

City of Sunfish Lake

City Code



(amended through December 9, 2025)

NOTICE

This volume contains all city ordinances of the City of Sunfish Lake. This codification was created pursuant to Minnesota Statutes §415.021. It is known and may be cited as the "City Code."

For total accuracy the user should inquire of the city administrative offices as to ordinances not included that have been passed.

CITY OF SUNFISH LAKE, MINNESOTA

Originally Codified on May 2, 1988 by:

Faegre & Benson
By: Paul S. Moe
2300 Multifood Tower
33 South Sixth Street
Minneapolis, MN 55402

Effective Date of Original Codification: June 15, 1988

Ordinances adopted after May 2, 1988 have been integrated into the City Code pursuant to Section 101.08. The City Clerk has possession of the signed Ordinances and Minutes of Action along with the Affidavits of Publication.

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ARTICLE I
GENERAL PROVISIONS

CHAPTER 101

ADOPTING ORDINANCE

**AN ORDINANCE CODIFYING THE ORDINANCES OF THE CITY OF
SUNFISH LAKE ADOPTING THE "SUNFISH LAKE CITY CODE."**

THE CITY COUNCIL OF SUNFISH LAKE ORDAINS:

SECTION 101.01 ADOPTION OF CODE:

The substantive general Ordinances of a general and permanent nature of the City of Sunfish Lake, Minnesota are hereby codified in booklet form, entitled "Sunfish Lake City Code", consisting of 13 articles and the chapters and sections thereunder, which are adopted and declared to be ordinances of this City, and which by this ordinance shall be prima facie evidence of the law of the City of Sunfish Lake.

SECTION 101.02 SHORT TITLE:

For brevity herein, the Sunfish Lake City Code, will sometimes be referred to as "the Code" or "this Code", and any use of "the Code" or "this Code" shall be construed to mean the Sunfish Lake City Code, unless the context clearly requires some other meaning.

SECTION 101.03 REPEAL OF PRIOR ORDINANCES:

All ordinances and parts of ordinances of a general or permanent nature passed and approved prior to the passage and approval of this codification ordinance and in conflict with this ordinance or with any of the provisions of this ordinance, are hereby repealed; provided, that in construing the provisions of this ordinance the following ordinances shall not be considered or held to be ordinances of a general or permanent nature, to-wit:

- A. Ordinances vacating streets and alleys.
- B. Ordinances authorizing or directing public improvements to be made.
- C. Ordinances levying taxes or special assessments.
- D. Ordinances granting a franchise or special license to persons, firms or corporations.
- E. Ordinances annexing property.
- F. Ordinances providing for the issuance of bonds or other instruments of indebtedness.

- G. Ordinances establishing grades.
- H. Real estate transactions.
- I. Ordinances amending the Zoning Map.

SECTION 101.04 REPEAL, EXCEPTIONS:

The repeal of ordinances as provided in section 101.03 above, shall not effect any rights acquired, fines, penalties, forfeitures or liabilities incurred thereunder, or actions involving any of the provisions of such ordinances and parts thereof prior to repeal. Such ordinances above repealed are hereby continued in force and effect after the passage, approval and publication of this general codification ordinance for the purpose of all rights, fines, penalties, forfeitures, liabilities and actions therefor.

SECTION 101.05 SEVERABILITY:

If any article, chapter, section, paragraph, sentence, clause or other part of the Sunfish Lake City Code shall be adjudged void or of no effect, for any reason whatsoever, such decision shall not affect the validity of any of the other portions of the Code, which shall remain in full force and effect, and the provisions of this Code are hereby declared to be severable.

SECTION 101.06 EFFECTIVE DATE:

This Ordinance and this Code shall be effective as of June 15, 1988, provided that:

- A. Notice of the adoption of the Code shall be published for at least two weeks in the official newspaper of the City.
- B. Copies of the Code have been made available in the City offices at a reasonable price for at least one week prior to said effective date.

SECTION 101.07 CODE PERMANENTLY ON FILE:

A copy of the Code shall be permanently on file and open to public inspection in the Office of the City Clerk after adoption. This Code is printed in book form under the direction of the City Council and may be distributed as the City Council may see fit.

