithstanding Section 8.4-3 (2), contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system

system consistent with the requirements of Minnesota Rules, section 115.55 and Minnesota Rules, chapter 7080, or connected to a public sewer. (Ordinance 06-2009, 12/09/2009[1])

5. [1]Non-riparian lots, or lots which do not abut shoreline within the Sylvan Shores development area shall be considered buildable, without a variance, if they contain at least 20,000 square feet of area. The Sylvan Shores development area shall include, and is limited to, property within the Plat of Sylvan Shores, or any addition thereof, as recorded with the County Recorder of Deeds. (Ordinance amendment, Affidavit of Publication 12/20/07[1])

6. [1]Lots that are divided by a street in the R-3 zoning district, within the City of East Gull Lake, shall be considered buildable without a Conditional Use permit.

   When a lot is divided by a street (property owner is unable to use that portion of their parcel due to the street) in the R-3 zoning district, the maximum impervious coverage shall not exceed 20% for the **riparian** portion of the lot and the maximum impervious coverage shall not exceed 5% for the **non-riparian** portion of the lot providing all setbacks, sanitary provisions for well and sewage disposal can be met.

   Total maximum **riparian/non-riparian** is 20% impervious for the entire lot.

   Property owner could split the parcel as long as have a minimum of 20,000 square feet per newly created parcel. (Ordinance amendment 2011-03, Affidavit of Publication 4/14/11[1])

Section 8.4- 4. Non-conforming Structures and Uses.

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

1. No such use shall be expanded, enlarged or intensified except in conformity with the provisions of this Ordinance, with consideration for variances thereto.

2. Where a parcel is voluntarily redeveloped to the extent that 50% or more of the footprint building area, above the foundation, on the parcel, is removed, all non-conforming structures on the parcel must be modified to conform to the Ordinance.

3. [1]If a non-conforming structure is destroyed, by any cause, to an extent exceeding 50% of its estimated market value, as indicated in the records of the county assessor immediately prior to destruction, and no zoning or building permit has been applied for within 180 days, the structure or its replacement shall thereafter conform to this Ordinance. The City may impose reasonable conditions upon a zoning or building permit in order to mitigate any newly created impact on adjacent property or water body. (Ordinance amendment 07/05/05[1])

4. [1]Normal maintenance, repair, replacement or restoration of a building or other structure containing or relating to a lawful non-conforming use is permitted when the maintenance, repair, replacement or restoration does not intensify or increase the size or shape of the non-conforming building or use. The City may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent properties. (Ordinance amendment 07/05/05[1])

5. A lawful, non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming use has been changed, it shall not thereafter be altered to increase the non-conformity.

6. Sewage treatment systems shall be upgraded to a conforming status in conformance with the following schedule:
   A. Upon issuance of any permit or variance for any improvement on, or use of, the property.
   B. Upon determination that leakage to the surface or lake or into an adjacent well is occurring, or determination that the system is discharging into the ground at an elevation less than 3 feet above the highest known water table[1]. (Ordinance 02-2010, 07/06/2010[1])
   C. Upon determination by Zoning Administrator that a system is inadequate for a change in occupation or use in the structure.
   D. Upon notice by the Zoning Administrator that the City's records indicate the system is non-conforming.
   E. Upon availability of a community sewer system to the property, connection to that system shall be made regardless of the conformance or non-conformance of the individual system.

7. Existing water orientated structures, including boathouses and sheds, may be replaced with a permit on the same parcel provided that:
   A. There must be no increase in horizontal dimensions,unless the water-oriented structure is used for boat storage only, in which case it may be expanded up to 16 feet in width[1]. (Ordinance amendment 02-2008, 12/2/2008[1])
   B. Water-orientated used for boat storage only may be up to, but no greater than, 400 square feet in size[1]. (Ordinance amendment 02-2008, 12/2/2008[1])
   C. The structure must not exceed ten feet in height and must have a minimum of a 4:12 pitched roof.
   D. The structure must meet a minimum setback of 10 feet from the ordinary high water mark.
   E. The structure must be treated to significantly reduce the visibility, as viewed from public waters and adjacent shorelands, through the use of vegetation, topography and/or color, assuming summer, leaf-on conditions.
   F. The structure shall be used for storage only and may not include elements designed for human habitation.
   G. Storm water runoff from the structure shall be drained away from the lake. There shall be no direct flow of stormwater from the structure to adjacent water bodies.

8. Parcels with existing, non-conforming guest quarters established as of

January 1, 2002, are allowed to continue the non-conforming use of one guest quarters without regard to lot size or dimension until such use is voluntarily discontinued. If a guest quarters has been established in a non-conforming structure and the non-conforming structure is destroyed, the use of a guest quarters may be reestablished on the parcel so long as the new structure conforms to all provisions of this Ordinance except lot size or dimension, from which it is hereby exempted and the use is reestablished within twelve (12) months of the destruction of the non-conforming structure.

9. Existing non-conforming signs, off-site or on-site, may be reconstructed, including support systems, provided the following:
   A. Permitting for reconstruction must be done by Conditional Use Permit.
   B. The off-site sign must be directly related to a commercial establishment located entirely within the City of East Gull Lake.
   C. The proposed off-site sign shall be visually compatible with the surrounding natural environment.

10. [1]A one-time addition to a non-conforming principal structure shall be permitted subject to the following:
   A. Approval shall be granted through the Conditional Use Permit process.
   B. The non-conformity is solely due to setbacks.
   C. The addition is not within the Shore Impact Zone (SIZ).
   D. The size of the addition shall not exceed 50% of the size of the structure it is being added to.
   E. The total footprint of the structure, once the addition is completed, shall not exceed 2,500 square feet, including decks, porches, patios and other projections.
   F. For reasons of structural integrity, a basement may be allowed under the addition only where a basement exists in the original structure.
   G. A landscaping plan is implemented that provides screening of the addition from adjacent properties, public roads, and the surface water.
   H. A storm water management plan is implemented that directs storm water away from adjacent properties and surface waters.
   I. The height of the addition shall not exceed the height of the existing structure.
   J. Beyond minor alterations needed to accommodate the addition, no structural modifications shall be made to the original structure.

K. No permits shall be granted under this provision for homes constructed after July 1, 1995 or where a previous variance has been approved.

L. All other provisions of the Ordinance must be complied with. (***Ordinance*** amendment/affidavit of publication, *09/07/04*[1])

11. [1]In evaluating all variances, zoning and building permit applications, or conditional use requests, the zoning authority shall require the property owner to address, when appropriate, storm water runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation-designed actions. ***(Ordinance* 06-09, 12/01/2009[1])**

Section 8.4- 5. Building Standards.

1. All structures and appurtenances shall be constructed in accordance with the general standards of the building industry. The City does not examine plans nor assume liability for the structural stability or quality of any structures.

2. All dwelling units shall be a minimum of 18 feet wide and shall be placed on a foundation.

3. Sewage treatment systems shall conform to Minnesota Pollution Control Agency Standards – Chapter 7080. All sanitary systems shall be constructed by installers certified by the State of Minnesota to install individual sewage treatment systems. The septic tank or pressure sewer shall be no closer than 50 feet from any well. The drainfield shall be no closer than 50 feet from a well that is deeper than 50 feet or penetrates at least 10 feet of impervious material, or 100 feet from any other well. The bottom of the drainfield trench shall be 3 feet or more above the highest known water table. The trench and drop box method shall be used where feasible. Sewage tanks being abandoned shall be pumped and filled with soil.

4. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the MPCA. Private wells must be located, constructed, maintained and sealed in accordance with the water well construction code of the Minnesota Department of Health. All wells must be installed by a well driller licensed in the State of Minnesota. A log of each well shall be filed with the City within 45 days of the well being drilled.

5. The provisions of the Ordinance were prepared to be at least as restrictive as the "Statewide Standards for 'Management of Shoreland Areas'" effective July 3, 1989. Where the conditions of the Shoreland Standards are more restrictive, or in case of oversight, exclusion, or question in this Ordinance, the Shoreland Standards shall govern, except for applications involving non-conforming uses.

SECTION V – ZONING DISTRICTS AND DISTRICT REGULATIONS

Section 8.5- 1. General

1. The City of East Gull Lake is hereby divided into Zoning Districts as shown on the official Zoning District map, which may be subsequently amended by the procedures of Section 8.12-4.

2. The boundaries are generally on the center of the streets, on lot lines, on shorelines, on the center of streams or rivers, and following the contour of the land for the Open Zoning District.

3. The following Districts are hereby established:

   Open ..... O

   Wooded Residential – Low Density R-1

   Residential – Medium Density R-2

   Shoreline Residential – Medium Density..... R-3

   Commercial Waterfront .....CW

   Commercial C

   Public Use.....PU

   Recreational .....REC

   Off-Water Resort Overlay..... OWROD

4. The lakes and streams in the City have been classified as follows:

   A. General Development (GD): Gull Lake (11-305), Sylvan Lake (11-304), Ruth Lake (previously known as School Section) (11-211) (Ordinance Amendment to reclassify Ruth Lake from NE to GD 04/1992)
   B. Recreational Development (RD): None

C. Natural Environment (NE): Lynch (11-210), Echo (previously known as Ruth) (11-212), Stephens (11-213), Dade (11-214), Bass (11-215), All streams and brooks

5. The jurisdiction of this Ordinance shall include the shorelands of all the public waters in the City listed in Sec. 5.1(4).

6. The following provisions apply to all zoning districts:

   A. All accessory structures or uses require the establishment of a principle structure.
   B. Agricultural use is prohibited within 50 feet of the OHW.
   C. There shall be no impervious coverage within 50 feet of the OHW excepts walks and steps on grade less than four feet wide as provided for in this Ordinance.
   D. Unless specifically allowed, no more than four leases per year, per dwelling are allowed.
   E. Mobile homes are prohibited.
   F. Recreational vehicle parks are prohibited.
   G. Water orientated accessory structures, including boathouses, are prohibited.

7. All uses are considered prohibited unless specifically allowed in this Code, even if they are not listed specifically under excluded uses.

8. Criteria for Land Use categories:

   A. Preservation of natural sensitive areas.
   B. Present ownership and development.
   C. Shoreland soil types and their engineering capabilities.
   D. Topographic characteristics.
   E. Vegetative cover.
   F. In-water physical characteristics.
   G. Recreational use of surface water.
   H. Road and service center accessibility.
   I. Socio economic development needs of the public.
   J. Availability of public sewer.
   K. The necessity to preserve[1] and restore certain areas having significant historical or ecological value. (Ordinance 02-2010, 07/06/2010[1])
   L. Conflicts between Land Uses and impacts of commercial uses or higher

densities on adjacent properties.

M. Alternative available for desired Land Use.

N. Prevention of spot zoning.

O. Conformance to the City of East Gull Lake Use Plan.

EAST GULL LAKE – ZONING DISTRICT USE TABLE

USE	O	R-1	R-2	R-3	CW	C	PU	REC
Abandoned Building	E	E	E	E	E	E	E	E
Abandoned Motor Vehicle	E	E	E	E	E	E	E	E
Accessory Apartment		C	C					
Accessory Structure	E	P	P	P	P	A	C	A
Accessory Structures after principle use is established	E	P	P	P	P	P	P	
Accessory Structure greater than 1280 S.F.		C	C	C				
Accessory uses for general public	E	A			C			
Accessory Uses		A	A	A	A			
Active Recreational facilities such as tennis or golf								
Agricultural Use	E	C	C	C				
Agricultural Use Within 50' of OHW	E	E						
Airport, Public or Private						C	C	
Animal Boarding Facility		E	E	E		C		
Animal Grooming Facility as home occupation		C	C			C		
Animal Husbandry, Domestic		C	C	C				
Animal Husbandry, Food		C	C					
Animal Husbandry, Wild		E	E	E				
Archery Range								C
Artist's Studio		C	C			C		
Auto Storage Yard						E		
Ball Fields								C
Bed and Breakfast Dwelling		C	C	C	C	C		
Beach					P		C	C
Billboards		E			E	E	E	E
Boarding House		C	C	C				E
Campground		E	E	E	P		C	E
Campgrounds except as part of a resort		P						
Camping		P	P	P	P		C	E
Campsites (New)					C			
Child Care, Center					P	C		A
Child Care, Family Home		C	C	C				
Church		E	E	E	P	C	C	
Commercial Riding stables								C
Commercial Uses		E	E	E				
Controlled Access Lots				E	A			
Decks on pre-existing structures in conformance with (7)				P				
Duplex **(modified with Ordinance 07-2014)**		~~C~~ PUDR	~~C~~ PUDR	~~C~~ PUDR	~~P~~ PUDR		~~C~~ PUDR	
Dwelling, Guest Quarters		C	C	C				
Dwelling, Single Family	E	P	P	P	P	E	E	E
Dwellings, Single Family 18' or wider on a foundation		P	P					
USE	**O**	**R-1**	**R-2**	**R-3**	**CW**	**C**	**PU**	**REC**

Dwellings, Single Family 20' wide on a foundation		C	E	E				
Dwellings, Single Family 20' or wider on a foundation				P				
Extractive Use	E	E	E	E	E	C	C	E
Forest Land Conversion	E	E					C	C
Garages, attached in excess of 1,280 sq ft of ground cover	E	E	E	E				
Gas Station, light repair shops						C		
Golf Course								C
Golf Driving Range								C
Grading in a shore or bluff impact zone (less than 10 cubic yards)			P	P	P		P	P
Grading in a shore or bluff impact zone (less than 10 cubic yards) exclusive of perennial ice ridges				P				
Grading in a shore or bluff impact zone (greater than 10 cubic yards but less than 50 cubic yards)			C	C	P		C	C
Grading greater than 50 yards inside of a shore or bluff impact zone			E	E	P		E	E
Grading in a shore or bluff impact zone (greater than 50 cubic yards, not including beach maintenance)					E			
Grading greater than 50 cubic yards outside of shore or bluff impact zone		C	C	C	C	C	C	C
Group Care Facility						C	C	
Group Care Facility (non-profit)							C	
Hiking trails, public or private	P	P	P	P	P	P	P	P
Historic Sites	C	P						
Home Occupation		~~C~~ P	~~C~~ P	~~C~~ P				
~~Home Occupation, Type I~~ deleted with Ordinance amendment 04-2011)	-	~~P~~	~~P~~	~~P~~	-	-	-	-
~~Home Occupation, Type II~~ deleted with Ordinance amendment 04-2011)	-	~~P~~	~~P~~	~~P~~	-	-	-	-
~~Home Occupation, Type III~~ deleted with Ordinance amendment 04-2011)	-	~~E~~	~~E~~	~~E~~	~~E~~	~~E~~	-	-
Ice Skating Rinks								C
Impervious surface within 50 feet of the OHW except walks and steps on grade less than 4 feet wide, except as provided in (7)				E				
Interval Ownership		E	E	E	C	C		E
Interval Ownership or Leaseback by Owner of more than 4 individual leases per year, per dwelling			E	E		C		
Junk Yard or auto salvage yards		E	E			E		E
Manufactured Home		P	P	P				
Marinas					C	C		
Motels/Hotels					C			E
Municipal Sewage Disposal		C					C	
USE	**O**	**R-1**	**R-2**	**R-3**	**CW**	**C**	**PU**	**REC**

Multifamily Dwellings used for residential **(added with Ordinance amendment 07-2014)**		PUDR	PUDR	PUDR		E		
Nursery		C				C		
Nursing Home						C	C	
Nursing Home (non-profit)							C	
Non-motorized public recreations, including trails		P	P					
Offsite sign Ownership					C			
One unlighted, identification sign not exceeding 3 square feet		P	P	P				
On-sale liquor sales (requires liquor license only, no land-use permit required)					A	A		A
Onsite signs					A	A	A	A
Outside storage		E	E	E	A	A	A	A
Parks, Playgrounds and Historic Sites	C	P	P	P	P	C	P	C
Parks and Playgrounds	C	P		P				
Principal Structure	E							
Professional Buildings						C		
Public Buildings					P	C	P	P
Public Green Space, Public Park								C
Public maintenance facilities						C	P	
Public or private Airport								C
Public Recreational Facilities including trails							P	
PUD, Commercial	E				C	C	C	E
PUD, Commercial (non-profit)							C	
PUD, Mixed Use	E	E	E	E	C	C		E
PUD, Residential	E	C	C	C	E	E		E
PUD's	E							A
Recreation Centers						C		
Recreational facilities for resort guests		E	E	E	P	C		A
Recreational facility for general public		E	E	E	P	C		A
Recreational Vehicle Parks						E		
Removal of Perennial Ice Ridges				P				
Resort					C	C		
Restaurants/Bars					P	C		A
Retail sales					P	A		A
Retail sales and services oriented to local use						C		
Semi public use					C			
Signs offsite						C		
Single family homes except as related to resorts					E			
Storage Buildings greater then 1,280 sq ft ground cover								C
Storage Buildings up to 1,280 sq ft ground cover								
Structures with a footprint area of 6,000 square feet or greater (Ordinance amendment; affidavit of publication 12/20/07)		C	C	C				
Swimming pools		P	C	C	P	C	C	C
USE	**O**	**R-1**	**R-2**	**R-3**	**CW**	**C**	**PU**	**REC**

Temporary Structure		P	P	P	P	P	P	P
Tennis Courts or Raquet ball		P	P	P	P	C	C	C
Theater						C		
Triplex or Quad-Residential								
Triplex or Quad-Residential except in PUD								
Unlighted directional signs not visible from adjacent property or right of way								P
Vegetation Removal in Bluff or Shore Impact Zone (SIZ)		E		C	C	C		C
Vegetation Removal, Steep Slopes	C	C	C	C	C	C	C	C
Vegetation Removal, Clear Cutting				E	E	C	C	C
Vegetation Removal, Open Cutting	C	C	C	C	C	C	C	C
Vegetation Removal, Select Cutting	P	P	P	P	P	P	P	P
Vegetation Removal, Open Cutting except in Bluff or Shore Impact Zone (SIZ)								
Vegetation Removal, Open Cutting in a Bluff or Shore Impact Zone (SIZ)								
Warehousing		E			E	C		E
Warehousing, Commercial					E			
Water orientated accessory structures including boathouses				E	E			
Waterslide					C			
Weekly rental or more than 4 leases per year of any dwelling					P	C		
P - Permitted Use								
C - Conditional Use Permit Required								
A - Primary Use and Conditional Use Permit Required								
E - Specifically Excluded PUDR – Residential **(Ordinance 07-2014)**								

Section 8.5- 2. Open District. (O) (Corresponds to DNR Special Protection District)

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

2. Permitted Uses. (O)
   Hiking Trails, Public or Private
   Vegetation Removal, Select Cutting

3. Conditional Uses. (O)
   Parks, Playgrounds and Historic Sites
   Vegetation Removal, Steep Slopes
   Vegetation Removal, Open Cutting

4. Accessory Uses. (O)
   None

5. Excluded Uses. (O)
   Abandoned Building
   Abandoned Motor Vehicle
   Principle Structure
   Accessory Structure
   Agricultural Use
   Extractive Use
   Forest Land Conversion
   Planned Unit Developments

6. Lot, Use and Density Requirements. (O)
   The setbacks of the most restrictive adjacent Zoning District shall apply.

7. Mixed Zone Lots. (O)
   For a lot crossing the Open District boundary into another Zoning District, the minimum lot size shall be the same as the other Zoning District with no area credit given for the Open District area.