SECTION 101.08 INTEGRATION OF ORDINANCES INTO CODE:

- A. Duties of Administrator and Attorney: The Administrator and Attorney shall recommend to the Council a system for integrating ordinances into the Code in the most expeditious manner possible. They shall recommend to the Council rules consistent with this Section for the preparation, editing and format of ordinances to be presented to the Council.
- B. Matters Omitted:
 - 1. Title.

2. Enacting Clause.
 3. Section Numbers.
 4. Definition of terms identical to those contained in this Code.
 5. Validation and repealing clauses.
 6. Validating signatures and dates.
 7. Punctuation and other matters not an integral part of the text of the ordinance.
 8. Penalty provisions.
- C. Errors: When integrating ordinances into the Code, the Administrator and Attorney may correct manifest grammatical, punctuation, and spelling errors; change reference numbers to conform with sections, subsections chapters and ordinance; substitute figures for written words and vice versa; substitute dates for the words “the effective date of this ordinance”; and perform like actions to insure a uniform code of ordinances without, however, altering the meaning of the ordinances enacted.
- D. Source Notes: When an ordinance is integrated into the Code, a source note shall be added at the end of each new chapter, section, subsection or subdivision indicating the ordinance number and section from which the same was derived.
- E. Ordinance Records; Special Ordinances: The City Clerk is responsible for the safe and orderly keeping of all ordinances in a manner directed by the Council. Any ordinance not included in this Code by Council direction is a special ordinance. The clerk shall maintain an up-to-date, indexed record of all special ordinances. The Council may direct that special ordinances and other be included in appendices to this Code.

(Ord. 1998-06, 11/03/98)

CHAPTER 102

RULES OF CONSTRUCTION

SECTION 102.01 GENERALLY:

Words and phrases shall be construed in their plain, ordinary and usual sense, except that technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

SECTION 102.02 GENDER:

Unless the context clearly requires otherwise, the use of either masculine, feminine or neuter gender shall include the other genders.

SECTION 102.03 NUMBER:

Unless the context clearly requires otherwise, the use of either singular or plural number shall include the other number.

SECTION 102.04 TENSE:

Unless the context clearly requires otherwise, the use of either past, present or future tense shall include the other tenses.

SECTION 102.05 JOINT AUTHORITY:

Words importing joint authority to three (3) or more persons shall be construed as authority to a majority of such persons.

SECTION 102.06 TIME:

Whenever words fixing or importing time or the hour of the day are used in this Code, they shall be construed to mean Central Standard Time or Central Daylight Savings Time whichever is applicable. The time within which an act shall be done shall be computed by excluding the first (1st) and including the last day. If the last day is a Sunday or a legal holiday, such day shall be excluded.

SECTION 102.07 DEPUTIES:

Whenever this Code requires an act to be done, which act may legally be done by an agent or employee as well as by the principal, such requirements shall be satisfied by the performance of such act by an authorized agent or employee.

SECTION 102.08 FILING AT CITY OFFICES:

Whenever this Code requires filing with, payment to or notification of any certain city official or department, the requirement shall be satisfied by filing, payment or notification at the regular office of such city official or department during business hours on any business day.

SECTION 102.09 REPEALS:

The repeal of a provision which repeals a prior provision does not revive the prior provision,

unless the intent to do so is clearly stated. The repeal of any provision shall not be construed to abate, annul or otherwise affect any provision had or commenced under or by virtue of the repealed provision, and the same shall be as if the said provision had not been repealed, unless a contrary intent is clearly stated. Any article, chapter or section duly enacted by the City Council and included in this Code, and any other independent ordinance, chapter, section or subdivision of an ordinance duly enacted shall be altered, amended or revised only by the complete nullification and repeal of such ordinance, article, chapter, section or subdivision and by the subdivision as amended, altered or revised.

SECTION 102.10 LIBERAL CONSTRUCTION:

All general provisions, terms, phrases and expressions contained in the Sunfish Lake City Code shall be liberally construed in order that the true intent and meaning of such provisions may be fully carried out.