Section 8.5- 3. Wooded Residential, Low Density (R-1). (Non-Shoreland)

1. Purpose: To establish and maintain a Land Use District that is semi-rural in character and to prevent the occurrence of dense urban development while retaining the wooded nature of the land.

2. Permitted Uses. (R-1)
   Accessory Structure
   Camping
   Dwelling, Single Family
   Hiking Trails, Public or Private
   ~~Home Occupation, Type I~~ deleted with Ordinance amendment 04-2011)
   ~~Home Occupation, Type II~~ deleted with Ordinance amendment 04-2011)
   Manufactured Home
   One, unlighted identification sign not to exceed 3 square feet
   Parks, Playgrounds and Historic Sites
   Swimming Pools
   Temporary Structure
   Tennis Courts or Racquet Ball
   Vegetation Removal, Select Cutting

3. Conditional Uses. (R-1)
   Agricultural Use
   ~~Animal Grooming Facility (as Home Occupation)~~ deleted with Ordinance amendment 04-2011)
   Animal Husbandry, Domestic
   Animal Husbandry, Food
   Accessory Apartment
   Accessory Structures greater than 1,280 square feet
   Artist's Studio
   Bed and Breakfast Dwelling
   Child Care, Family Home
   Dwelling, Guest Quarters
   ~~Duplex~~ **(deleted with Ordinance 07-2014)**
   Grading greater than 50 cubic yards
   Municipal Sewage Disposal
   Nursery
   PUD, Residential
   Structures with a footprint area of 6,000 square feet or greater

(Ordinance amendment; Affidavit of Publication 12/20/07[1])
Vegetation Removal, Steep Slopes
Vegetation Removal, Open Cutting

4. Accessory Uses. (R-1)
   Accessory uses are allowed.

5. Excluded Uses. (R-1)
   Abandoned Building
   Abandoned Motor Vehicle
   Animal Boarding Facility
   Animal Husbandry, Wild
   Billboard
   Campground
   Church
   Extractive Use
   Forest Land Conversion
   ~~Home Occupation, Type III[1]~~
   ~~(Ordinance amendment/affidavit of publication 12/20/07[1])~~
   deleted with Ordinance amendment 04-2011)
   Interval Ownership
   Junk Yard or Auto Salvage Yard
   Outside Storage
   PUD, Mixed Use
   Recreational Facilities for Resort Guests
   Recreational Facilities for General Public
   Warehousing

6. Lot and Use Requirements. (R-1)

   Lot Width - feet, minimum..... 200
   Buildable Lot Area - acres, minimum.....2.5
   Setback, right-of-way, local streets - feet, minimum ..10
   Setback, right-of-way, collector and arterial streets
   - feet, minimum 30
   Setback, side - feet, minimum.....20
   Setback, corner side - feet, minimum.....40
   Setback, sign - feet, minimum..... 1
   Maximum impervious coverage..... 10%
   Building Height, principal structure feet, maximum..30[1]

(Ordinance Amendment 2011-02/Affidavit of Publication, 04/14/2011[1])
Building Height, accessory structure feet, maximum .24[1]
(Ordinance Amendment 2011-01/Affidavit of Publication, 04/14/2011[1])
*[1]Accessory Structure Size – square feet, max, cumulative
..... 1,280 for first 2.5 acres
..... 128 for each additional .5 acres
(Ordinance amendment, Affidavit of Publication 07/11/2008[1])
Maximum Density.....1 unit/2.5 acres
Maximum animal unit per acre.....0.5

7. Performance Standards. (R-1)
   A. *[1]Accessory structures. Accessory structures greater than 1,280 square feet may be constructed through a Conditional[1] use permit if the following is provided:
      1. The structure shall be screened with vegetation sufficient to prevent the structure from view on public waters.
      2. The structure shall be setback twice the normal setback distance.
      3. The exterior of the accessory structure shall generally match the exterior color of the principle structure which exists, or proposed to be constructed, upon the property the accessory structure is proposed to be located.
      (Ordinance Amendment/Affidavit of Publication, 07/11/2008[1]) (Ordinance 02-2010, 07/06/2010[1])

   B. [1]Accessory Buildings. All accessory buildings shall have the same or similar finish as the neighboring homes and be homogeneous in design consistent with Section 8.6-13 of this Ordinance.
   (Ordinance Amendment/Affidavit of Publication, 07/11/2008[1])

Section 8.5- 4. Residential, Medium, Density (R-2)

1. Purpose: To establish and maintain a medium density Land Use Zoning District within the shoreland area, which will provide a buffer between wooded residential (R-1) and higher density shoreline residential zones. The R-2 Zoning District does not have Lake Frontage.

2. Permitted Uses. (R-2)
   Accessory Structure
   Camping
   Dwelling, Single Family
   Grading in a shore or bluff impact zone (less than 10 cubic yards)
   Hiking Trails, Public or Private
   ~~Home Occupation, Type I~~ deleted with Ordinance amendment 04-2011)
   ~~Home Occupation, Type II~~ deleted with Ordinance amendment 04-2011)
   Manufactured Home
   One, unlighted identification sign not to exceed 3 square feet
   Parks, Playgrounds and Historic Sites
   Temporary Structure
   Tennis Courts or Racquetball
   Vegetation Removal, Select Cutting

3. Conditional Uses. (R-2)
   Accessory Structures greater than 1,280 square feet
   Agricultural Use
   ~~Animal Grooming Facility (as Home Occupation)~~ deleted with Ordinance amendment 04-2011)
   Animal Husbandry, Domestic
   Animal Husbandry, Food
   Accessory Apartment
   Artist's Studio
   Bed and Breakfast Dwelling
   Child Care, Family Home
   ~~Duplex~~ **(deleted with Ordinance 07-2014)**
   Dwelling, Guest Quarters
   Grading in a shore or bluff impact zone (greater than 10 cubic yards but less than 50 cubic yards)
   Grading greater than 50 cubic yards outside of shore or bluff impact zone
   PUD, Residential

Structures with a footprint area of 6,000 square feet or greater[1]
(Ordinance amendment/affidavit of publication, 12/20/07[1])
Swimming Pools
Vegetation Removal, Steep Slopes
Vegetation Removal, Open Cutting

4. Accessory Uses. (R-2)
   Accessory uses are allowed.

5. Excluded Uses. (R-2)
   Abandoned Building
   Abandoned Motor Vehicle
   Animal Boarding Facility
   Animal Husbandry, Wild
   Campground
   Church
   Grading in a shore or bluff impact zone (greater than 50 cubic yards)
   ~~Home Occupation, Type III~~ deleted with Ordinance amendment 04-2011)
   Interval Ownership
   Junk Yard
   Outside Storage
   PUD, Mixed Use
   Recreational Facilities for Resort Guests
   Recreational Facilities for General Public

6. Lot and Use Requirements. (R-2)

	GD or RD Lake or non-shoreland[1]	NE Lake
Lot Width – feet, minimum	150	200
Buildable Lot Area - square feet, minimum	40,000	80,000
Setback, right-of-way, local streets – feet, minimum	10	10
Setback, right-of-way, collector and arterial streets – feet, minimum	30	30
Setback, side - feet, minimum	20	30
Setback, corner side – feet, minimum	30	30
Setback, sign - feet, minimum	1	1
Impervious coverage - maximum	20%	15%
Building height - principal structure feet, maximum	30[1]	30[1]
Ordinance Amendment 2011-02/Affidavit of Publication, 04/14/2011[1])		
Building height, accessory structure - feet, maximum	24[1]	24[1]
Ordinance Amendment 2011-01/Affidavit of Publication,		

04/14/2011[1])

*Accessory Structure Size – square feet, maximum, cumulative	1,280 for parcels 2.5 acres or less, 128 for each additional .5 acres parcel size[1]	1,280 for parcels 2.5 acres or less, 128 for each additional .5 acres parcel size[1]
Ordinance amendment, Affidavit of Publication 7/11/2008[1]		
Building above highest known groundwater lot lake level – feet, minimum	3	3
Maximum Density	1 unit/40,000 sq. ft.	1 unit/80,000 sq. ft.

*[1]Accessory structures. Accessory structures greater than 1,280 square feet may be constructed through a Conditional[1] use permit if the following is provided:

1. The structure shall be screened with vegetation sufficient to prevent the structure from view on public waters.
2. The structure shall be setback twice the normal setback distance.
3. The exterior of the accessory structure shall generally match the exterior color of the principle structure which exists, or proposed to be constructed, upon the property the accessory structure is proposed to be located.

(**Ordinance/Affidavit of Publication, 07/11/2008[1]**) (***Ordinance 02-2010, 07/06/2010[1]***)

7. Performance Standards. (R-2)
   A. Dwelling, Guest Quarters. A dwelling guest quarters or detached accessory apartment must meet the following restrictions:
      1. Shall not cover more than 700 square feet of land and must not exceed 15 foot height.
      2. Shall be located to reduce its[1] visibility as viewed from public waters and adjacent shorelands. (***Ordinance 02-2010. 07/06/2010[1]***)
      3. Shall be screened from adjacent parcels and public waters by vegetation, topographical location, increased setback, color or other methods assuming summer leaf on conditions.

   B. Impervious Coverage. Impervious coverage may be increased by 5% through a Conditional use permit if the following is provided:
      1. A stormwater retention plan submitted showing containment of the 5-year, 24-hour storm event on the parcel.
      2. Direct runoff of stormwater to adjacent water bodies, including wetlands and adjacent parcels, shall be eliminated through the use of berms or other permanent means.

C. Accessory Buildings. All accessory buildings shall have the same or similar finish as the neighboring homes and be homogeneous in design consistent with Section 8.6-13 of this Ordinance.
(Ordinance Amendment/Affidavit of Publication, 07/11/2008[1])

Section 8.5- 5. Shoreline Residential, Medium Density (R-3).

1. Purpose: To establish and maintain a Land Use District on the shorelines of public waters that is recreational-residential in character with independent sanitary facilities and that is compatible with the natural resources of lakes and streams.

2. Permitted Uses. (R-3)
   Accessory Structure
   Camping
   Dwelling, Single Family
   Grading in a shore or bluff impact zone (less than 10 cubic yards) exclusive of perennial ice ridges
   Hiking Trails, Public or Private
   ~~Home Occupation, Type I~~ deleted with Ordinance amendment 04-2011)
   ~~Home Occupation, Type II~~ deleted with Ordinance amendment 04-2011)
   Manufactured Home
   One, unlighted identification sign not to exceed 3 square feet
   Parks, Playgrounds and Historic Sites
   Removal of Perennial Ice Ridges
   Temporary Structure
   Tennis Courts
   Vegetation Removal, Select Cutting

3. Conditional Uses. (R-3)
   Accessory Structures greater than 1,280 square feet
   Agricultural Use
   Animal Husbandry, Domestic
   Bed and Breakfast Dwelling
   Child Care, Family Home
   Dwelling, Guest Quarters
   ~~Duplex~~ (**deleted with Ordinance 07-2014)**
   Grading in a shore or bluff impact zone (greater than 10 cubic yards but less than 50 cubic yards)
   Grading greater than 50 cubic yards outside of shore or bluff impact zone
   PUD, Residential
   Structures with a footprint area of 6,000 square feet or greater[1]
   (Ordinance amendment/affidavit of publication 12/20/07[1])
   Swimming Pools

Vegetation Removal, Bluff or Shore Impact Zone (SIZ)
Vegetation Removal, Steep Slopes
Vegetation Removal, Open Cutting

4. Accessory Uses. (R-3)
   Accessory uses are allowed.

5. Excluded Uses. (R-3)
   Abandoned Building
   Abandoned Motor Vehicle
   Animal Boarding[1] Facility (Ordinance 02-2010, 07/06/2010[1])
   Animal Husbandry, Wild
   Campground
   Church
   Controlled Access Lots
   Grading in a shore or bluff impact zone (greater than 50 cubic yards)
   ~~Home Occupation, Type III~~ deleted with Ordinance amendment 04-2011)
   Interval Ownership
   Outside Storage
   PUD, Mixed Use
   Recreational Facilities for Resort Guests
   Recreational Facilities for General Public
   Water Oriented Accessory Structures

6. Lot and Use Requirements. (R-3)

	GD Riparian Only	RD, Non-Riparian GD	NE Lake
Lot width at OHW and building line - feet, minimum	100	150	200
Lot width with guest quarters or duplex	180	225	300
Buildable lot area - square feet, minimum	20,000	40,000	80,000
Buildable lot area with guest quarters or duplex - square feet, minimum	40,000	80,000	160,000
Setback, right-of-way, local streets – feet, minimum	10	10	10
Setback, right-of-way, collector and arterial streets – feet, minimum	30	30	30
Setback, OHW – feet, minimum	75	100	200
Setback, bluff – feet, minimum	30	30	30
Setback, side - feet, minimum	10	10	15
Setback, corner side – feet, minimum	30	30	30
Setback, sign - feet, minimum	1	1	1
Impervious coverage maximum[1]	20%	15%	10%

Revised (Ordinance 01-2011, 01/4/2011[1]**)**

Building height, principal Structure - feet, maximum Ordinance Amendment 2011-02/Affidavit of Publication, 04/14/2011[1])	30[1]	30[1]	30[1]
Building height, accessory structure - feet,maximum (Ord amend/affidavit of publication, 07/11/08[1])(changed to 15' from 13') (Ordinance Amendment 2011-01/Affidavit of Publication, 4/14/2011[1])	24[1]	24[1]	24[1]
Accessory Structure Size – square feet, maximum, cumulative; (Ord amend/affidavit of publication, 07/11/08[1])	1,280 for parcels 2.5 acres or less, 128[1] for each additional .5 acres parcel size	1,280 for parcels 2.5 acres or less, 128[1] for each additional .5 acres parcel size	1,280 for parcels 2.5 acres or less, 128[1] for each additional .5 acres parcel size
Building above highest known groundwater or lake level – feet, minimum	3	3	3
Maximum Density	1 unit/20,000 sq. ft.	1 unit/40,000 sq. ft.	1 unit/80,000 sq. ft.
ISTS setback from OHW – feet, minimum	75	75	100

*[1]Accessory structures. Accessory structures greater than 1,280 square feet may be constructed through a Conditional[2] use permit if the following is provided:

1. The structure shall be screened with vegetation sufficient to prevent the structure from view on public waters.
2. The structure shall be setback twice the normal setback distance.
3. The exterior of the accessory structure shall generally match the exterior color of the principle structure which exists, or proposed to be constructed, upon the property the accessory structure is proposed to be located. (Ordinance Amendment, 07/11/2008[2]) (Ordinance 02-2010, 07/06/2011[1])

7. Performance Standards. (R-3)
   A. Dwelling, Guest Quarters. A dwelling guest quarters must meet the following restrictions:
      1. Shall be located along with the principal structure on the smallest lot meeting the above requirements.
      2. Shall not cover more than 700 square feet of land and must not exceed 15 foot height.
      3. Shall be located to reduce its[1] visibility as viewed from public waters and adjacent shorelands. ***(Ordinance 02-2010, 07/06/2010[1])***
      4. Shall be screened from adjacent parcels and public waters by vegetation, topographical location, increased setback, color or

other methods assuming summer leaf on conditions.

B. Impervious Coverage. Impervious coverage may be increased by 5% through a Conditional Use permit if the following is provided:
   1. A stormwater retention plan showing containment of the 5-year, 24-hour storm event on the parcel.
   2. Direct runoff of stormwater to adjacent water bodies, including wetlands and adjacent parcels, shall be eliminated through the use of berms or other permanent means.

   When a lot is divided by a street (property owner is unable to use that portion of their parcel due to the street) in the R-3 zoning district, the maximum impervious coverage shall not exceed 20% for the **riparian** portion of the lot and the maximum impervious coverage shall not exceed 5% for the **non-riparian** portion of the lot providing all setbacks, sanitary provisions for well and sewage disposal can be met. (Ordinance amendment 2011-03,affidavit of publication 4/14/11)

C. Setback from OHW. On parcels with municipal sanitary sewer service, if a structure exists on either side of a proposed structure, the waterfront setback may be altered without variance to conform to the adjoining setbacks provided that the building site is not in a bluff impact zone or the setback less than 50 feet minimum. If no structure exists on either side, a new structure may encroach up to a 50-foot setback from the OHW.

D. Decks. For decks added to principal structures constructed prior to July 2, 1990, such use shall be considered a permitted use provided the following shall apply:
   1. A thorough evaluation of the property and structure reveals no reasonable location exists for a deck meeting or exceeding the waterfront setback.
   2. The deck encroachment toward the ordinary high water level does not exceed 15% of the existing waterfront setback of the structure or does not encroach closer than 50 feet whichever is more restrictive.
   3. The deck is constructed primarily of wood and is not roofed or screened.

E. Decks. For properties that presently have no decks, were constructed under permits between 1992 and 1995, and are within the 75-foot lake setback, a deck may be constructed no more than 10 feet into the 75-foot lake setback if all of the following conditions can be met:
   1. No deck will be allowed closer than 50 feet.
   2. That this change does not occur on an already existing deck.
   3. That any existing deck does not become enclosed or added on for living space and then a deck allowed into the 75-foot setback.
   4. The possibility of side decks has been eliminated.
   5. The deck shall be the same or greater in length than the width.
   6. Onsite septic system must be at the rear of property or 75 feet from the OHW.
   7. Plantings of shrubs to provide thorough screening must be placed in front of deck.
   8. Each request will be presented to the Planning Commission before a permit is issued.

F. New Decks. A deck less than 3 feet high or a patio on grade may be constructed in conjunction with a new principal structure as a permitted use provided the front yard setback is decreased no more than 8 feet below normal. The deck shall not be roofed or screened in, but may have railings.

G. Stairways, lifts and landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
   1. Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and Planned Unit Developments.
   2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area.
   3. Canopies or roofs are not allowed on stairways, lifts or landings.
   4. 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.
   5. Stairways, lifts and landing 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.

6. 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 sub-items (1) to (5) are complied with.

H. Fertilizer and Pesticides. Use of fertilizer and pesticides in the shoreland management district must be done in such a way as to minimize runoff into the Shore Impact Zone (SIZ) or public water by the use of earth, vegetation or both.

I. Duplexes. On Natural Environment lakes, subdivisions of duplexes must also meet the following standards:

1. Each building must meet setback at least 200 feet from[1] the Ordinary High Water Mark. (***Ordinance 02-2010, 07/06/2010[1]***)
2. Each building must have common sewage treatment and water systems that serve both units in the building.
3. Watercraft docking facilities for each lot must be centralized in location and serve all dwelling units in the subdivision.
4. No more than 25% of Lake Shoreline can be in duplex development.

J. Docks. The landward end of all docks must meet a 10 foot setback from the nearest lot line. [1]~~Docks must be placed so that no portion of the dock, including "L" extensions or additions, and no accessory or ancillary structures or equipment (including mooring buoys, boat lifts, shore trackers or swimming platforms), extends across the projection of the setback from the lot line into the lake.~~ (Ordinance 06-2011, 7/20/2011[1]) Docks must also be placed[1] so as not to block access from an adjacent property to open water. The storage of all docks, and all watercraft or water oriented items shall also be subject to this property setback rule.
(***Ordinance 04-2010, 07/06/2010[1]***)

Notwithstanding any provision of this section to the contrary, the 10-foot setback for docks shall not apply to the extent necessary to allow ingress or egress of a pre-existing boat house.

This Ordinance shall apply to the use, maintenance and installation of

any dock and accessory or ancillary structures or equipment at any time.

K. Riprap. The City of East Gull Lake encourages the use of riprap only as a last resort to control shoreline erosion. Other methods should be used, including the planting of native, deep-rooted vegetation. If riprap has been found to be the only tool available, riprap installation shall have the following standards:

1. Gradation. A well-graded mixture of rock sizes should be used instead of one uniform size.
2. Quality of stone. Riprap must be durable so that freeze/thaw cycles do not decompose it in a shore time; most igneous stones such as granite have suitable durability. Riprap depth. The thickness of riprap layers should be at least 2 times the maximum stone diameter.
3. Vegetation.
    a. Existing vegetation on the shoreline and in the water should be maintained without disturbance.
    b. All bare soil on the slope above the riprap should be stabilized with seed and mulch, or sod.
    c. Wooded, deep-rooted vegetation should be planted among the riprap to help stabilize and create wildlife habitat.
4. Filter material. Filter material is usually required between riprap and the underlying soil surface to prevent soil from moving through the riprap; a filter cloth material or a layer of gravel is usually used for the filter.
    a. Leaching Protection. Leaching can be controlled by installing a riprap gradation small enough to act as a filter against the channel base material, or a protective filter can be installed between the riprap and the base material.
    b. Riprap Limits. The riprap should extend for a maximum flow depth, or to a point where vegetation will be satisfactory to control erosion.
    c. Curves. Riprap should extend to five times the bottom width upstream and downstream of the beginning and ending of the curve as well as the entire curved section.
    d. Riprap Size. The size of riprap to be installed depends on site-specific conditions.
    e. Riprap Prohibitions. Slopes on which riprap is used to stabilize shorelines shall be no steeper than 2:1.

5. Maintenance. Inspections should be made of all sites immediately after the first rainfall following installation of riprap. This is particularly important in areas where riprap that is displaced during the storm would impact culverts. Thereafter, riprapped sites should be checked following large storms, especially those which are near or exceed the storm frequency used in the design. Displaced riprap should be removed from its downstream location and new riprap placed according to the specifications above.

L. Perennial Ice Ridges. If ice ridges occur annually, the property owner shall restore the shoreline every year. Removal or grading of an ice ridge must not disturb emergent aquatic vegetation, unless authorized by an aquatic plant management permit from the DNR's Division of Fisheries. No permit is required if:

1. The ice ridge resulted from ice action within the last year.
2. The total length of shoreline zone to be affected does not exceed 200 feet.
3. All ice ridge material that is composed of muck, clay, or organic sediment is deposited and stabilized at an upland site above the ordinary high water level of any public water.
4. All ice ridge material that is composed of sand or gravel is removed or graded to conform to the original cross-section and alignment of the lakebed, with a finished surface at or below the ordinary high water level.
5. No additional excavation or placement of fill material occurs on the site.
6. All exposed areas are immediately stabilized as needed to prevent erosion and sedimentation.
7. Local zoning officials, the watershed district, if applicable, and the soil and water conservation district are given seven days' prior notice.

M. Accessory Buildings. All accessory buildings shall have the same or similar finish as the neighboring homes and be homogeneous in design consistent with Section 8.6-13 of this Ordinance.
(Ordinance Amendment/Affidavit of Publication, 07/11/2008[1])

N. Pervious Materials[1]. For properties that are presently legally, non-conforming in regards to the impervious coverage standard in Section 5.5, Subpart 6, new impervious surface may be establish through the

Conditional Use Permit process, where the following standards are met.

1. For every square foot of impervious surface added, two square feet of impervious surface shall be removed on the same property.
2. When, following the addition and removal of impervious surfaces, the amount of impervious surface on the property continues to exceed that which is allowed in Section 5.5, Subpart 6, excess impervious surfacing shall be removed so as to achieve compliance, but said surface may be replaced with a pervious material.

   Where a pervious material is utilized under this section, a long-term maintenance plan shall be submitted and reviewed by the Planning Commission and, upon acceptance, be implemented by the property owner. (*Ordinance 02-2009 08/04/2009*)

O. [1]Lots that are divided by a street in the R-3 zoning district, within the City of East Gull Lake, shall be considered buildable without a Conditional Use permit.

Total maximum **riparian/non-riparian** is 20% impervious for the entire lot.

Impervious coverage may be increased by 5% through a Land Use Permit if the following is provided:

1. A stormwater retention plan created by a licensed engineer showing containment of the 5-year, 24 hour storm event on the parcel.

2. Direct runoff of stormwater to adjacent water bodies, including wetlands and adjacent parcels, shall be eliminated through the use of berms, rain gardens, or other permanent means.

Property owner could split the parcel as long as have a minimum of 20,000 square feet per newly created parcel. (Ordinance amendment, Affidavit of Publication 4/14/11[1])

Section 8.5- 6. Commercial Waterfront District (C-W)

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

2. Permitted Uses. (C-W)

   Accessory Structure
   Campground
   Child Care, Center
   Grading in a shore or bluff impact zone (less than 10 cubic yards)
   Hiking Trails, Public or Private
   Temporary Structure
   Vegetation Removal, Select Cutting
   Beach
   Camping
   Church
   ~~Duplex~~ **(deleted with Ordinance 07-2014)**
   Dwelling, Single Family
   Grading in a shore or bluff impact zone (greater than 10 cubic yards but less than 50 cubic yards)
   Grading greater than 50 cubic yards outside of shore or bluff impact zone
   Parks, Playgrounds and Historic Sites
   Public Buildings
   Recreational Facilities for Resort Guests
   Recreational Facilities for General Public
   Restaurant/Bar
   Retail Sales
   Swimming Pools
   Tennis Courts or Racquetball
   ~~Home Occupation, Type III provided all other performance standards, lot requirements, Etc. could be met~~ ~~(**Ordinance 01-2010, 06/01/2010)**~~ deleted with Ordinance amendment 04-2011)
   Weekly Rental or more than 4 leases per year of any dwelling

3. Conditional Uses. (C-W)

   Bed and Breakfast Dwelling

Interval Ownership
Marinas
PUD, Commercial
PUD, Mixed Use
Vegetation Removal, Bluff or Shore Impact Zone (SIZ)
Vegetation Removal, Steep Slopes
Vegetation Removal, Open Cutting
Waterslide[1] ***(Ordinance amendment, 06/05/03[1])***

4. Accessory Uses. (C-W)
   Controlled Access Lot
   On-sale Liquor Sales (requires liquor license only, no land-use permit required)
   On-site Signs

5. Excluded Uses. (C-W)
   Billboard
   Grading in a shore or bluff impact zone (greater than 50 cubic yards, not including beach maintenance)
   PUD, Residential
   Warehousing, Commercial

6. Lot and Use Requirements. (C-W)

	GD Lake	RD Lake	NE Lake
Lot width at OHW and building line - feet, minimum	300	300	300
Lot area - acres, minimum	10	10	10
Setback, right-of-way – feet, minimum	30	30	30
Setback, OHW – feet, minimum	75[1]	100	200
(Ordinance 35-09, 04/04/2000[1]) Setback, bluff – feet, minimum	30	30	30
Setback, side - feet, minimum	20	20	30
Setback, parking – feet, minimum	10	10	10
Distance between buildings – feet, minimum	20	20	20
Setback, sign (except OHW) - feet, minimum	1	1	1
Setback, sign from OHW	75	100	200
Impervious coverage – maximum	25%[2]	25%	20%
(Ordinance 35-09, 04/04/2000[2]) Building height - feet, maximum	25	25	25
Building above highest known groundwater or lake level – feet, minimum	3	3	3
Maximum Density	See Commercial PUD Special Provisions		

SSTS setback from OHW – feet, minimum	75	75	100

7. Performance Standards. (C-W)
   A. Screening. Visual screening is required in exterior setback area.

   B. Buildings. Four unit or larger buildings or buildings open to public shall meet the requirements of the Uniform Building Code and be designed by a registered architect. Multi-unit buildings shall have a one- hour fire rating on all party walls and floors shall be designed to a 45 decibel rating between units. The architect shall certify to this requirement.

   C. Setback from OHW. On parcels with municipal sanitary sewer service, if a structure exists on either side of a proposed structure, the waterfront setback may be altered without variance to conform to the adjoining setbacks provided that the building site is not in a bluff impact zone or the setback less than 50 feet minimum. If no structure exists on either side, a new structure may encroach up to a 50-foot setback from the OHW.

   D. Centralization of Mooring Facilities. 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.

   E. Stairways, lifts and landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
      1. Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and Planned Unit Developments.
      2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area.
      3. Canopies or roofs are not allowed on stairways, lifts or landings.
      4. 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.

5. Stairways, lifts and landing 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.
6. 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 sub-items (1) to (5) are complied with.

F. Fertilizer and Pesticides. Use of fertilizer and pesticides in the shoreland management district must be done in such a way as to minimize runoff into the Shore Impact Zone (SIZ) or public water by the use of earth, vegetation or both.

G. Impervious Surface Replacement. Parcels that exceed the maximum allowed impervious surface may construct additional impervious surfaces if the overall impervious coverage is reduced on a 2:1 removal/construction ratio.

Section 8.5- 7. Commercial District (C). (May not include shoreland)

1. Purpose: To establish and maintain a Land Use district for commercial purposes, with independent sanitary facilities, which can provide goods and services needed locally for the residents of the community.

2. Permitted Uses. (C)
   Hiking Trails, Public or Private
   Temporary Structure
   Vegetation Removal, Select Cutting
   ~~Home Occupation Type III provided all performance standards, lot requirements, etc. could be met (**Ordinance 01-2010, 06/01/10)**~~
   (deleted with Ordinance amendment 04-2011)

3. Conditional Uses. (C)
   Airport, Public or Private
   Animal Boarding Facility
   Animal Grooming Facility
   Artist's Studio
   Child Care, Center
   Church
   Extractive Use
   Gas Station, light repair shops
   Grading greater than 50 cubic yards outside of shore or bluff impact zone
   Group Care Facility
   Interval Ownership
   Nursery
   Nursing Home
   Parks, Playgrounds and Historic Sites
   Professional Buildings
   Public Buildings
   Public Maintenance Facilities
   PUD, Commercial
   PUD, Mixed Use
   Recreational Facilities for Resort Guests
   Recreational Facilities for General Public
   Restaurant/Bar
   Swimming Pools
   Tennis Courts or Racquetball

Vegetation Removal, Clear Cutting
Vegetation Removal, Open Cutting
Vegetation Removal, Steep Slopes
Warehousing
Weekly Rental or more than 4 leases per year of any dwelling

4. Accessory Uses. (C)
   Accessory Structure
   On-sale Liquor Sales (requires liquor license only, no land-use permit required)
   On-site Signs
   Outside Storage
   Retail Sales

5. Excluded Uses. (C)
   Auto Storage Yard
   Billboard
   Dwelling, Single Family
   Junk Yard
   PUD, Residential

6. Lot and Use Requirements. (C)
   Impervious surface coverage - maximum.....25%
   Setback, right-of-way - feet.....60
   Setback, parking from lot line - feet.....30
   Setback, side - feet.....30
   Setback, rear - feet.....30
   Building height - feet, maximum.....25
   Building above highest known groundwater.....3
   Minimum lot size - square feet.....40,000
   Onsite sign setback - feet.....1
   Density, maximum.....see Commercial PUD Special Provisions

7. Performance Standards. (C)
   A. Impervious Coverage. Impervious coverage may be increased by up to 15% through a conditional use permit if the following is provided:
      1. A stormwater retention plan showing containment of the 5-year, 24-hour storm event on the parcel.
      2. Direct runoff of stormwater to adjacent water bodies, including wetlands and adjacent parcels, shall be eliminated through the use

of berms or other permanent means.

B. Compatibility of Structures. All structures shall be compatible with the surrounding neighborhood. Structures shall contain earth tone colors or natural wood or brick exterior.

C. Compatibility of Use. Use shall be compatible with the surrounding neighborhood. Uses shall not present noise, odor, light nuisances or any other nuisances. Use shall not generate peak hourly traffic counts of more than 20% of the total traffic count or hourly traffic counts of more than 10% for all non peak hour times.

D. Parking. Adequate off-street parking shall be provided. On-street parking is not allowed under any circumstances.

E. Screening. All sites shall be heavily landscaped to provide 100% screening to adjacent residential parcels and over 50% screening from the road or any non-residential parcel. Percentages shall be determined by amount of structure that can be seen during leaf-on conditions. A landscaping and screening plan must be submitted and approved by the Planning Commission with each conditional use permit.

F. Lighting. Lighting shall be minimal. Lighting shall be downward directional and shall be compatible with the surrounding development. Lights approved with signs must be turned off at the close of business each day.

G. Fire Lanes. Fire lanes shall remain unobstructed at all times.

Section 8.5- 8. Public Use. (PU)

1. Purpose: To establish and maintain a Land Use district that is either publicly owned for public buildings and public facilities or managed by a non-profit organization uniquely focused on utilizing the City's recreational features to serve the disadvantaged.

2. Permitted Uses. (PU)
   Grading in a Shore or Bluff Impact Zone (less than 10 cubic yards)
   Hiking Trails, Public or Private
   Parks, Playgrounds and Historical Sites
   Public Buildings
   Public Maintenance Facilities
   Temporary Structure
   Vegetation Removal, Select Cutting

3. Conditional Uses. (PU)
   Accessory Structure
   Airport, Public or Private
   Beach
   Campground
   Camping
   Church
   ~~Duplex~~ **(deleted with Ordinance 07-2014)**
   Extractive Use
   Forest Land Conversion
   Grading in a shore or bluff impact zone (greater than 10 cubic yards but less than 50 cubic yards)
   Grading greater than 50 cubic yards outside of a shore or bluff impact zone
   Group Care Facility (non-profit)
   Municipal Sewage Facility
   Nursing Home (non-profit)
   PUD, Commercial (non-profit)
   Swimming Pools
   Tennis Courts or Racquetball
   Vegetation Removal, Clear Cutting
   Vegetation Removal, Open Cutting
   Vegetation Removal, Steep Slopes

4. Accessory Uses. (PU)
   On-site Sign
   Outside Storage

5. Excluded Uses. (PU)
   Billboards
   Dwelling, Single Family
   Grading greater than 50 cubic yards inside of a shore or bluff impact zone

6. Lot and Use Requirements. (PU)
   Lot width – feet, minimum.....100
   Minimum lot size - square feet.....20,000
   Impervious surface coverage - maximum.....25%
   Setback, right-of-way - feet.....35
   Setback, side - feet.....15
   Setback, rear - feet.....35
   Building height - feet, maximum.....25
   Building above highest known groundwater.....3
   Onsite sign setback - feet.....1
   Density, units/acre, maximum.....
   .....See Commercial PUD Special Provisions

Section 8.5- 9. Recreational. (REC)

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

2. Permitted Uses. (REC)
   Grading in a Shore or Bluff Impact Zone (less than 10 cubic yards)
   Hiking Trails, Public or Private
   Public Buildings
   Temporary Structure
   Vegetation Removal, Select Cutting

3. Conditional Uses. (REC)
   Archery Range
   Ball Fields.
   Beach
   Commercial Riding Stables
   Forest Land Conversion
   Golf Course
   Golf Driving Range
   Grading in a shore or bluff impact zone (greater than 10 cubic yards but less than 50 cubic yards)
   Grading greater than 50 cubic yards outside of a shore or bluff impact zone
   Ice Skating Rinks
   Parks, Playgrounds and Historic Sites
   Swimming Pool
   Tennis Courts
   Vegetation Removal, Bluff or Shore Impact Zone (SIZ)
   Vegetation Removal, Clear Cutting
   Vegetation Removal, Open Cutting
   Vegetation Removal, Steep Slopes

4. Accessory Uses. (REC)
   Accessory Structure

Child Care, Center
On-sale Liquor Sales (requires liquor license only, no land-use permit required)
On-site Sign
Outside Storage
Recreational Facilities for Resort Guests
Recreational Facilities for General Public
Restaurants/Bars
Retail Sales

5. Excluded Uses. (REC)
   Billboards
   Campground
   Camping
   Dwelling, Single Family
   Extractive Use
   Grading greater than 50 cubic yards inside of a shore or bluff impact zone
   Interval Ownership
   Hotel/Motel
   PUD's
   Warehousing

6. Lot and Use Requirements. (REC)
   Lot Width - feet, minimum..... 300
   Lot area - acres, minimum 10
   Setback, road - feet, minimum 75
   Setback, side - feet, minimum.....30
   Setback, corner side - feet, minimum.....40
   Setback, sign - feet, minimum..... 1
   Impervious Coverage, Maximum 15%
   Building Height - feet, maximum.....40
   Building above highest known groundwater, feet..... 3

7. Performance Standards. (REC)
   A. Compatibility of Structures. All structures shall be compatible with the surrounding neighborhood. Structures shall contain earth tone colors or natural wood or brick exterior.