SECTION 102.11 MINNESOTA RULES OF CONSTRUCTION:

Unless clearly in conflict with provisions of this Code, or otherwise clearly inapplicable, rules of construction established for the State of Minnesota by statutes or case law shall apply in the construction of this Code.

CHAPTER 103

DEFINITIONS

SECTION 103.01 CERTAIN TERMS DEFINED:

As used in this Code, unless the particular context shall clearly require some other meaning, the following words shall mean:

- A. City: The City of Sunfish Lake, Minnesota.
- B. City Council: The City Council of the City of Sunfish Lake, Minnesota.
- C. Code: The Sunfish Lake City Code.
- D. Conviction: Either of the following accepted and recorded by the Court:
 - 1. A plea of guilty; or
 - 2. A verdict of guilty by a jury or a finding of guilty by the Court.
- E. Crime: Any conduct which is prohibited by this code for which the violator may be sentenced to imprisonment or fine.
- F. May: May is permissive.
- G. Mayor: The Mayor of the City of Sunfish Lake, Minnesota.
- H. Misdemeanor: A crime for which a fine of not more than \$1,000.00 or a sentence of not more than ninety (90) days, or both, may be imposed but in either case, the person convicted of said offense may be required to pay the costs of prosecution.
- I. Municipality: The City of Sunfish Lake, Minnesota.
- J. Ordinance: An ordinance duly adopted by the City Council.
- K. Person: Any individual, corporation, firm, partnership, association, organization or other group acting as a unit. It also includes any executor, administrator, trustee, receiver or other representative appointed by law. Whenever the word "person" is used in any section prescribing a penalty or fine, it shall include the partners, or members of any partnership or corporation, and, as to corporations, the officers, agents or members thereof who are responsible for the violation.
- L. Petty Misdemeanor: An offense, which does not constitute a crime, and for which a fine of not more than \$300.00 may be imposed.

- M. Planning Commission: As defined in Section 301 of this Code.
- N. Property: Tangible or intangible, real, personal or mixed property.
- O. Shall: Shall is mandatory.
- P. Repealed: (Ord. 96-06, 09/03/96)
- Q. State: The State of Minnesota.
- R. Street: Any public way, highway, street, avenue, boulevard, alley or other public thoroughfare. Each of said words shall include the others, and, if the context permits, shall also include "sidewalks."

SECTION 103.02 OTHER DEFINITIONS:

Certain chapters of this Code contain other definitions applicable particularly to such chapters. In case of any conflict between the definitions in section 103.01 and such other definitions, the other definitions shall prevail in the chapters where applicable.

SECTION 103.03 MINNESOTA DEFINITIONS:

Unless clearly in conflict with definitions or other provisions of this Code, or otherwise clearly inapplicable, definitions established for the State of Minnesota by statutes or case law shall apply to this Code.

CHAPTER 104

PENALTY FOR VIOLATION OF CODE

SECTION 104.01 APPLICATION:

The provisions of this Chapter shall be applicable to all the chapters, sections, subdivisions, paragraphs and provisions in the Code, shall apply to all persons and property within the City of Sunfish Lake, Minnesota, and within such adjacent area as may be stated in specific provisions.

SECTION 104.02: VIOLATION A MISDEMEANOR OR A PETTY MISDEMEANOR:

Every person violates a chapter, section, subdivision, paragraph or provision of this Code when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof shall be punished as for a Misdemeanor, except as otherwise stated in specific provisions herein, as set forth in the specific chapter in which the section, subdivision, paragraph or provision appears.

(Ord. 96-07, 09/03/96)

SECTION 104.03 ACTS OTHERWISE UNLAWFUL:

This Code does not authorize an act or omission otherwise prohibited by law.

SECTION 104.04 PAYMENT INTO CITY TREASURY OF FINES AND PENALTIES:

All fines, forfeitures and penalties recovered for the violation of any ordinance, charter, rule or regulation of the City shall be paid into the City Treasury by the Court or officer thereof receiving such monies. Payment shall be made in the manner, at the time, and in the proportion provided by law.

SECTION 104.05 PENALTIES FOR EACH OFFENSE:

When a penalty or forfeiture is provided for the violation of a chapter, section, subdivision, paragraph or provision of this Code, such penalty or forfeiture shall be construed to be for each such violation.