   B. Compatibility of Use. Use shall be compatible with the surrounding

neighborhood. Uses shall not present noise, odor, light nuisances or any other nuisances.

C. Parking. Adequate off-street parking shall be provided. On-street parking is not allowed under any circumstances.

D. Screening. All sites shall be heavily landscaped to provide 100% screening of structures to adjacent residential parcels and over 50% screening from the road or any non-residential parcel. Percentages shall be determined by amount of structure that can be seen during leaf-on conditions. A landscaping and screening plan must be submitted and approved by the Planning Commission with each conditional use permit.

E. Lighting. Lighting shall be minimal. Lighting shall be downward directional and shall be compatible with the surrounding development. Signs approved with lights must be turned off at the close of business each day.

Section 8.5- 10. Off-Water Resort Overlay District (OWROD)

1. General.
   A. Purpose: To establish and maintain an overlay Land Use district which will provide for the development of resorts which will add to the recreational character of the City. To provide for sufficient utilities and resort development that is consistent with the natural environmental amenities of the community. All development under this section shall be a "Common Interest Community" as defined by Minnesota Statutes 515B.
   B. Definitions. For the purposes of this ordinance, the following terms are defined.
      a. Arterial Roadway. For the purposes of this Section, arterial roadway shall be defined as County-State Aid Highways 18, 70 and 77.
      b. Off-Water Resort. An area with attached or unattached units which are made available for lease, sale or rental, with areas of common ownership managed through an association.
      c. Rental and Rental Unit. Any unit or portion thereof, made available for occupancy for a fee.
      d. Unit. A single structure or portion thereof, which includes a toilet facility, shower or bath facility, and a bedroom.
   C. Permitted Uses. (OWROD):
      Interval Ownership Units
      Common Interest Plats
      Vacation or Recreation-oriented Rental Units

2. Suitability. The following conditions must be found to exist by the City for a parcel to be determined as suitable for the OWROD:
   A. Location of the parcel in proximity to a recreational facility. The parcel must abut a recreational facility on at least 25% of its perimeter. A recreational facility includes at least one of the following:
      a. Golf Course
      b. Public Pool
      c. Public Park Larger than 10 Acres in Total Area
      d. Any property designated as Recreational Zoning District; and
   B. Location of the parcel in proximity to shoreline. The parcel shall not be located within 300 feet of any body of water identified under Section 8.5-1(4) of this ordinance.

C. Size of the parcel. At a minimum, the total land area of the parcel shall be 20 acres; and
D. The subject parcel shall abut an arterial roadway, or shall have the ability to obtain dedicated access through an adjacent parcel.

3. Review Criteria. The following shall be reviewed by the City in considering a parcel for rezoning to the OWROD, in addition to any other applicable review criteria.
   A. Physical and aesthetic impacts of increased density; and
   B. Level of current development in the area; and
   C. Amounts and ownership of existing lands;

4. Design Criteria. The design criteria for projects considered under the OWROD, shall conform to the design criteria established under Section 7.1(3) of the Zoning and Subdivision Ordinance of the City of East Gull Lake.
   A. Minimum Size. Off-Water Resorts shall contain a minimum of three units or sites.
   B. Buffer. A 50-foot vegetative buffer will be maintained or established along the boundary of the Off-Water Resort. There shall be no units or impervious coverage within this buffer with the exception of access roads or utilities. The buffer will serve to screen the adjacent parcels and the lake, where applicable, from the units within the Off-Water Resort. The screening will contain both low growing (e.g. brush) and high growing (e.g. trees) vegetation. Adjacent parcels and the lake, where applicable, shall be a minimum of 50% screened, as measured by the Planning and Zoning Administrator, from the adjacent parcel or the lake during leaf-on conditions. An earthen berm may be used where, in the opinion of the Planning Commission, the existing vegetation cannot be enhanced to meet the 50% screening criteria. Use of a berm shall not preclude the maintaining of a 50-foot buffer or the installation of screening as part of the berm.
   C. Open Space. At least 15% of the total project area must be preserved in open space.
      1. Open space shall be left in its natural state, to the extent feasible. Any alterations to open space shall be shown on a landscaping plan presented to the Zoning Administrator and contain native plant species as identified by the Minnesota Department of Natural Resources.
      2. Dwelling units or sites, road right-of-way, land covered by

road surfaces, parking areas, stormwater basins, collection and treatment areas, structures and landscaped areas which are routinely maintained are developed areas and shall not be included in the computation of minimum open space.

3. Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.
4. The 50-foot buffer shall be included as open space, minus areas used as accesses.
5. Where a wildlife corridor is present, open space shall be designed to include the corridor.
6. The appearance of open space areas shall be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means acceptable to the City.

D. Common Space. At least 50% of the project must be included as common space.

1. Open space shall be counted as common space.
2. Common space may include any outdoor recreational facilities for use by owners of the dwelling units or sites, or the public.
3. Common space may include areas used for stormwater retention or management and areas used for sanitary sewer collection or disposal. Where common space includes sanitary sewage treatment systems, the use of the space shall be restricted where necessary to avoid adverse impacts on the systems.
4. Common space must not include commercial facilities or uses, but shall not contain water-oriented facilities or access to public waters identified under Section 8.5-1(4) of this ordinance.
5. The appearance and use of common space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means acceptable to the City.

E. Stormwater management.

1. All Off-Water Resorts must develop and maintain a stormwater management plan indefinitely.
2. Capacities of existing drainage ways shall be maintained.
3. Unless specifically allowed by the City, inlets and outlets to

adjacent parcels shall be maintained. Flows from outlets shall be maintained unless allowed by the City.

4. All Off-Water Resorts shall contain the 100-year, 24-hour storm event within the development.
5. Runoff from the parcel shall not be concentrated unless part of a City stormwater management plan.

F. Sanitary sewer and water supply standards.

1. All units within the Off-Water Resort must be connected to publicly owned water supply and sewer systems, when available.
2. 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 the Minnesota Pollution Control Agency.
3. 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 for each sewage system.

G. Erosion control.

1. All Off-Water Resorts must develop and maintain an erosion control throughout construction activities.
2. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other techniques must be used to minimize erosion.
3. Steps shall be taken to insure that disturbed ground is restored or stabilized as soon as possible after being disturbed.

H. Exterior lighting. All exterior lighting shall be directed downward. Lighting shall not illuminate adjacent parcels, either directly or indirectly.

I. Parking requirements. All Off-Water Resort development shall incorporate the design requirements of Section 8.6-10 of this ordinance. In the event a unit is made available for rent, one parking space shall be provided on site for each rental unit. Overflow parking shall be provided

J. Association required. Any Off-Water Resort shall be managed through the creation of a management association consistent with the requirements of Minnesota Statute 515B.

K. Building standards. Units must be clustered in one or more groups and located on suitable areas of the development. All structures within a Off-Water Resort must meet the minimum standards:

1. All dwellings of 2 units or larger shall be designed by an architect.
2. New multifamily building shall have fire rated party walls and floors as is required by the IBC.
3. New multi-family buildings shall have the decibel rating between units as required by the IBC.
4. Water systems must be winterized.
5. Parking and driving areas must be paved.
6. All buildings shall be earth tone in color and shall be designed, constructed and positioned to be compatible, in color, character and mass, with the surrounding land use.

L. Impervious Surfaces: All impervious surfaces within any single project area shall be limited to a cumulative maximum of 25%.

5. Resort Development.
   A. Base Density. The maximum base density shall be 2 dwelling units per acre. Each unit may provide up to four bedrooms to be made available for rental.
   B. Density Increases. There shall be no density increases granted as a result of use of the OWROD.

SECTION VI – PERFORMANCE STANDARDS

Section 8.6- 1. Bond.

Before any construction shall commence on any improvements that are going to be maintained by the City, the developer shall post with the City a Performance Bond or other financial security satisfactory to the City in the amount of 125% of the total cost of the water, sanitary sewer, storm sewer, sewage disposal and street construction as estimated by the Engineer giving the City the ability to remove or complete the construction with the security if the developer defaults on his plans for any reason. For PUD's, the developer shall also post with the City a Performance Bond or other financial security satisfactory to the City in the amount of 10% of the total cost of the construction of common items that are included in the development as estimated by the Engineer giving the City the ability to remove or complete the construction with the security if the developer defaults on his plans for any reason.

The City may, at its discretion, allow construction and approval of the utilities and streets after preliminary approval, but before final approval in lieu of the bond.

Section 8.6- 2. Signs.

1. Purpose. The purpose of this provision is to protect the general welfare and safety of the City by providing a policy of aesthetic development to prevent signs from intruding on the rural and residential character of the City; to provide adequate signs for direction and property identification purposes; to provide adequate signs for commercial use.

2. General.
    A. Unmentioned signs or signs for discontinued business will be removed 60 days after notification by the Zoning Administrator or after discontinuance of the business.
    B. Conditional Use Permits and Zoning Permits shall consider protecting sight distance at intersections, driveways and curves.
    C. All flashing, revolving and intermittently lighted signs are prohibited.

D. Temporary signs pertaining only to the construction, sale or rental of the premises allowable provided they do not exceed 9 square feet in any zone and are removed within 30 days of the completion of construction, sale or rental.

E. A non-conforming sign may be refaced, removed and replaced for maintenance purposes, however it shall not be increased in size, the support system shall not be improved and the sign shall be removed in its entirety upon the determination by the Zoning Administrator that the sign is in disrepair or the support system is failing.

F. Residential and commercial signs may not contain elements commonly used by highway departments to alert, direct or caution traffic such as, but not limited to, octagonal stop signs or speed limit signs.

3. All signs are considered structures and require a Zoning Permit.

4. Public Signs and Name Directory Signs at Intersections. Signs placed by the City, County, businesses or residents to relate the laws or ordinances, to provide direction, shall be considered exempt from the provision.

5. Residential directory signs shall be wood, no more than 6 inches high and 2 square feet and all use common posts. Commercial directory signs shall be no more than 6 square feet at major intersections and shall all be stacked on a common post.

6. Onsite Signs.

   A. Residential Districts.

      1. Signs shall not be internally or externally lighted but may be reflective.
      2. No sign shall be larger than 3 square feet, except as provided in (4) below.
      3. Only one sign per principal use shall be allowed.
      4. ~~Signs for home occupations shall not exceed 6 square feet.~~ (deleted with Ordinance amendment 04-2011)

   B. Commercial Waterfront and Commercial Districts.

      1. Signs flush on a building and not protruding shall cover a maximum of 15% of any face of the building.
      2. Each lot shall have the choice of one of the following for a second onsite sign:

a. A sign protruding from the front of the building not more than 4 feet a maximum area of 24 square feet.
b. A roof mounted sign not more than 6 feet above the roofline with a maximum sign area of 24 square feet per face.
c. A free standing sign with a sign area not larger than 48 square feet 10 additional square feet per additional business in same building or same development complex under one ownership. Maximum height shall be 10 from ground to top of sign.(***Ordinance 02-2010, 07/06/2010)***

3. 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.
   a. No advertising signs or supporting facilities for signs may be placed upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or a permit issued by the county sheriff.
   b. Signs may be placed, when necessary, within the Shore Impact Zone (SIZ) 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 10 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.
   c. Other outside lighting may be located within the Shore Impact Zone (SIZ) or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent illumination out across public waters. This does not preclude use of navigational lights.

C. Recreational District
   1. Each Recreationally zoned development may be allowed on-site signage as regulated by a conditional use permit. Unless otherwise allowed, the size of any single sign shall

not exceed 48 square feet in area. The sign may be back to back with up to 48 square feet per face. No sign shall exceed 10 feet from ground to the top of the sign.

2. A parcel of land may have internal directional signs that are not visible from the public road or adjacent parcels of land.
3. No roof-mounted signs shall be allowed.
4. All signage attached to a building shall not cover more than 10% of any face of a building.
5. No signage shall be allowed to direct any light on to an adjacent parcel of land or cause a traffic hazard.

D. General - Onsite Signs.

1. Present non-conforming onsite signs are considered permissible non-conforming uses except portable units or flashing lights, which shall be eliminated upon enactment of this Ordinance.
2. Portable advertising such as streamers, banners and portable signs shall not be allowed.
3. A sign for a multi-business complex may be addressed separately in the C.U.P. for the principal use to allow innovations and may be allowed to have a sign area exceeding the maximums if found compatible with the surrounding area by the Planning Commission.

6. Offsite Signs.

A. Off-site signs are prohibited. Any existing off-site signs are considered non-conforming structures.

Section 8.6- 3. Nuisance Standards.

1. Performance Standards.

   A. Compliance required. Every use permitted by this Ordinance shall be so established and maintained as to comply with the provisions of this section. The Council may require the complaining party to provide such tests or investigations by an independent testing organization satisfactory to the Council as are necessary to show non-compliance with these standards. The entire cost of such investigations and tests shall be paid for by the complaining party unless the results disclose non-compliance with these standards; in the event, the entire cost shall be borne by the owner or operator. This provision does not preclude the City from making any investigations and tests it finds appropriate to determine compliance with these standards.

   B. Noise. Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NCP 7010. In no instance shall noise emanations constitute a nuisance.

   C. Odor. No use shall cause the discharge of toxic, noxious or odorous matter beyond the limits of the site where it is located in such concentrations as to be obnoxious or otherwise detrimental to the public health, safety, comfort or welfare or cause injury to property or business.

   D. Glare. Direct or reflected glare, such as from floodlights, spotlights or high temperature process, and as differentiated from general illumination, shall not be visible beyond the sight of origin at any property line. Any lights used for exterior illumination shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted where in view of adjacent property or public right-of-way. Except for public street lights, any light or combination of lights which cast light on a public street shall not exceed one foot-candle as measured from the property line of said street. Any light or combination of lights which cast light on residential property shall not exceed one foot-candle as measured from the property line of said property.

E. Vibration. Vibration at any property line shall not be discernible to the human sense of feeling for three (3) minutes or more duration in any one (1) hour period. Vibration of any kind shall not produce at any time an acceleration of more than one-tenth (1/10) gravities or result in any combination of amplitudes and frequencies beyond the "safe" range of Table VII United States Bureau of Mines Bulletin No. 442, "Seismic Effects of Quarry Blasting" on any structure. The methods and equations of that bulletin shall be used to compute all values for the enforcement of this provision.

F. Smoke. The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations APC 7017. Open burning shall require a DNR burning permit.

G. Dust and Other Particulate Matter. The emission of dust, fly ash or other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 7011.

H. Fumes or Gases. Fumes or gases shall not be emitted at any point in concentrations that are noxious, toxic or corrosive. The values given in Table I (Industrial Hygiene Standards - Maximum Allowable Concentration for eight hour day, five days per week), Table III (Odor Thresholds), Table IV (Concentrations of Substances Causing Pain in the Eyes), and Table V (Exposure to Substances Causing Damage to Vegetation) in the latest revision of Chapter 5, "Physiological Effects" that contains such tables, in the "Air Pollution Abatement Manual" published by the Manufacturing Chemists' Association, Inc., Washington D.C., are hereby established as guides for the determination of permissible concentration and amounts. The City may require detailed plans for the elimination of fumes or gases before the issuance of a Zoning Permit.

I. Fire Hazards. Any activity involving the use or storage of flammable or explosive materials shall be protected by adequate fire-fighting and fire prevention equipment and by such safety devices as are normally

used in the handling of such materials. Such hazards shall be kept removed from adjacent activities to a distance that is compatible with the potential danger involved.

J. Wastes.
   1. All waste generated shall be disposed of in a manner consistent with all Minnesota Pollution Control Agency rules.
   2. Any accumulation of waste generated on any premises not stored in containers which comply with Minnesota Pollution Control Agency rules, or any accumulation of mixed solid waste generated on any premises which has remained thereon for more than one week, or any accumulation of infectious, nuclear, pathological, or hazardous waste which is not stored or disposed in a manner consistent with Minnesota Pollution Control Agency rules, is a nuisance and may be abated and the cost of abatement may be addressed against the property where the nuisance is found.
   3. The accumulation, storage, processing, and disposal of waste on any premises, which is not generated on that premises, is prohibited, except as specifically provided in this Ordinance.

K. Air Pollution. Every activity shall conform to State regulations relating to air quality standards and air pollution control.

L. Erosion and Drainage.
   1. No land shall be developed and no use shall be permitted that result in water runoff causing flooding, erosion, or deposit of sediment on adjacent properties.
   2. All storm sewer inlets and drainage ways that are functioning during construction shall be protected so that sediment laden water does not enter the conveyance system without first being filtered or otherwise treated to remove sediment.
   3. All on-site stormwater conveyance systems must be designed and constructed to withstand the design volume of stormwater with appropriate stabilization to prevent scour and erosion. Erosion controls must be provided at the outlets of all storm sewer pipes or drainage ways.
   4. All temporary and permanent erosion and sediment control practices shall be maintained and repaired to assure the

continued performance of their intended function.

5. All disturbed ground left inactive for seven or more days shall be stabilized by seeding or sodding or by mulching or covering or other equivalent control measure.
6. All temporary erosion control devices, including silt fence, gravel, hay bales or other measures shall be removed from the construction site and properly disposed of or recycled. This removal and disposal must occur within 60 days of the establishment of permanent vegetative cover on the disturbed area.

M. Radioactivity or Electrical Disturbance. No activity shall emit dangerous radioactivity at any point or any electrical disturbance adversely affecting the operation of any equipment at any point other than that of the creator of such disturbance.

N. Fertilizers, herbicides and pesticides. No person shall place, spread or store fertilizers, herbicides and/or pesticides in any manner other than that recommended by the manufacturer or in any manner which allows any escape of nutrients or toxins into the air, ground water or surface water of the City.

O. Buildings. No person shall allow a building, mobile home/manufactured house, or other structure to be abandoned, deteriorated or a safety hazard. All abandoned, deteriorated or unsafe structures shall be removed. If the owner fails to remove the structure, the City shall do so and assess the cost against the property through the County taxation method.

P. Bulk Storage (liquid). All uses associated with the bulk storage of all gasoline, liquid fertilizer, chemical, flammable and similar liquids shall comply with County, State and Federal agency requirements, and have documents from those respective agencies stating the use is in compliance.

Section 8.6- 4. Fences.

1. Fences not exceeding 60 inches in height may be constructed on a

property line except within the Waterfront setback area of R-2, R-3 or C-W District. Under no circumstances shall a fence be constructed closer than 10 feet from the surface of a public road.