CHAPTER 105

AMENDMENTS

SECTION 105.01 IN GENERAL:

Any and all amendments to, additions to or deletions from this Code (hereinafter referred to as "amendments" in this chapter) shall be made in accordance with the applicable Minnesota Statutes governing the passage or city ordinances. All amendments shall be in writing, and shall be distributed to all City Council members prior to any action thereon. All amendments shall be in substantially the following format:

ORDINANCE NO.

**STATE OF MINNESOTA
COUNTY OF DAKOTA
CITY OF SUNFISH LAKE**

AN ORDINANCE TO . . .

The City Council of the City of Sunfish Lake hereby ordains:

Section 1 The Sunfish Lake Code, (section _____, is amended to read:) (is amended by adding the following section/subdivision:) (is amended by deleting section _____.)

[insert substantive provisions]

Section 2

[Etc.]

Passed and adopted by the Sunfish Lake City Council the ____ day of _____,
_____.

[Mayor's Name], Mayor

ATTEST:

[Name of City Clerk], City Clerk

Published in the _____ on _____, 20____.

SECTION 105.02 NUMERICAL DESIGNATION OF AMENDMENTS:

Each amendment shall be designated by the year of its passage and by a number indicating the chronological order in which it was passed during that year. The substantive provisions of each amendment shall be designated by article, chapter, section or subdivision numbers so that the amendment may be readily added to the Code.

SECTION 105.03 PASSAGE, PUBLICATION:

Upon passage of an amendment in accordance with state law, the Mayor or acting mayor and the City Clerk shall sign said amendment, and the City Clerk shall cause the amendment to be published in accordance with state law as soon as reasonably possible, but in no event later than the time period mandated by state law.

SECTION 105.04 RESOLUTIONS:

Resolutions need not be numbered or codified. Resolutions shall be passed pursuant to state law.

SECTION 105.05 FAILURE TO CONFORM TO REQUIREMENTS OF THIS CHAPTER:

Failure to conform to any of the requirements of this chapter in any way shall not invalidate or otherwise affect any ordinances or resolutions considered by the City Council or any other actions of the City Council. This chapter is intended only as a guideline to future amendments to the Sunfish Lake Code and shall have no substantive effect.

ARTICLE II
MUNICIPAL ADMINISTRATION

CHAPTER 201

CITY COUNCIL

SECTION 201.01 MEETINGS:

The City Council shall have monthly regular sessions at 7:00 p.m. on the days shown by the schedule of regular meetings; the schedule shall be adopted by resolution of the council and shall be kept on file at the City's primary office and at the clerk's office. If the regularly scheduled meeting falls on a holiday or a day on which the council is not by law permitted to meet, then the regular monthly meeting shall be one week later on the day of the week on which the City Council usually holds its regularly scheduled meeting. Adjourned meetings of the council and special meetings of the council shall be set by the council on days and at times that the council may deem proper. All meetings shall be held in the place designated on the schedule by the City Council. If the council decides to hold a regular meeting at a time or place different from the time or place stated in its schedule of regular meetings, it shall give the same notice of the meeting that is provided for a special meeting. The schedule of regular meetings shall be adopted by resolution at the December regular meeting for the upcoming calendar year.

(Ord. 90-01, 05/01/90; Ord. 96-08, 09/03/96; Ord. 06-02, 01/10/06; Ord. 20-03, 11/04/20)

SECTION 201.02 PRESIDING OFFICER:

The mayor shall preside at all meetings of the council. In the absence of the mayor, the acting mayor shall preside. In the absence of both, the council shall elect one of their number as temporary chairman. The acting mayor and temporary chairman when occupying the place of the mayor shall have the same privileges as other members.

SECTION 201.03 QUORUM:

At all meetings of the council, a majority of the council members shall constitute a quorum to do business. The council may, at any time by a majority vote of those present, adjourn from time to time to a specific date and hour whether or not a quorum is present.

SECTION 201.04 CALL TO ORDER:

At the hour appointed for meeting, the members shall be called to Order by the mayor, and in his absence by the acting mayor, and in the absence of both, by the clerk. The clerk shall call the roll, note the absentees and announce whether a quorum be present. In the absence of the clerk, the mayor shall appoint a secretary pro tem. Upon the appearance of a quorum, the council shall proceed to business.

SECTION 201.05 ROLE OF MAYOR:

The mayor shall preserve order and decorum and shall decide questions of order subject to an appeal to the council. The mayor may make motions, second motions, or speak on any question provided. The mayor shall be entitled to vote like other members of the council.

SECTION 201.06 LIMITATION ON DEBATE:

No member shall speak more than twice on any question nor more than five (5) minutes each time without unanimous consent of the council.

SECTION 201.07 RESOLUTIONS IN WRITING:

All resolutions shall be in writing.

SECTION 201.08 COMMITTEES:

All committees, including standing committees, shall be appointed by the chair unless expressly ordered by the council.

SECTION 201.09 STANDING COMMITTEES:

Standing committees may be appointed by the mayor annually. The first person named on the committee shall be chairman thereof, and each committee appointed shall consist of no more than five persons.

SECTION 201.10 PASSAGE OF ORDINANCES:

After an ordinance shall have passed, a complete and accurate copy as amended shall be made by the clerk and shall be signed by the mayor or in his absence by the acting mayor, and deposited with the clerk, who shall attest, seal, number, file, publish and record or place the same permanently in the ordinance book. Entry of the complete ordinance as amended directly into the ordinance book, original signatures and seal thereon shall be permanently inserted in the ordinance book after each ordinance.

SECTION 201.11 READING OF PETITIONS:

Petitions and other papers addressed to the council shall be read by the clerk upon presentation of the same to the council.

SECTION 201.12 ALL SESSIONS PUBLIC:

All sessions of the council shall be public, unless the meeting is allowed to be closed pursuant to the Minnesota Open Meeting Law, Minn. Stat. Ch. 13D.

(Ord. 96-09, 09/03/96)

SECTION 201.13 SUSPENSION OF RULES:

These rules, or any of them, may be temporarily suspended by consent of a majority of all council members, and shall not be repealed, altered, or amended, unless by concurrence of a majority of the whole council.

(Ord. 96-10, 09/03/96)

SECTION 201.14 PARLIAMENTARY PROCEDURE:

In all points not covered by these rules, the council shall be governed in its procedure by Robert's Rules of Order Revised.

SECTION 201.15 INTENT OF CHAPTER:

The foregoing rules are adopted to facilitate the transaction of council business and functions. They should not be permitted to defeat or hinder the plainly expressed intent and desire of the council. Informal compliance and substantial performance shall be sufficient under the foregoing rules in the absence of objection reasonably taken. Objection is hereby declared not to have been reasonably taken as to procedural matters provided for herein if a council member present at a meeting fails to object during the meeting and requests compliance with these rules, and such objection shall not be reasonably taken if taken by an absent member later than the next regular meeting after the proceedings to which objection is made.

SECTION 201.16 SPECIAL MEETINGS:

Special meetings may be called by the mayor or any two councilmembers in writing, filed with the clerk at least three (3) days prior to the time specified for the meeting, excluding Sundays and holidays. The demand for the special meeting shall specify the date, time, place and purpose of the special meeting. At least three (3) days prior to the meeting, excluding Sundays and holidays, the clerk shall mail a notice of the special meeting to all councilmembers; the notice shall state the date, time, place and purpose of the special meeting. The clerk shall prepare an affidavit that shows the mailing of the notice in the manner here prescribed. The clerk shall post written notice of the date, time, place and purpose of the special meeting on the principal bulletin board, then on the door of the City Council's usual meeting place. The notice shall also be mailed or otherwise delivered to each person who has filed a written request for notice of special meetings with the City. This notice shall be posted and mailed or delivered at least three (3) days before the date of the meeting, excluding Sundays and holidays. A person filing a request for notice of special meetings may limit the request to notification of meetings concerning particular subjects, in which case the clerk is required to send notice to that person only concerning special meetings involving those subjects. The council may establish an expiration date for request for notices of special meetings and require refiling of the request once each year. Not more than sixty (60) days before the expiration date of a request for notice, the clerk shall send notice of the refiling requirement to each person who filed during the preceding year.