2. Fences not meeting the requirements of 6.4 (1) shall require a Conditional Use Permit.
3. Fences shall not be erected where they create a visual safety hazard in the opinion of the Zoning Administrator.
4. Fences shall consist of usual fencing materials with posts and fence of metal, wood, concrete, brick or smooth wire.

Section 8.6- 5. Storage.

1. Exterior Storage.
    A. 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, recreational equipment, construction and landscaping materials and equipment currently being used for construction of the premises, woodpiles, agricultural equipment and materials if these are used or intended for use on the premises, off-street parking except as otherwise regulated herein. Boats, recreational vehicles, less than 30 feet in length and fish houses are permissible if stored in the rear yard not less than 10 feet distance from any property line.
    B. Abandoned vehicles shall not be stored outside in any District. Existing abandoned vehicles shall be removed within 30 days after the adoption of this Ordinance.
2. Bulk Storage.
    A. All uses associated with the bulk storage of oil, gasoline, liquid propane, liquid fertilizer, chemicals and similar liquids shall comply with the requirements of the Minnesota State Fire Marshall, the Minnesota Pollution Control Agency and Minnesota Department of Agriculture Office and when in excess of normal domestic requirements shall have documents from those offices stating that the use is in compliance. No storage facility shall be constructed or placed where spillage from the facility would drain to a drainageway or public waters without providing complete containment.

Section 8.6- 6. Visual Standards - Screening.

1. No use shall create, maintain or continue any activity or structure which has a strong negative visual impact or offends the morals or violates the standards of the City.
2. Where any business or industry is adjacent to property zoned residential or any use cannot meet the visual standards of the City, screening shall be provided by the business or offending use.
3. Screening required shall be in addition to normal landscaping and planting, and consist of a visual obstruction completely containing the activity on the commercial or offending use property assuming off-leaf conditions.
4. Screening may consist of dense evergreen planting 8 feet or more in height, wood walls with 100% obstruction, a building wall consisting of aesthetically pleasing materials (with no signing) or similar structures. All structural elements shall meet required setbacks.

Section 8.6- 7. Sanitation Standards.

1. Solid Waste. All solid waste shall be disposed of in accordance with the standards of Cass County.
2. Domestic Sewage.
    A. All structures shall discharge into a municipal sanitary system if available.
    B. All structures shall have an individual or common sewage disposal system meeting the requirements as provided in 4.5(2) MPCA Rules Chapter 7080.
    C. All non-conforming systems shall be brought into conformance.
    D. Sewage tanks being abandoned shall be thoroughly pumped and filled with soil.
3. Agriculture or Animal Wastes.

Within the shoreland area, 1000 feet from a lake or 300 feet from a watercourse, no waste products from agriculture or animal husbandry operations shall be deposited by man at any greater rate than the plant and soil system can absorb the nutrients; nor shall any wastes be allowed to accumulate where surface waters flow directly to public waters or watercourses.

4. Water Supply.
    A. All structures shall be connected to a municipal water supply, if made available.
    B. All domestic and agricultural wells shall conform to the Minnesota Department of Health Standards for wells.
    C. All water systems shall meet the requirements of the Minnesota Department of Health Standards for water systems.
    D. All wells being abandoned shall be sealed according to Minnesota Department of Health Standards and report to Minnesota Department of Health and the City.

Section 8.6- 8. Animals.

1. Pets shall be properly cared for, shall not be allowed to create problems for neighbors or the City, or become a nuisance, and shall have sanitary standards maintained, see 6.7(3) above.
2. Livestock may be raised as provided in Zoning Districts with proper permits provided that the standards of each District are not compromised.
3. Livestock shall be properly cared for, shall not create problems for neighbors or the City and shall have sanitary standards maintained, see 6.7(3) above.
4. Livestock shall not be allowed to water directly in a stream or lake.

Section 8.6- 9. Tree Removal/Woodland Preservation/Soil Erosion Prevention.

1. Diseased trees shall be removed immediately and disposed of.
2. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
3. Limited clearing of trees and shrubs and cutting, pruning and trimming of trees to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, as well as providing a view to the water from the principle dwelling site, in shore and bluff impact zones and on steep slopes is allowed, provided that:
   a. Screening of structures, vehicles and other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.
   b. Along rivers, existing shading of water is preserved.
4. Vegetation Removal, Clear Cutting, if allowed, must include removal of all debris. Soil erosion must be prevented and replanting is encouraged.
5. Vegetation Removal, Select or Open Cutting, if allowed, must include removal of all debris. Replanting is encouraged.
6. Natural areas designated by conditions on Conditional Use Permits for screening or woodland preservation purposes shall be left natural except for removal of diseased trees. Replanting or thickening with native species is encouraged.
7. Any area disturbed during any grading operation shall have the native topsoil replaced and be seeded.
8. Vegetation alterations necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities are exempt from[1] the above standards except (5). (Ordinance 02-10, 07/06/10[1])

Section 8.6- 10. Parking

1. Onsite parking or garage space shall be provided in all Districts, except as specifically exempted, with adequate drive access to prevent the need to back onto collector streets or County Highways. Onsite parking spaces shall not be used for storage.
2. Parking sites shall be a minimum of 20 feet long and 10 feet wide.
3. Parking shall be provided at the following ratios unless modified in the Conditional Use Permit for the principal structures:
   a. 2 stalls per dwelling unit
   ~~b. 1 additional stall per employee in home occupation~~
   (deleted with Ordinance amendment 04-2011)
   c. 1.5 stalls per dwelling unit, multi-family over 20 units per complex, Motel/Hotel units
   d. 1 stall per 3 seats-churches and other assembly places
   e. 1 stall per 100 square feet of office space
   f. 1 stall per 100 square feet of retail space
   g. 1 stall per 3 seats for restaurants
4. Onsite parking shall not be closer than 10 feet from a lot line.
5. All parking shall be paved or provided with all weather surface and be adequately drained to a pervious surface designed to allow entrapment of silts and nutrients prior to discharge to a public water.
6. More than 5 parking stalls contiguously located and any commercial parking adjacent to residential shall be landscaped according to a plan approved by the City.
7. Loading – General. All required loading berths shall be off-street[1] and shall be located on the same lot as the principal use served. Loading shall not occupy front yard space. Berths shall not be used for storage.
   (***Ordinance 02-2010,07/06/2010[1]***)
8. Loading Berth Size and Surface. Loading berth shall be 15 feet in width and 50 feet long with 14 feet of vertical clearance. Berths shall have all weather surface and be well drained.

Section 8.6- 11. Drainage.

1. General.
    A. 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.
    B. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities and methods used to retain sediment on the site.
    C. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds must be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.
3. All development shall contain provisions for adequate surface or subsurface runoff of stormwater and snow melt directed to natural drainageways. A storm frequency of a 5-year, 24-hour storm period shall be provided for with no structural flooding or ponding.
4. All development shall provide for the continuance of natural drainageways, and structures shall be so constructed as to be 1 foot above the water level in the drainageway created by a storm of a 100 year return period or a 1% chance of occurrence.
5. All drainage structures provided shall be sufficient in size to pass a 5-year, 24 hour storm to a natural drainageway and to pass a 100-year, 24-hour storm along a drainageway.
6. The use of natural or manmade stormwater storage areas is encouraged. These areas should be vegetated and designed to naturally lower after a storm.
7. No filling of areas inundated by the 100-year, 24-hour storm along drainageways shall be allowed, except by Conditional Use Permit.
8. All parking areas, heavy areas, storage areas and impervious areas shall be designed to allow entrapment of silts and nutrients prior to discharge to a natural drainage way or public water. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming or surface debris before discharge.

Section 8.6- 12. Grading in Shoreland Areas.

1. Grading and filling in shoreland areas, wetland or in the bed of public waters, or any alterations of the natural topography when the slope of the land is toward a public water or watercourse involving the movement of more than 10 cubic yards of material in a bluff or Shore Impact Zone (SIZ) or more than 50 cubic yards of material anywhere else within a shoreland area, must be authorized by permit except for excavation for permitted structures, drives sewer systems and parking areas. The following conditions shall apply:
    A. The smallest amount of bare ground is exposed for as short a time as feasible.
    B. 4 inches of topsoil is replaced and temporary ground cover such as mulch is used and permanent ground cover such as sod is planted.
    C. Methods to prevent erosion and trap sediment are employed.
    D. Fill is stabilized to acceptable engineering standards and must not create an unstable slope.
    E. Plans to place fill or excavated material on steep slopes must be reviewed by a qualified professional for continued slope stability and must not create finished slopes of 30% or greater.
    F. Fill or excavated material must not be placed in bluff impact zones.
    G. Fill placed in public water below the ordinary high water line requires a DNR Waters Permit and a Corps of Engineers Permit.
    H. Excavation in the bed of public waters requires a DNR Waters Permit and a Corps of Engineers Permit.
    I. Only clean fill consisting of sand, gravel or rock will be allowed where contact with water is anticipated. Mineral soil may be allowed elsewhere.
    J. Alterations to 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 3 feet horizontal to 1 foot vertical, the landward extent of the riprap in within 10 feet of the ordinary high water level and the height of the riprap above the ordinary high water level does not exceed 3 feet.
2. Grading or filling in any type 2, 3, 4, 5, 6, 7, 8 wetland is prohibited.
3. Connections to public waters of boat slips, canals, lagoons, harbors and similar inland excavations are prohibited.
4. Public and private roads, driveways and parking areas must be designed to

take advantage of natural vegetation and topography to achieve maximum screening from public waters.

A. Roads, driveways and parking areas shall meet structure setbacks and shall not be placed within bluff and Shore Impact Zone (SIZ), when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and shall be designed to minimize adverse impacts.
B. Public and private watercraft access ramps, approach roads and access-related parking areas may be placed within Shore Impact Zone (SIZ) provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provision of Sec. 8.06, subd. 12(A) must be met.

Section 8.6- 13. Exterior Design Standards.

1. Purpose[1]. The purpose of this section is to establish minimum standards for exterior architecture of residential buildings to ensure high quality of development, redevelopment and compatibility with evolving architectural or planning themes that contribute to a community image of quality, visual aesthetics, permanence and stability which are in the best interest of the citizens of the city. These standards are intended to prevent use of materials that are unsightly, rapidly deteriorate, or contribute to depreciation of area property values. (Ordinance amendment/affidavit of publication, 07/11/2008[1])

   [1]These standards are further intended to ensure coordinated design of building exteriors, additions and accessory structure exteriors in order to prevent visual disharmony; minimize adverse impacts on adjacent properties from buildings which are or may become unsightly, and buildings that detract from the character and appearance of the area. It is not the intent of this division to unduly restrict design freedom when reviewing and approving project architecture in relationship to the proposed Land Use, site characteristics and interior building layout. (Ordinance amendment/affidavit of publication, 07/11/2008[1])

2. [1]General Requirements. This division shall apply to all residential structures, commercial structures, additions, exterior remodeling and accessory structures, unless different exterior materials are specifically approved as part of an overall Planned Unit Development (PUD) that creates a theme or blends with other elements of the PUD. The review and approval process shall be the same as outlined in Section 8.7-1 of this Ordinance. (Ordinance amendment/affidavit of publication, 07/11/2008[1])

3. Exterior Design Standards Zones
   A. Residential and Recreation Districts.
      1. [1]R-1 Wooded Residential District: [1]Principal and accessory structures in Wooded Residential and Recreation Districts of the City on parcels over 3 acres in size are not subject to the exterior design standards. (Ordinance amendment/affidavit of publication, 07/11/2008[1])
      2. [1]All other residential accessory buildings must comply with Section 8.6-13 of this Ordinance. (Ordinance amendment/affidavit of publication, 07/11/2008[1])

3. All temporary structures are exempt from Section 8.6-13 of this Ordinance. (Ordinance amendment/affidavit of publication, 07/11/2008[1])

SECTION VII – SPECIAL PROVISIONS

Section 8.7- 1. Planned Unit Development (PUD).

1. General.
    A. Planned Unit Development (PUD) requires the assistance of professional planning and usually involves the approval of multiple agencies or other governmental bodies. Where circumstances are favorable, PUD's provide more latitude in Land Use than normal development to allow for planning, clustering facilities, consolidating green spaces and internal recreation amenities. While densities higher than normal are often allowed, they must be justified by the preservation and consolidation of green space, increased screening and landscaping, increased recreational amenities and other significant improvements and design features beneficial to the residents, neighbors and the general public.
    B. Mixed use PUD where appropriate, may be allowed provided the use not normally allowed in the zoning district does not exceed 35% of the building floor area.
    C. Provisions of each zoning district shall govern within that district except where specifically addressed in this section.

2. Suitability. The City must consider the following criteria in the examination of a parcel for suitability as a PUD:
    A. Existing recreational use of the surface waters and likely increases in use associated with planned unit developments;
    B. Physical and aesthetic impacts of increased density;
    C. Suitability of 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.
    F. Size of the parcel and amount, if any, of shoreline.
    G. Minimum parcel size is as follows:

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

3. Design Criteria for all new PUD's.
    A. Minimum Size. Planned unit developments shall contain a minimum of three units or sites.

B. Buffer. A 50-foot vegetative buffer will be maintained or established along the boundary of the PUD. There shall be no units or impervious coverage within this buffer with the exception of access roads or utilities. The buffer will serve to screen the adjacent parcels and the lake, where applicable, from the units within the PUD. The screening will contain both low growing (e.g. brush) and high growing (e.g. trees) vegetation. Adjacent parcels and the lake, where applicable, shall be a minimum of 50% screened, as measured by the Planning and Zoning Administrator, from the adjacent parcel or the lake during leaf-on conditions. An earthen berm may be used where, in the opinion of the Planning Commission, the existing vegetation cannot be enhanced to meet the 50% screening criteria. Use of a berm shall not preclude the maintaining of a 50-foot buffer or the installation of screening as part of the berm.

C. Open Space. At least 25% of the total project area must be preserved in open space.
    1. Open space shall be left in its natural state and shall be contiguous.
    2. Dwelling units or sites, road right-of-way, land covered by road surfaces, parking areas, stormwater basins, collection and treatment areas, structures and landscaped areas which are routinely maintained are developed areas and shall not be included in the computation of minimum open space.
    3. Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.
    4. The 50-foot buffer shall be included as open space, minus areas used as accesses.
    5. Where a wildlife corridor is present, open space shall be designed to include the corridor.
    6. The appearance of open space areas shall be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means acceptable to the City.
    7. At least 50% of the Shore Impact Zone (SIZ) must be maintained as open space.

D. Common Space. At least 50% of the project must be included as common space.
    1. Open space shall be counted as common space.
    2. Common space may include any outdoor recreational facilities

for use by owners of the dwelling units or sites, or the public.

3. Common space may include areas used for stormwater retention or management and areas used for sanitary sewer collection or disposal. Where common space includes sanitary sewage treatment systems, the use of the space shall be restricted where necessary to avoid adverse impacts on the systems.
4. All of the Shore Impact Zone (SIZ) must be included as common space.
5. Common space must not include commercial facilities or uses, but may contain water-oriented facilities.
6. The appearance and use of common space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means acceptable to the City.

E. Stormwater management.

1. All PUD's must develop and maintain a stormwater management plan indefinitely.
2. Capacities of existing drainage ways shall be maintained.
3. Unless specifically allowed by the City, inlets and outlets to adjacent parcels shall be maintained. Flows from outlets shall be maintained unless allowed by the City.
4. All PUD's shall contain the 10-year, 24-hour storm event within the development.
5. Runoff from the parcel shall not be concentrated unless part of a City stormwater management plan.

F. Sanitary sewer and water supply standards.

1. Residential planned unit developments must be connected to publicly owned water supply and sewer systems, when available. **When available is defined as when the existing system is adjacent to the parcel being subdivided or reasonably close in the opinion of the Engineer and Planning Commission or if the density of the proposed development necessitates a municipal sewer connection. (Ordinance 07-2014) The sewer shall also be extended to the exterior boundary of the subdivision at locations designated by the Engineer. (Ordinance 07-2014)**
2. 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 the Minnesota Pollution Control Agency.

3. 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 for each sewage system.

G. Erosion control.

1. All PUD's must develop and maintain an erosion control throughout construction activities.
2. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other techniques must be used to minimize erosion.
3. Steps shall be taken to insure that disturbed ground is restored or stabilized as soon as possible after being disturbed.

H. Exterior lighting. All exterior lighting shall be directed downward. Lighting shall not illuminate adjacent parcels, either directly or indirectly.

I. Shore Recreation Facilities. 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. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

J. Building standards. Units must be clustered in one or more groups and located on suitable areas of the development. All structures within a PUD must meet the minimum standards:

1. New multifamily dwellings of 4 units or larger shall be designed by an architect.
2. New multifamily building shall have two-hour fire rated party walls and floors.
3. New multi-family buildings shall have a 45-decibel rating between units.
4. Water systems must be winterized.
5. Parking and driving areas must be paved.

6. All buildings shall be earth tone in color and shall be designed, constructed and positioned to be compatible, in color, character and mass, with the surrounding Land Use.

4. Design Criteria for existing PUD's.
   A. All existing PUD's shall meet the design criteria for a new PUD, where possible.
   B. Additional development within an existing PUD shall not bring the PUD further out of compliance with the basic design criteria.
   C. Allowances for density increases shall only be made in existing PUD's where new development within the PUD meets the design criteria and specific density increase criteria and the new development serves to bring the entire PUD closer to conforming to[1] the design criteria.
   (Ordinance 02-2010,07/06/2010[1])

5. Computing PUD buildable area. Buildable area in a PUD is calculated using the following procedure:
   A. The project parcel is divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

	Shoreland Tier Dimensions	
	Unsewered (feet)	Sewered (feet)
Gen develop lakes - first tier	200	200
Gen develop lakes - second and additional tiers,	267	267
Recreational Development	267	267
Natural Environment lakes	400	320

   B. The area within each tier is next calculated, excluding all wetlands, bluffs, or land below the Ordinary High Water level of public waters. This area is then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable base number of dwelling units or sites.

6. **Residential Planned Unit Developments**

A. Base Density. To compute the base density, the buildable area within each tier, as calculated in 8.7.1(5), is divided by the single residential lot size standard for the zoning district. This shall yield a base density of dwelling units or sites for each tier.

B. Transferability. Within the first five tiers, allowable base densities may be transferred from any tier to any other tier further from the shoreland water body or watercourse, but must not be transferred to any other tier closer.

C. Density increases. The City may allow some dwelling unit or site density increases for residential planned unit developments.