Emergency meetings may be called by the mayor or any two council members in writing filed with the clerk. The demand for the emergency meeting shall specify the date, time, place and purpose of the emergency meeting. As soon as possible the clerk shall telephone all council members and leave a message that informs the council member of the date, time, place and purpose of the meeting; if a council member cannot be reached by telephone, then the telephone message may be left with an adult at the residence of the council member

or on the answering machine of the council member at the member's residence. If the message cannot so be left, the clerk shall deliver a written notice to the residence of the council member and tape it to the front door of the residence. The clerk shall make good faith efforts to provide notice of the meeting to each news medium that has filed a written request for notice if the request includes the news medium's telephone number. Notice of the emergency meeting shall be given by telephone to each requesting news medium. Notice shall be provided to each news medium which has filed a written request for notice as soon as reasonably practicable after notice has been given to the members. Notice shall include the date, time, place and purpose of the emergency meeting. Posted or published notice of an emergency meeting shall not be required. An "emergency" meeting is a meeting called because of circumstances that, in the judgment of the council, require immediate consideration by the council.

If a person receives actual notice of a meeting of the council at least 24 hours before the meeting, whether a special or emergency meeting, then all notice requirements of this Section 201.16 are satisfied with respect to that person, regardless of the method of receipt of notice.

(Ord. 96-11, 09/03/96)

SECTION 201.17 MANNER OF VOTING:

Manner of voting. Votes of the members or any business coming before the council may be by voice vote, standing vote, or in such other manner of voting as may signify the intention of the members.

Any affirmative or negative vote by a member shall be entered in the minutes. Aye and nay votes shall be taken upon any motion at the request of one member and the results thereof entered in the minutes.

(Ord. 96-12, 09/03/96)

SECTION 201.18 MINUTES:

Minutes of the meeting shall be kept in duplicate by the clerk. The clerk shall retain the original and deliver the duplicate to the mayor. They shall be signed by the clerk, and shall constitute an official record of the council proceedings. Upon approval of the minutes at the subsequent meeting of the council, the mayor shall sign the minutes. Lack of such mayor's signature or council approval shall not invalidate such minutes as official records.

SECTION 201.19 AMENDING MINUTES:

In the event the clerk shall fail or decline to amend or change his minutes upon informal request at the time they are submitted for approval, the council may, by motion carried by majority vote, amend the minutes. Such amending motion shall become part of the minutes of the subsequent meeting.

CHAPTER 202

FEES

SECTION 202.01 TITLE:

This ordinance shall be known, cited, and referred to as "The Fee Ordinance," except as herein referred to as "this ordinance."

SECTION 202.02 PURPOSE AND SCOPE:

The purpose of this fee ordinance is to enable the City Council to establish fees for various permits, approvals and applications required by this Code and for legal, planning and engineering costs incurred by the City in reviewing applications.

SECTION 202.03 FEES:

The City Council by ordinance, shall establish a fee schedule for various permits, approvals and applications required by this Code and for legal, planning and engineering costs incurred by the City in reviewing applications. Such fees shall be deposited with the City Treasurer into the City General Fund unless the Council shall specify otherwise. The fees established by the Council shall be payable by the applicant in advance of the service to be performed and in advance of any application being made or at the time the application is made. The applicant is responsible for payment of all such fees. In addition, the applicant shall reimburse the City for all legal, planning, forestry and engineering costs incurred by the City in reviewing and processing the application, in inspecting the work performed, and in enforcing the permits and approvals given by the Council. The reimbursable costs shall be the actual costs incurred by the City based on the contracts for hourly rates that the city has for legal, planning, forestry and engineering services. Unless otherwise allowed by State Law, all application fees are non-refundable.

FEE SCHEDULE

APPLICATION	APPLICATION FEE	ESCROW	CODE SECTION
<i>PLANNING AND ZONING FEES</i>			
Subdivision – Minor	\$150	\$7,000	Article XII
Subdivision – Major	\$300	\$7,000	
Preliminary Plat	\$300	\$7,000	
Final Plat	\$300	\$7,000	
Conditional Use Permit/Variance	\$300	\$7,000	
Zoning Text or Map Amendment	\$300	\$7,000	
Comprehensive Plan Amendment	\$300	\$7,000	
Site Plan	\$300	\$7,000	

Request to Amend Prior Planning Approval	\$300	\$7,000	
Appeal of City Planner's decision to Board of Appeals & Adjustments	\$300	\$7,000	
ANIMALS			
Farm or Non-Domestic Animal Permit	\$200 (initial application) \$100 (renewals)	\$200	608.01.C
Cultivated Farm Permit	No fee	n/a	610.15
Appeal from denial or revocation of Farm or Non-Domestic Animal Permit	\$200	\$200	608.01.F
Temporary Permit for Farm Animals for Invasive Species Removal	\$100	\$200	608.01.B.3
Dangerous Dogs (license and related fees)	West St. Paul fee schedule regarding dangerous dogs, as amended from time to time by the City of West St. Paul		608.05
Trapping Permit	No fee	n/a	602
LICENSES			
Peddler License Fee	\$95	n/a	610.07
Peddler Background Investigation Fee	\$135 (new) \$100 (renewal)	n/a	
Peddler Photo Identification Card Fee	\$14	n/a	
BUILDING			
Penalty fee for early construction without land use approvals	\$250	\$5,000	1001 1002 1003
Temporary certificate of occupancy security deposit	n/a	\$10,000	1005
Permits for buildings, mechanical, plumbing, electrical, fire suppression systems, signs, solar	West St. Paul fee schedule as amended from time to time by the City of West St. Paul		

and environmental (grading, etc.) and State Surcharges			
Moving Buildings	West St. Paul fee schedule as amended from time to time by the City of West St. Paul		1001.06
Demo Permits	\$25	n/a	
Building Permit review escrow		\$7,000	
ROW Permits	No fee	n/a	806
Land Alteration Permits	\$300	\$7,000	1106
TREES			
Tree Removal & Replacement Plan	\$50	n/a	1207.07
Tree Preservation Plan escrow	n/a	\$500	
Tree Replacement Fund	\$200 per tree	n/a	
Diseased Tree Abatement Admin. Fee	\$75	n/a	603.09
SEPTIC SYSTEMS			
Septic System Additional Inspections, Re-inspections, Special Inspections, and Special Analysis	\$55 per hour with one hour minimum	n/a	402
Septic Plan review, Inspections	\$75	n/a	
Septic Soil Verification	\$200	n/a	
OTHER PERMITS			
Water Use Permit	\$300	\$200	1107
Burning Permit	\$45 (valid for 3 days within 1 year)	n/a	702
Solicitor Registration	No fee	n/a	610.09
FALSE ALARM FEES			
False Alarm Requiring Police Response Fee	0-2 alarms within 12 months = \$0 3 within 12 months = \$50 4 or more within 12 months = \$100 per alarm	n/a	607
False Alarm Requiring Fire	First alarm = \$0	n/a	

Department Response Fee	2 nd alarm within 12 months = \$150 3 or more within 12 months = \$100 multiplied by the number of false alarms in 12 months that required a fire department response minus 2 (for example: 5 alarms = \$150 + (\$100 x 5-2) = \$450)		
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COPIES

City Code	\$35 per copy
Comprehensive Plan	\$35 per copy
General Data Requests	Per Data Practices Policy

(Ord. 1998-07, 11/03/98; Ord. 2007-03, 12/04/07; Ord. 2011-02, 04/05/11; Ord. 25-9, 12/09/25)

CHAPTER 203

EMERGENCY MANAGEMENT

SECTION 203.01 POLICY AND PURPOSE:

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

- A. To establish a City emergency management organization responsible for City planning and preparation for emergency government operations in time of disasters;
- B. To provide for the exercise of necessary powers during emergencies and disasters;
- C. To provide for the rendering of mutual aid between this City and other political subdivisions of this State and of other states with respect to the carrying out of emergency-preparedness functions; and
- D. To comply with the provisions of Minn. Stat. § 12.25, which requires that each political subdivision of the State shall establish a local organization for emergency management.