1. Where density increases are allowed, they shall be allowed only in conformance with the following table:

Criteria	Density Increase, Tier 1	Density Increase, Tier 2	Density Increase, Tier 3 and Beyond
Connection to City Sewer	20%	40%	50%
Setback from lake increased 50%	5%	10%	10%
Setback from lake increased 100%	10%	20% (not cumulative)	20% (not cumulative)
External vegetative buffer increased to an average of 75 feet	5%	20%	25%
External vegetative buffer increased to an average of 100 feet	10%	40% (not cumulative)	50% (not cumulative)
Screening increased to 75% effective	5%	20%	25%
Screening increased to 100% effective	10%	40% (not cumulative)	50% (not cumulative)
Open Space increased to 40% of total area	5%	20%	25%
Maintain 100-year, 24-hour storm	10%	20%	25%

event on site			
Restore and maintain shoreland in its original/natural state	10%	20%	20%

Increases are from the base density. Stepped increases do not result in cumulative density increases (e.g. A 75-foot buffer allows a 10% increase in Tier 1. A 100-foot buffer would allow an additional 10% increase in Tier 1 for a total of 20% as shown in the table).

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

Tier	Maximum Density Increase
First	50%
Second	100%
Third and each subsequent tier	200%

D. Administration and any maintenance requirements. Prior to final approval of any residential planned unit developments, the City will require adequate provisions developed for preservation and maintenance in perpetuity of open spaced and for the continued existence and functioning of the development as a community.

1. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers.
2. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.
3. Assessments must be adjustable to accommodate changing conditions.
4. The association must be responsible for insurance, taxes and maintenance of all commonly owned property and facilities.
5. Changes to owner's association must be approved by the City.

7. Commercial Planned Unit Developments

A. Base density. Base density is determined through the following steps:

1. 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.
2. Select the appropriate floor area ratio from the following table:

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

* For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater then shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 1,000 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, a minimum of the ratio listed for 1,000 square feet.

3. Multiply the useable 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.
4. Divide the area computed in sub item (3) by the average determined in sub item (1). This yields a base number of dwelling units or sites for each tier. Use 1,000 square feet minimum for a RV or manufactured home.

B. Transferability. Within the first five tiers, allowable base densities

may be transferred from any tier to any other tier further from the shoreland water body or watercourse, but must not be transferred to any other tier closer.

C. Density increases. The City may allow some dwelling unit or site density increases for residential planned unit developments.

1. Where density increases are allowed, they shall be allowed only in conformance with the following table:

Criteria	**Density Increase, Tier 1**	**Density Increase, Tier 2**	**Density Increase, Tier 3 and Beyond**
Connection to City Sewer	20%	40%	50%
Setback from lake increased 50%	5%	10%	10%
Setback from lake increased 100%	10%	20% (not cumulative)	20% (not cumulative)
External vegetative buffer increased to an average of 75 feet	5%	20%	25%
External vegetative buffer increased to an average of 100 feet	10%	40% (not cumulative)	50% (not cumulative)
Screening increased to 75% effective	5%	20%	25%
Screening increased to 100% effective	10%	40% (not cumulative)	50% (not cumulative)
Open Space increased to 40% of total area	5%	20%	25%
Maintain 100-year, 24-hour storm event on site	10%	20%	25%
Restore and maintain shoreland in its original/natural state	10%	20%	20%

Increases are from the base density. Stepped increases do not result in cumulative density increases (e.g. A 75-foot buffer allows a 10% increase in Tier 1. A 100-foot buffer would allow an additional 10% increase in Tier 1 for a total of 20% as shown in the table).

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

Tier	Maximum Density Increase
First	50%
Second	100%
Third and each subsequent tier	200%

Section 8.7- 2. Mobile Home/Manufactured Housing Development.

1. Development of this type creates a heavy demand and reliance on municipal type facilities including roads, sewer, and water[1] and fire protection. In addition, these developments are often the densest[1] in a community requiring heavier street, more recreation facilities and nearby shopping. (***Ordinance 02-2010, 07/06/2010***)
2. No zoning district in the City of East Gull Lake is served by the facilities listed in 7.2(1), and the dense Land Use is not compatible with the comprehensive plan, and the use is hereby excluded.

Section 8.7- 3. Campgrounds/Campsites.

1. Campsites will be allowed only as an existing permitted use or new conditional use within a resort in the C-W district.
2. General - campgrounds/RV parks shall be considered a form of planned unit development and administered there under as Conditional Uses in the zone where said use is allowed, except no density increases will be considered.
3. Minimum parcel size - No campground or recreational vehicle park shall be allowed on a parcel of less than 40 acres.
4. Dwelling site requirements - The dwelling sites must conform to the Minnesota Department of Health Standards and the following:
    A. Campsites or recreational vehicle sites shall have a minimum of 3,000 square feet designated for each family unit, with a minimum of 40 feet, center to center.
    B. A strip of land with a minimum width of 40 feet shall be reserved for a service road adjacent to each of the designated sites.
    C. Parking shall be off the road.
    D. Recreational facilities as determined by PUD
    E. A water system capable of providing 100 gallons per site, per day, at 200 psi at the most remote fixture for RV sites, or within 400 feet of each campsite for non RV sites.
    F. Conforming onsite sewage collection and disposal system sized for 100 gallons per campsite per day.
    G. Solid waste facilities consisting of one 30 gallon can for each 4 campsites or one dumpster for each 20 sites, constructed to prevent overturning or cover removal by animals, and screened.
    H. Fire pit for each campsite.
    I. Campsites for recreational vehicles shall have sewer connection, water connection and electric connection, or recreational vehicles shall be self-contained and a wastewater disposal station for the first and each 100 such vehicles at least 50 feet from the nearest campsite shall be provided.
    J. Drinking water and restroom facilities with showers shall be provided, all within 400 feet of every site not served with full facilities.
    K. Grass or other complete ground cover shall be maintained except in parking areas and roads.
    L. Recreation vehicles shall be moved off site or into a designated storage area for at least 4 months of every year.

M. Evidence shall be provided, prior to final approval, that the licenses and approval process of Minnesota Department of Health has been adhered to.

N. All sites shall be well drained.

5. The submission requirements for a campground shall be the same as PUDs, except as determined not applicable by the Zoning Administrator.

Section 8.7- 4. Extractive Uses and Restoration.

1. Extractive Uses. Extractive uses, where allowed, shall be permitted only by Conditional Use Permit. Such permit shall include, as a condition: a site plan, a completion plan and a haul route with a provision for road restoration.

2. Restoration. Upon completion of mining or other extraction, the site shall be shaped and natural overburden replaced, then natural topsoil placed thereon and seeded. The haul road shall be restored to the condition prior to the beginning of the extraction operation.

3. No processing machinery shall be placed closer than 1,000 feet from any residence or 200 feet from the OHW of any lake or stream.

Section 8.7- 5. Home Occupation.

~~1. General. Each home occupation in the City shall require a permit. Home occupation permits are not transferable to a new owner/renter/occupant, thus the permit will not run with the property, nor be transferable to a different property.~~ (deleted with 04-2011 ordinance amendment)

~~1.~~ General. Each home occupation in the City meeting the standards below shall not require a permit. Home occupation permits are not transferable to a new owner/renter/occupant, thus the permit will not run with the property, nor be transferable to a different property.

2. Standards.

~~A. All business activities including storage shall be inside buildings.~~

~~B. All activities shall be clearly incidental to the use of the property for residential purposes.~~

~~C. Hours of operation shall be limited by Conditional Use Permit to be compatible with the residential use.~~

~~D. Number of employees shall be limited by Conditional Use Permit.~~

~~E. On the premises, retail sales will be allowed only of products manufactured on those premises unless specifically authorized by Conditional Use Permit.~~

~~F. All activities will be controlled to prevent nuisance problems of noise, vibration, smoke, dust, fumes or litter.~~

(deleted with 04-2011 ordinance amendment)

2. Standards

A. Protecting the public health, safety, comfort, convenience and general welfare of all residents is of the utmost importance.

B. There shall be no outward indication that the residence is anything other than a single family residential dwelling unit.

C. No retail sales that change affect or disturb the intent of the rural character of the City of East Gull Lake.

D. No exterior storage or equipment or materials used in a home occupation shall be permitted whether used on site or off.

E. No additional outside parking spaces at any given time other than the home owners and guests.

F. The home occupation shall not at any time produce light, glare, noise, fumes, smoke, dust, heat, odors, vibration, traffic, pollutants and toxic waste that are detectable to the normal senses, off property.

G. Any and all building and land alterations shall be for the sole purpose customarily found in a single family rural character dwelling.

H. No person or persons can be employed other than the owner/owners of record that reside in the principal dwelling.

I. No deviations can or will be allowed that change the intent of the above for the permitted use of a home occupation within the City of East Gull Lake.

J. All current Home Occupations are grandfathered in at current status. Home Occupations are not transferable to any new title property owners.

(04-2011 ordinance amendment)

Section 8.7- 6. Auto Salvage Yards/Junk Yards.

Commercial activity of this type is provided in nearby communities. Land Use of this nature is not provided for in the comprehensive plan and will not be considered in any Land Use District.

Section 8.7- 7. Landfills.

1. No landfills are allowed in the City of East Gull Lake due to the close proximity to the lakes and streams.
2. Cass County has the responsibility for this service.
3. Disposal of trees, stumps, rock, brush and other natural products by burying is allowed on construction sites as determined by the permit.

SECTION VIII – SUBDIVISION STANDARDS

Section 8.8- 1. Sketch Plan.

A sketch plan shall contain the following data:

1. Existing Conditions
    A. Approximate exterior boundary drawn to a scale of not less than 1" = 100' with the scale and northerly direction shown thereon.
    B. Indication of floodplains, wetlands, slopes over 12%, bluffs, tree cover and ordinary high water mark.
    C. Use of adjoining properties including street locations, structure locations and property lines.
    D. Significant historical sites.

2. Proposed Design
    A. Proposed roads and walkways.
    B. Proposed lots with building setbacks and bluff impact zones.
    C. Proposed Green Space.
    D. Proposed City sewer and water system connections or sewage treatment systems and well locations.

Section 8.8- 2. Preliminary Plat, Preliminary Condominium Plat or Metes and Bounds Subdivision resulting in at least one parcel less than 10 acres

A Preliminary Plat, Preliminary Condominium Plat or Metes and Bounds Subdivision resulting in at least one parcel less than 10 acres shall contain the following data: (except as waived by the Planning Commission); along with other reasonable information required by the Commission needed to make a proper evaluation of the proposal:

1. Existing Conditions
    A. Boundary lines with lengths and bearings drawn to exact scale of no less than 1" = 100' taken from a boundary survey by a Registered Land Surveyor with the legal description of the property, total acreage, name of the fee owner, developer and surveyor. North arrow and scale.
    B. Topography consisting of 2-foot contour intervals, or at the discretion of the Planning Commission during the sketch plan review, 10-foot contour intervals taken from the USGS mapping with additional field determined spot elevations added to define drainageways, 100 year floodplains, wetlands, slopes and the

Ordinary High Water Mark. Near shore aquatic conditions, including depths, types of bottom, sediments and aquatic vegetation.

C. Tree cover limits, specimen tree locations.
D. Soils as determined by hand borings on a random basis, to determine depth to ground water at lower elevations and suitability for sewage treatment systems. At least one boring for each unit unless waived by the Planning Commission.
E. Location of adjoining streets, wetlands, structure and property lines within 200-feet of subject parcel, including acreage of any property owned by the developer not included in the Preliminary Plat.
F. Significant historical sites.
G. Date of boundary survey, topography and proposed plat.

2. Proposed Design
   A. Layout of proposed streets, walkways, blocks, lots, buildings if known, drawn to same scale as existing data.
   B. Dimensions scaled to nearest 5 feet of all lot lines, street widths, easement widths and lakeshore lengths.
   C. Areas of proposed lots.
   D. Structure setback lines from streets, lot lines and Ordinary High Water Mark.
   E. Proposed Green Space with area shown.
   F. Proposed public dedication areas other than streets or walkways with the area shown.
   G. Proposed City sewer or water system connections and extensions existing and proposed with grades shown.
   H. Potential locations and estimated depth to water table for all proposed onsite sewage disposal systems, two per lot.
   I. Information regarding adequacy of domestic water supply,
   J. Proposed storm drainage system and erosion control, both during and after construction activities.
   K. Proposed street standards and profiles.
   L. Potential principal structure and accessory structure locations and elevations.
   M. Extent of anticipated vegetation and topographic alterations.
   N. Proposed covenants.
   O. Name of Subdivision and proposed street names.
   P. Stages of development proposed.

3. Evidence of Authority to subdivide the parcel consisting of fee ownership or written concurrence of fee owners.

Section 8.8- 3. Final Plat or Final Condominium Plat.

A Final Plat or Final Condominium Plat shall contain all elements required by this Ordinance and Minnesota Statutes 505, 515A or 515B respectively, and the State Plat Manual including but not limited to the following:

1. Conformance with approved Preliminary Plat or agreed upon portion thereof.
2. Design standards in conformance with the Ordinance and the East Gull Lake Zoning and Subdivision Ordinance.
3. Preparation by a Registered Land Surveyor. Signatures of Mayor, Clerk, County Auditor, County Treasurer and all parties with legal interest in the fee ownership of the land.
4. Dedication to the public of easements, right-of-ways, walkways and land to become public.
5. Drainage and utility easements over natural drainageways and significant wetlands.
6. Reservation of private streets in Out lots[1] (Planned Unit Development).
7. Covenants: Covenants shall be filed concurrently with the[1] plat and shall be required to create an association of homeowners if a privately maintained cluster sewer or water system is proposed for subdivision. (Ordinance 02-2010, 07/06/2010[1])
   A. The Association shall consist of all benefited lot owners including the subdivider.
   B. The Association shall be responsible for all costs of maintenance and replacement.
   C. The costs shall be uniformly divided by lots served.
   D. The costs shall be lien able[1] against the lots by the Association if payment is not forthcoming. (Ordinance 02-2010, 07/06/2010[1])
   E. The status of the facility shall be clearly stated as subject to perpetual private maintenance.
   F. Provisions shall be made for emergency access or emergency maintenance by the City with subsequent reimbursement by the Association.
8. Concurrent documents
   A. Title Opinion, less than 60 days old, acceptable to the City Attorney and showing conformance with those parties represented

by signature on the plat as holding interest in the property being divided.

B. Evidence of plat check by an independent Registered Land Surveyor,

C. Financial security acceptable to the City Attorney in the amount of 125% of the cost estimated by the Engineer for the uncompleted required improvements.

D. Development contract acceptable to the City Attorney, if required.

Section 8.8- 4. Design Layout Standards - Minimum.

The following design standards shall be considered minimum acceptable requirements in the review of the proposed subdivision by the Zoning Administrator, City Attorney, City Engineer, Planning Commission and Council, except as waived by Variance approved by the Board of Adjustment.

1. The land shall be properly zoned and suitable in its natural state for the intended purpose with minimal alteration. Land subject to flooding, land below the ordinary high water mark, wetlands, areas with high water table, bluffs or land containing other significant constraint(s) upon future intended usage, shall not be considered in the minimum size of a lot. The suitability analysis for each lot shall also consider 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[1], 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. (Ordinance 02-2010, 07/06/2010[1])
2. Each lot shall be adjacent to public sewer or shall have a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment sewage systems.
3. Provisions for water based recreation where near shore aquatic conditions are unsuitable for direct access.
4. Lot areas and dimensions shall conform to the requirements of the Zoning Ordinance, without Variance.
5. Lot layouts shall be compatible with the existing layout of adjoining properties.
6. Each lot shall have a minimum of 33 feet of frontage on a designated right of way. Commonly owned property or Green Space used for access in a Planned Unit Development shall have a minimum of 33 feet of frontage on a public right of way.

7. Proposed streets shall conform to the Comprehensive Plan of the City, County and State highway plans and existing boundary conditions.
    A. Streets shall be related to the topography so as to produce useable lots and reasonable gradients not in excess of 10% for collector roads and 15% for minor roads.
    B. Public access shall be given to adjacent properties unless the topography clearly indicated future connection is not feasible.
    C. When parcels abutting arterial or collector roads are subdivided, no new access points shall be created unless an equal number of access points are removed.
    D. Half streets or connections of half streets to partial streets without providing for the full required right-of-way will not be permitted.
    E. Streets will be designed as collectors or local streets in accordance with the Comprehensive Plan of the City.
    F. The number of streets that terminate without a through connection shall be minimized and the street connected to a cul-de-sac (turnaround) and shall not exceed 1200 feet in length.
    G. Access shall be given to all adjacent properties when required by the Planning Commission. All streets intended to be extended to adjoining property, shall be provided with a temporary cul-de-sac with the sides on a temporary easement, which will revert to the adjoining lot owner when released by the City.
    H. Right of Way shall be dedicated to the public:

        Cul-de-sac (turnaround) ..... 68' radius
        Arterials ..... 100' or as determined by Cass Co
        Collectors ..... 66'
        Local Streets ..... 66'

    Additional Right of Way may be required to promote public safety and convenience if special conditions require such as intersections, sight lines on corners or excessive cut or fill sections.
    I. Intersections
        1. Street centerlines shall intersect at not less than 75 degrees.
        2. Street jogs shall be no less than 200' from centerline to centerline.
        3. Gradients at intersections and for 50' approaching on each side of an intersection shall not exceed 2%.
    J. Roads, driveways and parking areas shall meet structure setbacks and shall not be placed within bluff and Shore Impact Zone (SIZ)s, when any other reasonable and feasible placement alternatives exist.

K. Street names shall conform to the pattern of the City, continue an existing name on the same alignment and generally promote and direction in the community.

8. Easements shall be provided for public utilities or drainage where required by the Planning Commission and shall be following widths, minimum:

Watermain	20 feet
Sanitary Sewer	40 feet
Storm Sewer	20 feet
Electrical, telephone or cable television	10 feet
Drainageway	10 feet

9. Lots requiring Variances to allow their use for the intended purposes or requiring holding tanks for sewage shall not be allowed.

Section 8.8- 5. Survey Standards.

Survey Standards shall be those required by Minnesota Statutes 505 including the placement of all monuments including block corners, lot corners, curve points and lake survey line points on lot lines. All US, State, County and other official bench marks, monuments or triangulation points in or adjacent to the proposed subdivision shall be preserved in position unless relocation is approved by the controlling agency.

Section 8.8- 6. Street Improvement Standards.

All streets within the subdivision shall be constructed by the subdivider or otherwise provided for by agreement in a Development Contract between the subdivider and the City Council with all expenses borne by the subdivider. Local streets and collector streets shall be constructed according with the established minimum standards.

Section 8.8- 7. Sanitary Provision Standards.

No land shall be subdivided for building purposes unless two adequate sites are available on the newly created lot for a conforming onsite sewage treatment system, or the subdivider constructs a cluster system serving the lots to be owned and maintained by a property owner's association or the lot is provided with sanitary service by a municipal sewer system at the expense of the subdivider.

1. A municipal sewer system shall be extended to the lot at the subdivider's expense by agreement in a Development Contract between the subdivider and the City Council if the existing system is adjacent to the parcel being subdivided or reasonably close in the opinion of the Engineer and Planning Commission or if the density of the proposed development necessitates a municipal sewer connection. The sewer shall also be extended to the

exterior boundary of the subdivision at locations designated by the Engineer.

2. Onsite systems or cluster onsite systems shall conform to Minnesota Pollution Control Agency Standards, Individual Sewage Treatment Systems Standard, Chapter 7080, and provide for two (2) treatment sites for drainfields.
3. Municipal sewage facilities shall be designed by a Registered Engineer, approved by the City Engineer, approved by the Minnesota Pollution Control Agency, and installed according to "Standard Utilities Specifications", City Engineer's Association of Minnesota.

Section 8.8- 8. Water Supply Standards.

The subdivider shall be responsible to provide the proposed subdivision with adequate spacing between building sites, onsite sewage disposal sites, and potential well locations to allow the well installations in conformance with the City of East Gull Lake Zoning Ordinance requirements or the subdivider shall provide the lot with a cluster water supply system to be owned and operated by a property owner's association or the subdivider shall provide municipal water service to the lot.

1. A municipal water system shall be extended to the lot at the expense of the subdivider by agreement in the Development Contract between the subdivider and the Council if the existing municipal system is adjacent to the parcel being subdivided or reasonably close in the opinion of the engineer and Planning Commission or if the density of the proposed development necessitates a municipal water connection. The watermain shall also be extended to the exterior boundary at locations designated by the Engineer.
2. Onsite wells or cluster water systems shall conform to the Minnesota Department of Health Rules and Regulations MHD 210-230 "Water Well Construction Code", and the cluster system shall receive the approval of the City Engineer.
3. Municipal water facilities shall be designed by a Registered Engineer, approved by the City Engineer, approved by the Minnesota Department of Health and installed according to "Standard Utilities Specifications" City Engineer's Association of Minnesota.

Section 8.8- 9. Drainage/Grading Standards.

The subdivider shall consider the retention of natural stormwater/snowmelt

drainage patterns in the design of his proposed subdivision. The subdivider shall be responsible to provide adequate drainage facilitates for his development and upstream properties.

1. All natural drainageways draining properties upstream from the subject property shall be preserved, and no structures shall be less than one (1) foot above the water level in the drainageway created by a storm of a 100-year, 24-hour rain event. No filling of areas inundated by the 100-year, 24-hour rain event shall be allowed except by Conditional Use Permit.
2. All streets, building sites and subsurface sanitary disposal sites shall be drained to a natural drainageway. The subdivider shall provide adequate grading or drainage structured so no inundation or ponding will occur from a storm of a 5-year, 24-hour rain event.
3. Natural or manmade storage areas shall be utilized where needed and shall be designated by drainage and utility easement by the subdivider. No storage area shall be considered part of the minimum lot area requirement. All storage areas shall be vegetated and designed to lower naturally after a storm.
4. All drainage structures provided shall be sufficient in size to pass a 5-year, 24-hour storm to a natural drainageway and to pass a 100-year, 24-hour storm along a drainageway.
5. All areas disturbed by grading, street construction or structure installation shall be covered with a 3 inch natural topsoil and seeded. Drainageways over 2% in gradient shall, at a minimum, be sodded.
6. All parking areas, heavy use areas, storage areas and impervious area shall be diverted to a basin designed to allow entrapment of silts and nutrients prior to discharge to a natural drainageway or public water.
7. Erosion control measures shall be provided where necessary in the opinion of the Engineer.

Section 8.8- 10. Dedication to the Public – Standards.

1. In accordance with the provisions of Section 462.358 of the Minnesota

Statutes, or amendments thereto, the subdivider shall dedicate, to the public, lands for highway right of ways, street right of ways, utility easements, wetland easements and similar lands required for perpetual and public improvements.

2. In addition, for every new subdivision of land involving three or more lots which are to be developed for residential purposes, the Planning Commission, with the concurrence of the City Council, shall require a payment to the City, in lieu of a land dedication for conservation purposes or for public use as parks, recreational facilities, playgrounds, trails, wetlands or open space, of a sum not to exceed ten percent (10%), of the fair market value of the land to be subdivided. The fair market value of the land to be subdivided shall be the value as determined by the Cass County Assessor at the time of Final Plat approval by the City Council. The amount of the payment shall be set by the Planning Commission, with the concurrence of the City Council, after taking into consideration the open space, park, recreational or common areas and facilities with the applicant proposes to reserve for public use within the subdivision. Funds received by the City, in lieu of land dedication, shall be placed in a special fund in accordance with Section 462.358, Subdivision 2b, of the Minnesota Statutes.
3. All dedications shall be included in the dedicated portion of the plat, included in the development contract, or received by the City in Warranty Deed prior to the approval of the final plat, without further restrictions or reservations.

SECTION IX - IMPROVEMENTS

Section 8.9 - 1. Prior to the City Council approving a Final Plat or a Metes and Bounds split, the subdivider shall provide for the construction of the required improvements at his expense and shall have the work completed or shall enter a Development Contract and give bond or other financial assurance satisfactory to the Council in an amount equal to 125% of the estimated cost of the uncompleted improvements except as provided in 9.3. The bond shall be released by the City Council upon the recommendation of the City Engineer indicating the improvements are satisfactorily complete.

Section 8.9 - 2. The required improvements shall conform to the standards of Sections VIII of this Ordinance and shall include City street signs and lighting in conformance with City standards.

Section 8.9 - 3. The subdivider may request the City to construct municipal sewage facilities, municipal water facilities or bituminous street surfacing with all costs to be assessed against the benefited properties. If the City Council agrees, the subdivider shall enter a Development Contract and give a bond or other financial assurance satisfactory to the Council in an amount equal to 50% of the estimated costs. The assessments shall be paid in full upon sale of the property. The bond shall be released with the last 25% of the assessment payments.

Section 8.9 - 4. All costs of the City Engineer, City Attorney, Bond Council, financial experts and other professional costs borne by the City in writing and/or executing Development Contracts, estimates of cost, inspectors, financial arrangements, assessments and pursuing legal remedies in event of default by the subdivider, shall be borne by the subdivider.

SECTION X - ADMINISTRATION

Section 8.10 - 1. Zoning Administration.

1. The Zoning Administrator shall be appointed by the City Council.

2. Duties of the Zoning Administrator:
   A. Determine if applications are complete and comply with the terms of the Ordinance.
   B. Direct or conduct inspections of building, sewage systems and other uses of the land to determine compliance with the terms of the Ordinance.
   C. Maintain permanent and current records of the Ordinance including, but not limited to, maps, amendments, Zoning or Use Permits, Conditional Use Permits, Variances, appeals and applications, and a separate file for future conditions or expiration of permits.
   D. Review, file and forward applications for appeals, Variances, Conditional Uses and Zoning amendments.
   E. Enforce the provisions of this Ordinance by reviewing complaints and by pursuing contacts with any violator in accordance with standard procedures as adopted and modified from time to time and with the approval of the Planning Commission and City Council instituting with the City Attorney in the name of the City any appropriate actions or proceedings against any violator.
   F. Attend meetings and provide research and findings to the Board of Adjustment/Planning Commission.
   G. Issue permitted Zoning Permits upon application for structures on lots conforming to this Ordinance when the conditions of the Ordinance are met; to issue Conditional Use Permits when directed by the City Council; to issue notices of a Zoning change when directed by the City Council.
   H. To mail a copy of the finding to an applicant.
   I. To file copies of Conditional Use Permits and Variances with the County Recorder.
   J. To communicate with the DNR where required by the Ordinance or State Law.
   K. To ensure that the City Council, Planning Commission and Board Adjustment review Land Use application or public hearing applications as prescribed by State Statutes.

L. To conduct periodic and final inspections with a member of the Planning & Zoning Committee, of property subject to conditions of approval relating to Variances, conditional use permits and other Land Use applications.

M. To issue *Land Use Certificates of Compliance*.

3. The Zoning Administrator and their duly authorized deputies shall have the right to trespass within the City of East Gull Lake in the pursuit of their duties.

Section 8.10 - 2. Board of Adjustment.

1. The Board of Adjustment shall consist of the members of the Planning Commission, and shall hold its[1] meetings concurrently with the Planning Commission meetings on a monthly or more frequent basis at the discretion of the Chairman. ***(Ordinance 02-2010, 07/06/2010[1])***

2. Duties of the Board of Adjustment.
   A. To consider appeals from the action of the Zoning Administrator wherein the Board will take the authority of the Administrator.
   B. To hold hearings on Variances after proper public notice in the official newspaper and individual notice by regular mail to any property owners within a minimum of 350 feet distance of any Variance in question. Such notice shall be given at least 10 days before the hearing date.
   C. To recommend action on Variances within the required time frame to the City Council with complete findings to justify the action.
   D. To keep a record of its[1] proceedings, notifications and justifications for its[1] actions. (***Ordinance 02-2010, 07/06/2010[1]***)

Section 8.10 - 3. Planning Commission.

1. Organization of the Planning Commission.
   A. The Planning Commission shall consist of 5 members and one alternate member appointed by the City Council. A Council member shall be a non-voting additional member and shall act as a liaison to the City Council. Each member other than the council liaison shall hold office for 4 years and terms shall be staggered. The Mayor shall appoint the council liaison on an annual basis with the City Council concurrence. Vacancies shall be filled for the remainder of the term by the City Council.
   B. The Commission shall elect a chairman from its members for a term of one year.
   C. The Commission shall meet a minimum of eleven times a year, once each month except December, at a regular meeting unless the docket is empty in which case the Mayor can approve suspension of a meeting. Special meetings shall be advertised in the official newspaper and posted in the City Hall at least 10 days in advance of the meeting.

2. Duties of the Planning Commission under this Ordinance.
    A. To hold hearings after proper public notice in the official newspaper and individual notice by regular mail of any property owners within a minimum of 350 feet of any Land Use in question. Such notices shall be given at least 10 days before the hearing date.
    B. To decide within the required time frame the following:
        1. Recommendations to the City Council regarding requested Zoning District boundary changes or amendments to the Ordinance.
        2. To review and provide recommendations to the City Council on proposed plats or floor plans and to provide recommendations on final plats and final floor plans to the City Council.
        3. To review and approve all Metes and Bounds property divisions within the City.
        4. To review and provide recommendations to the City Council on requests for Conditional Use Permits with complete findings to justify the decision.
        5. To periodically review the Zoning map and Ordinances and consider their role in shaping the growth of the community and to recommend changes to the City Council of these documents to guide growth and current Land Use toward the goals of the Comprehensive Plan.
        6. To recommend on a timely basis that the City Council review the Comprehensive Plan when appropriate.

3. It shall be the duty of each individual member to be present at all meetings of the Planning Commission and Board of Adjustment. More than 3 absences in any one year period shall be grounds for replacement by the City Council.

Section 8.10 - 4. City Council.

1. The City Council shall have the following duties under this Ordinance:
    A. Appoint the Zoning Administrator by a majority vote, or terminate the Zoning Administrator by a 4/5 vote.
    B. Confirm the appointments of the Mayor to the Board of Adjustment/Planning Commission members by a majority vote, or to remove members by a 4/5 vote.
    C. To decide within the required time frame the following:
        1. Recommendations from the Planning Commission for changes in Zoning District boundaries.
        2. Recommendations from the Planning Commission for acceptance of proposed plats, Conditional Use Permits, final plats and condominium plans.
        3. Recommendations from the Board Adjustment for acceptance of Variances from this Ordinance and the Subdivision Ordinance.
    D. To hear appeals from the actions of the Board of Adjustment and the Planning Commission where their action is normally final.

Section 8.10 - 5. Conditional Use Permits.

1. Conditional Use Permits shall be issued to the property for structures or other specified uses, as recommended by the Planning Commission after a public hearing and approved by the City Council. All applications for a Conditional Use Permit shall be submitted to the Zoning Administrator **30** days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of the property shall sign the application. The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days ahead of the public hearing. The Zoning Administrator shall send the same notice 10 days in advance of this hearing to the DNR if the proposed is in shoreland. At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and with no fee by giving 14 days notice thereof to the Zoning Administrator, meeting time permitted.

2. Submissions for Conditional Use Permits The applicant shall complete the Conditional Use Permit application approved by the City Council. The application shall contain submittal requirements, criteria for approval, procedure for consideration and City contact information. The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.

3. In permitting a new Conditional Use or alteration of an existing Conditional Use, the Planning Commission may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions that the Planning Commission considers necessary to protect the best interest of the surrounding area or the City as a whole. These conditions may include, but are not limited to the following:
    A. Increasing the required lot size or yard dimension.
    B. Limiting the height, size or location of buildings.
    C. Controlling the location and number of vehicle access points.
    D. Increasing the street width.
    E. Increasing or decreasing the number of required off-street parking spaces.
    F. Limiting the number, size, location or lighting of signs.
    G. Requiring berming, fencing screening, landscaping or other

facilities to protect adjacent or nearby property.

H. Designating sites for open space.

4. The Planning and Zoning Commission shall decide the issue with consideration to the following:

   A. The following must be met:
      1. The use or development is an appropriate conditional use in the Land Use zone.
      2. The use or development, with conditions, conforms to the comprehensive Land Use plan.
      3. The use with condition is compatible with the existing neighborhood.
      4. The use with conditions would not be injurious to the public health, safety, welfare, decency, order, comfort, convenience, appearance or prosperity of the City.
   B. The following must be considered:
      1. The conditional use should not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose permitted on that property, nor substantially diminish or impair values in the immediate vicinity.
      2. The conditional use will not impede the normal and orderly development and improvement of surrounding vacant property for uses predominant in the area.
      3. The conditional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
      4. The conditional use will have vehicular approaches to the property which are so designed as not to create traffic congestion or indifference[1] with traffic on surrounding public thoroughfares. (***Ordinance 02-2010, 07/06/2010[1]***)
      5. Adequate measures have been taken to provide sufficient off-street parking and loading space to serve the proposed use.
      6. Adequate measures have been taken or will be taken to prevent or control offensive odor, fumes, dust, noise, and vibration, so none of these will constitute a nuisance and to control lights and signs in such a manner, that no disturbance to neighboring properties will result.
      7. The conditional use will not result in the destruction, loss or damage of a natural, scenic or historical feature of major

significance.

8. The conditional use will promote the prevention and control of pollution of the ground and surface waters including sedimentation and control of nutrients.

5. When costs to the City involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to retain in reviewing permits.

6. Conditional Use Permits may be transferable where requested by an applicant and approved by the Council.

7. Violations of the conditions of a Conditional Use Permit shall automatically suspend the permit. A review of the violation shall be conducted by the Planning Commission. The Planning Commission shall make a recommendation to the City Council on conditions for reinstating the permit or revocation. The City Council shall make the final decision on reinstating or revoking the suspended permit.

8. Failure by the owner to act on a Conditional Use Permit within 12 months, or failure to complete the work under a Conditional Use Permit within 2 years, unless extended by the Planning Commission, shall void the permit. A second extension shall require a new public hearing. This provision shall apply to any Conditional Use Permit outstanding at the time of the Ordinance adoption.

9. Appeals from the action of the City shall be filed with District Court within 30 days after Council action.

10. The Conditional Use Permit shall be filed with the County Recorder within 45 days.

11. Planned Unit Development Procedure and Submissions.
    A. Procedure.
        1. The applicant may submit a concept plan to the Planning Commission for review and discussion at least 14 days prior to the meeting.
        2. Based on discussion, the applicant can formally apply by

submitting preliminary documents, prepared with professional help, including as a minimum the C.U.P. application, and further shall contain the following:

a. Proposed concept of plan operation.
b. Proposed plat or floor plan, if applicable.
c. Proposed recreational amenities.
d. Proposed timing.
e. Proposed final security.
f. Proposed development contract.

3. The Planning Commission shall review the submissions and make a recommendation to the City Council within a reasonable timeframe with a complete finding of facts.
4. The City Council shall review the recommendations and render a decision within a reasonable time.
5. The applicant shall then proceed within the time frame accepted under the preliminary proposal to provide final documents as required, including:

a. Financial security.
b. Development contract.
c. Title opinion.
d. Final plat or floor plan.
e. Surveyors plat check.
f. Final covenants and associated documents.
g. Final time schedule.
h. Final site plan which will control development.
i. MPCA/MNDH[1] approval letter on sewage system & water supply. (Ordinance 04-2010, 07/6/2010[1])

Section 8.10 - 6. Variances.

1. Variances shall not create a use not provided for in a zoning district.

2. Variances shall be issued to the property and are not transferable.

3. Variances shall be issued to the property for structures or other specified uses, as recommended by the Planning Commission after a public hearing and approved by the City Council. All applications for a Variance shall be submitted to the Zoning Administrator **30** days ahead of the hearing date, accompanied by a certificate of survey (unless waived by the Zoning Administrator) showing the details of the proposal and an accurate legal description, along with the appropriate fee. The fee or contract owner of the property shall sign the application. The Zoning Administrator shall notify all property owners within a minimum of 350 feet by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least 10 days ahead of the public hearing. The Zoning Administrator shall send the same notice 10 days in advance of this hearing to the DNR if the proposed is in shoreland. At the applicant's option, the applicant may request a sketch plan review with no action by the Planning Commission and with no fee by giving 14 days notice thereof to the Zoning Administrator, meeting time permitted.

4. Submissions for Variances. The applicant shall complete the Variance application approved by the City Council. The application shall contain submittal requirements, criteria for approval, procedure for consideration and City contact information. The City shall not accept applications where the applicant has past due fees or charges due to the City until the account is made current.

5. Variances shall be decided within the required time frame with consideration for the following:
    A. The strict interpretation of the Ordinance would create undue hardship, and
    B. The strict interpretation of the Ordinance would be impractical because of circumstances relating to lot size, shape, topographic or other characteristics of the property not created by the land owner, and
    C. The deviation from the Ordinance with any attached conditions will still be in keeping with the spirit and intent of the Ordinance,

and

D. The variance will not create a Land Use not permitted in the zone, and

E. The Variance will not alter the essential character of the locality, and

F. The Variance is not for economic reasons alone, but reasonable use of the property does not exist under the Ordinance.

6. When costs to the City involved in processing and reviewing an application exceeds the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to retain in reviewing permits.

7. Failure by the owner to act within 6 months on a Variance unless extended by the Board of Adjustment shall void the Variance. A second extension shall require a new public[1] hearing. This provision shall apply to any Variance outstanding at the time of the Ordinance adoption.
   (Ordinance 02-2010, 07/06/2010[1])

8. Appeals from the action of the City Council shall be filed with the District Court within 30 days after Council action.

9. The Variance shall be filed with the County Recorder within 45 days.

Section 8.10 - 7. Zoning Permits.

1. Zoning Permits shall be issued for all new structures and any change in structure exterior, plumbing or number of bedrooms, any construction or repair of a sewage system and any grading and filling in shoreland not exempted by this ordinance. No person shall assemble, install, repair, remodel, remove or construct any structure prior to applying for and receiving a Zoning Permit.

2. Where a proposed use requires action of the Board of Adjustment, Planning Commission or Council or posting of financial security, said action shall occur and the Conditional Use Permit, Variance, Zoning District change, final plat plan approval, approval of metes and bound division shall be issued or security posted before the Zoning Permit is issued.

3. When a Zoning Permit is applied for to construct or relocate a structure located in the Shore Impact Zone (SIZ), the Zoning Administrator shall attempt to notify all property owners within a minimum of 350 feet by regular mail. The notification shall inform the property owners as to the construction, include a site plan of the proposed improvement and provide contact information for the applicant. The Zoning Permit shall not be issued until 20 days after the notice has been distributed. ***(Ordinance 05-2009, 11/10/2009[1])***

4. The City shall not accept applications where the applicant has past due fees or charges due to the City or the County until the account is made current.

5. The Zoning Permit shall contain the parcel number of the property and the signature of the fee or contract owner of the property or his authorized agent.

6. Unless extended by the Zoning Administrator, where a Zoning Permit has been issued but no action has occurred within 12 months, the Zoning Permit shall be null and void. Exterior work on the structure shall be complete in 18 months from the issuance of the Zoning Permit. The time limit may be extended by the Zoning Administrator for good cause. A second extension shall be decided by the Planning Commission.

7. Granting of a Zoning Permit shall occur when all requirements of the Ordinance have been met, but shall not be considered a statement of compliance with regional, State or Federal codes, statutes or laws or approval of the design of the structure or accessories, or description of the property. Subsequent actions of the Zoning Administrator shall not be considered acceptance of structural components or workmanship, but rather shall be for the purpose of determining general compliance with the Ordinance.

8. If the Zoning Administrator determines that any violation of the permit or other section of the Ordinance has occurred, the permit shall become null and void.

Section 8.10 - 8. Subdivision

1. [1]The City of East Gull Lake may require that an applicant establish an escrow account or other financial security for the purpose of reimbursing the City for direct costs relating to professional services provided during the review, approval and inspection of the project. The City may charge the applicant a rate equal to the value of the service to the City. Services provided by City Staff or contract professionals will be billed at an established rate. (***Ordinance 04-2009, 11/10/2009[1]***)
2. Pre-Application Meeting. At the sub divider's option, a pre-application meeting shall be held including the subdivider, City Zoning Administrator, City Engineer, if requested by the Zoning Administrator, and the City Clerk. Discussion at this meeting shall be limited to procedure, Ordinance requirements and timing.
3. Sketch Plan Review Meeting with Planning Commission. An on-site review of a sketch plan by the Planning Commission is required prior to submission of an application for Preliminary Plat. (***Ordinance 03-2009,08/04/2009[1]***)
    A. The subdivider shall submit a digital copy of the sketch plan, 14 days prior to the normal Planning Commission meeting, in a format compatible with Cass County's coordinate system. At that time, the subdivider shall also request a site visit as part of the formal agenda. (***Ordinance 03-2009, 08/04/2009[1]***)
    B. The Planning Commission shall not take action on the proposal, but may make suggestions to facilitate the preparation of an approvable Preliminary Plat or plan. (***Ordinance 03-2009, 08/04/2009[1]***)
4. Metes and Bounds Lot Split Approval. Where appropriate, under the provisions of this Ordinance, the subdivider shall submit documents containing the essential information of a proposed plat or plan and including dimensions computed to one hundredth (1/100th) of a foot and bearing computed to equivalent accuracy to the Planning Commission for approval. The review of the Planning Commission need not include a public hearing.
    A. The subdivider shall submit 1 copy of his proposal to the Zoning Administrator 30 days prior to the normal Planning Commission meeting and pay the corresponding fee.
    B. The Zoning Administrator shall review the proposed lot split for compliance with the Zoning Ordinance including a field review at his discretion.
    C. The Planning Commission make a recommendation to the Council

on approval of the lot split within a reasonable time based on the resulting lots complying with the Ordinance, the feasibility of the resulting lots for their intended purpose, and the provision for access to adjacent properties. Conditions may be attached to an approval requiring appropriate improvements. No more than one (1) split into two (2) parcels shall be allowed in a three (3) year period of time. An additional parcel for right of way or commonly owned driveway access may also be allowed.

D. The City Council shall review the recommendation of the Planning Commission and make the final determination.

E. The resulting land descriptions shall be prepared and signed by a Registered Land Surveyor and shall comply with all provisions of this Ordinance.

F. Failure of the subdivider to act after an approval of a Metes and Bounds subdivision within one (1) year shall void the approval unless extended by the Planning Commission. A second extension shall require a new public hearing.

5. Preliminary Plat or Preliminary Condominium Plat Approval. The Preliminary Plat or Preliminary Condominium plan approval constitutes formal approval of the concept and design of the subdivision. The Planning Commission review shall include a public hearing and may include a field review at their discretion. All reports of City staff, DNR and Road authorities shall be reviewed and included in the hearing record. Related Variance requests, rezoning requests and conditional use requests shall be heard concurrently with a subdivision request.

A. The subdivider shall submit 1 copy of his proposed plat or condominium plat to the Zoning Administrator 30 days prior to the normal Planning Commission meeting, pay the required fees and request a public hearing.

B. The Zoning Administrator shall notify all property owner's within 350 feet, by regular mail and shall advertise the hearing once in the legal section of the official newspaper at least ten (10) days ahead of the public hearing, including sufficient legal property description in the advertisement. The Zoning Administrator shall distribute one (1) copy to each Planning Commission member, if the proposal is adjacent to a County Highway, one (1) copy to the County Engineer, and if the plat is in shorelands, one (1) copy to the DNR postmarked at least ten (10) days before the public hearing for review and comment.

C. The Zoning Administrator shall review the proposed plat or plan as

to content standards, necessary Variances, from the Zoning Ordinance and this Ordinance, necessary rezoning or necessary use permits, and advise the subdivider and the Planning Commission of his findings.

D. The subdivider shall make addition application for the necessary permits at least 30 days prior to the normal Planning Commission or Board of Adjustment meeting as applicable, if subdivider desires to have a concurrent public hearing for Variance, use or rezoning.

E. The Planning Commission shall hold the Public Hearing and may continue the hearing as it deems necessary to allow all factual input it deems necessary to allow a decision. Lack of submission of comments by outside agencies shall be construed to mean the agency has no objections.

F. The Planning Commission shall recommend the approval of the Preliminary Plat or Preliminary Condominium Plat to the Council within one hundred twenty (120) days of submission, and the findings shall be sent to the subdivider. The Planning Commission shall consider the following in its[1] decision: ***(Ord. 02-2010,07/06/10[1])***

   i. Is the property properly zoned?
   ii. Does the proposal conform to the requirements of the Zoning Ordinance?
   iii. Does the proposal conform to the requirements of the Subdivision Ordinance?
   iv. Have the concerns of the affected agencies been addressed?

G. The City Council shall review the findings and recommendations of the Planning Commission at their next regular meeting and make the final determination.

H. The City Council will hear any appeal within thirty (30) days of the Planning Commission action and will re-notify anyone noticed for the Public Hearing. Said appeals will be filed with the City Clerk within fifteen (15) days of the decision.

I. Failure of the subdivider to act after an approval of Preliminary Plat or Preliminary Condominium Plat within one (1) year shall void the approval unless extended by the Planning Commission. A second extension shall require a new public hearing.

6. Final Plat or Final Condominium Plat Approval. Upon approval by the Planning Commission, the subdivider shall cause the Final Plat or Final Condominium Plat, documents and concurrent documents to be prepared and submitted to the Planning Commission for recommendation to the City Council. All coincident Variance requests, use permit requests

and/or rezoning requests shall either have been decided or be pending approval simultaneously with the Final Plat.

A. The subdivider shall submit 9 paper copies of the Final Plat or Final Condominium Plat and concurrent documents to the Zoning Administrator 30 days prior to the Planning Commission meeting.

B. The Zoning Administrator shall distribute the information received to the City Attorney and City Engineer, who shall review the submission for conformance with the standards and comment thereupon to the Planning Commission. The Zoning Administrator shall compare the Final Plat or Final Condominium Plat to the Preliminary Plat or Preliminary Condominium Plat and comment thereupon. The Attorney shall ascertain that all parties with an interest in the parcel to be divided are indicated as signers of the documents. The Engineer shall determine that the improvements required have been completed or have been included in a development contract and that the required security has been posted with the City Council.

C. The Planning Commission shall review the reports of the Attorney, Engineer and Zoning Administrator and make recommendation to the City Council within 45 days of submission. The Planning Commission shall consider the following:

   i. Has the applicant complied[1] with all conditions and requirements upon which the preliminary approval is expressly conditioned wither through performance or execution of appropriate agreements assuring performance?
   (Ordinance 02-2010, 07/06/2010[1])

   ii. Does the Final Plat or Final Condominium Plat agree with the Preliminary Plat or Preliminary Condominium Plat?

   iii. Does the City Attorney agree that all parties with an interest in the property are shown as signers of the document?

   iv. Does the City Engineer agree that all improvements required are satisfactorily completed or are guaranteed by contract with adequate financial security?[1]
   (Ord 02-2010,07/06/2010[1])

   v. Does an independent Professional Land Surveyor agree the final document meets the statutory requirements?

   vi. Has financial security been posted in the appropriate amount

D. The City Council shall review the proposal at their next regular meeting and decide the approval within sixty (60) days of the

submission of the Final Plat or Final Condominium Plat to the City.

E. Following approval by the City Council, the subdivider shall submit to the Zoning Administrator, two (2) double mounted cloth backed prints on card stock (hard-shells) and two (2) mylar prints of the Final Plat or Final Condominium Plat for signature by the Mayor and Clerk. The Zoning Administrator shall send one copy of any approved Final Plat within shorelands to the DNR postmarked within ten (10) days of approval.

F. Upon signature, the subdivider shall file all pertinent documents with the County Recorder. Failure to file a Final Plat or Plan, within two (2) years shall void the approval unless extended by the City Council.

Section 8.10 - 9. Fees.

The Council shall adopt a schedule of fees from time to time for all permits. No permit shall be issued, or request brought before the Board of Adjustment or Planning Commission until the fees are paid. All late applications shall require the payment of three times the normal fee unless specifically stated otherwise in the fee schedule.

The City shall not accept applications where the applicant has any past due fees or charges due to the City until the account is made current.

Section 8.10 - 10. Financial Requirements

Applications will not be accepted as complete where an applicant has any utility charges, delinquent taxes, delinquent assessments or other fees past due with the City or County. The past due account must be paid to bring the account current before an application will be accepted.

When costs associated with processing or reviewing an application exceed the original application fees, the applicant shall reimburse the City for any additional costs. Such expenses may include, but are not limited to, payroll, mailing costs, consultant fees and other professional services the City may need to hire in reviewing permits. Outstanding fees shall be paid before issuance of the permit and any construction of the project begins.

Section 8.10 - 11. Required Decision Making Time Frames.

1. Pursuant to Minnesota Statutes, Chapter 15.99, as amended, the City of East Gull Lake establishes the following time frames for decisions made[1] on all Land Use requests before the City, including Variances, Conditional Use Permits, Zoning District Boundary Changes, and Zoning[1] Ordinance Amendments, Appeals of Decisions by the Zoning Administrator or Planning Commission and Zoning Permits. (Ordinance 02-2010, 07/06/10[1])
    A. It shall be the applicant's responsibility to submit a completed application packet, which shall by definition include the application forms approved by the City, site plan with all information required by this ordinance and remit proper fees for the Land Use application. Once the Zoning Administrator or appointee has received the completed application packet, the review time frame shall commence. The Zoning Administrator shall notify applicants in writing when a completed application has been received.
    B. The City shall within sixty (60) days of the receipt of a completed application, make a decision on the request. A determination shall be either a recommendation to another body or a final action approving or denying a request. Time frames for other reviews required by statues or other government units shall not be counted as time during the local decision making process. Once the other agency or governmental unit has made their determination, the time frame for local review shall again commence.
    C. If the City is unable to make a proper determination within the prescribed sixty (60) day time frame, it shall have the right to extend the time frame another sixty (60) days. The City shall, in writing, notify the applicant that it is unable to complete the review process and state the specific reasons why the process must be extended.
    D. If the City is unable to make the final determination within 120 days of the original application date, it shall, in writing, request an extension from the applicant. The applicant shall have the authority to approve or deny the request for an extension.

Section 8.10 - 12. Appeals.

1. [1]Appeal of Decision or Action of Zoning Administrator to the Board of Adjustment. Appeals of a decision or action of the Zoning Administrator may be made to the Board of Adjustment as specified in subsection 8.10-2(2)(A) by notifying the City Clerk, in writing, of the intent to appeal. Written notice of appeal shall state the nature of the appeal, specific decision(s) or action(s) subject to the appeal, and any relevant documentation or material evidence. Appeals of actions of the Zoning Administrator shall be received by the City Clerk at least twenty days prior to the date of the next regularly scheduled Board of Adjustment meeting in which the appeal is scheduled for action by the Board. Appeals of actions by the Zoning Administrator shall be made to the City Clerk within 30 days after action by the Zoning Administrator.
(Ordinance Amendment/Affidavit of Publication, 12/20/07[1])

2. [1]Appeal of Decision or Action of Board of Adjustment or Planning Commission to the City Council. Appeals of an action of the Board of Adjustment or Planning Commission may be made to the City Council as specified in subsection 8.10-4(1)(D) by notifying the City Clerk, in writing, of the intent to appeal. Written notice of appeal shall state the nature of the appeal, specific decision(s) or action(s) subject to the appeal, and any relevant documentation or material evidence. Appeals of actions of the Board of Adjustment or Planning Commission shall be received by the City Clerk at least twenty days prior to the date of the next regularly scheduled City Council meeting in which the appeal is scheduled for action by the Council. Appeals of actions by the Board of Adjustment or Planning Commission shall be made to the City Clerk within 30 days after action by the Board of Adjustment or Planning Commission.
(Ordinance Amendment/Affidavit of Publication, 12/20/07[1])

3. [1]Appeal of Decision of City Council to the District Court. Appeals of an action by the City Council shall be made to the District Court by filing a complaint with the Court within 30 days of the date of action or decision by the City Council. (Ordinance Amendment/Affidavit of Publication,12/20/07[1])

4. [1]Fees. All fees for appeals of decisions of the Zoning Administrator, Board of Adjustment or Planning Commission shall be paid at the time of submission of a notice of intent to appeal to the City Clerk. All fees for appeals of decisions of the Zoning Administrator, Board of Adjustment or

Planning Commission shall be set according to the schedule of fees approved by the City Council. (Ordinance Amendment/Affidavit of Publication, 12/20/07[1])

SECTION XI - ENFORCEMENT

Section 8.11 - 1. Violations and Penalties.

The violation of any provision of this ordinance or the violation of the conditions or provisions of any permit issued pursuant to the Ordinance shall be a misdemeanor, and upon conviction thereof, the violation shall be subject to a fine of not more than $500 or imprisonment for a term not to exceed 90 days or both. Each act of violation and every calendar day on which such violation occurs or continues shall be a separate offense.

Section 8.11 - 2. Liability of City Officials.

The failure of any officer of the City or Board or employees of the City to act pursuant to this Ordinance, except as an individual acting in his own behalf, shall not be an offense and shall not subject the officer, Board or employee to any penalty except those provided under the City personnel policies.

Section 8.11 - 3. Equitable Relief.

In the event of a violation or threatened violation of any provision of this ordinance or the conditions of any permit issued pursuant to the ordinance, the City, in addition to other remedies, may act or institute action to prevent, restrain, correct or abate such violation or threatened violation.

Section 8.12 - 1. Separability.

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

Section 8.12 - 2. Supremacy.

When any condition implied by this Ordinance on the use of land or buildings is more restrictive or less restrictive than applicable conditions imposed by statute, rules and regulations, other City ordinance or regulation or other jurisdiction, the more restrictive shall apply. The Ordinance does not abrogate any easements, restriction or covenants imposed on the land by private declaration or agreement, but where such provisions are less restrictive than an applicable of this Ordinance, the Ordinance shall prevail.

Section 8.12 - 3. Effectuation.

This Ordinance shall be in full force and effect from and after its passage by the City Council and subsequent publication.

Section 8.12 - 4. Amendment.

The City Council may adopt amendments by 4/5 vote to either the Zoning Ordinance, Zoning Map or Overlay Maps in relation to the Land Uses within a District or the boundaries of the District(s). Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals of the community or changes in the conditions of the City.

1. Procedure.
    A. An amendment may be initiated by the Council, the Planning Commission or by any property owner.
    B. The Zoning Administrator shall review the proposed changes and make a recommendation to the Planning Commission.
    C. The Planning Commission shall make a reasonable attempt to cause all property owners within a minimum of 350 feet of proposed

Zoning District change to be notified by regular mail and shall publish a hearing notice for either a Zoning District change or Zoning Ordinance change in the legal section of the official newspaper and shall provide notice to the DNR at least 10 days ahead of the public hearing. The Planning Commission shall hold the hearing and make a timely recommendation to the City Council. Adoption of a new Zoning map shall require published notice only. The Planning Commission shall consider the criteria for Land Use categories, Sec 5.1(7), in its decision.

D. The City Council shall review the recommendations and shall make a timely decision. An amendment requires a 4/5 vote to be enacted.

E. The City Clerk shall publish a summary of the text of the change or description of boundary change or a new Zoning map, whichever is appropriate, in the official newspaper within 30 days after action by the Council.

Section 8.12 - 5. Notices.

Failure to receive notice called for by this Ordinance shall not invalidate any action taken by the City so long as the City acted reasonably in its attempt to provide such notice.