SECTION 203.02 DEFINITIONS:

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

- A. Disaster: A situation which creates an immediate and serious impairment to the health and safety of any person, or a situation which has resulted in or is likely to result in catastrophic loss to property, and for which traditional sources of relief and assistance within the affected area are unable to repair or prevent the injury or loss.
- B. Emergency: An unforeseen combination of circumstances which calls for immediate action to prevent from developing or occurring.
- C. Emergency Management: The preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from

disasters caused by fire, flood, tornado, and other acts of nature, or from sabotage, hostile action, or from industrial hazardous material mishaps. These functions include, without limitation, fire-fighting services, police services, emergency medical services, engineering warning services, communications, radiological, and chemical, evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out the foregoing functions.

- D. Emergency Management Forces: The total personnel resources engaged in City-level emergency management functions in accordance with the provisions of this chapter or any rule or order thereunder.
- E. Emergency Management Organization: The staff responsible for coordinating City-level planning and preparation for disaster response. This organization provides City liaison and coordination with Federal, State, and local jurisdictions relative to disaster preparedness activities and assures implementation of federal and state program requirements

SECTION 203.03 ESTABLISHMENT OF EMERGENCY MANAGEMENT ORGANIZATION AND APPOINTMENT OF EMERGENCY MANAGEMENT DIRECTOR:

There is hereby created within the City government an emergency management organization for the City. The emergency management organization shall have a Director who shall be appointed by the City Council. The City may enter into a contract with another political subdivision to perform the services of the Director. The Director shall have direct responsibility for the organization, administration and operation of the emergency preparedness organization. The emergency management organization shall conform to and be consistent with, where applicable, all State and Federal requirements, including the National Incident Management System framework found at 44 CFR part 201.

SECTION 203.04 POWERS AND DUTIES OF DIRECTOR:

- A. The Director shall represent the City on any regional or State conference for emergency management. The Director shall develop proposed mutual aid agreements with other political subdivisions of the State for reciprocal emergency management aid and assistance in an emergency too great to be dealt with unassisted and shall present these agreements to the Council for its action. These arrangements shall be consistent with the State Emergency Plan.
- B. The Director shall prepare a comprehensive emergency plan for the emergency preparedness of the City and shall present the plan to the City Council for its approval. When the City Council has approved the plan, it shall be the duty of all City agencies and all emergency management forces of the City to perform the

duties and functions assigned by the plan as approved. The plan may be modified in like manner. The Director shall coordinate the emergency management activities of the City to the end that they shall be consistent and fully integrated with the emergency plans of the Federal government and the State and correlated with emergency plans of the county and other political subdivisions within the State.

- C. In accordance with the State and City Emergency Plan, the Director shall institute training programs, public information programs and conduct practice warning alerts and emergency exercises as may be necessary to assure prompt and effective operation of the City Emergency Plan when a disaster occurs.
- D. The Director shall assist in the organizing, recruiting, and training of emergency management personnel, which may be required on a volunteer basis to carry out the emergency plans of the City and State.
- E. Consistent with the State emergency services law, the Director shall coordinate the activity of municipal emergency management organizations within the City and assist in establishing and conducting training programs as required to assure emergency operational capability in the several services as provided by Minn. Stat. § 12.25.
- F. The Director shall carry out all orders, rules, and regulations issued by the Governor with reference to emergency management.
- G. The Director shall prepare and submit reports on emergency preparedness activities when requested by the City Council.

SECTION 203.05 LOCAL EMERGENCIES:

- A. In accordance with Minn. Stat. § 12.29, Subd. 1, a local emergency may be declared only by the Mayor or his or her legal successor. It shall not be continued for a period in excess of three days except by or with the consent of the City Council. Any order, or proclamation declaring, continuing, or terminating a local emergency shall be given prompt and general publicity and shall be filed in the office of the City Clerk.
- B. A declaration of a local emergency shall invoke necessary portions of the response and recovery aspects of applicable local or inter-jurisdictional disaster plans, and may authorize aid and assistance thereunder.
- C. No jurisdictional agency or official may declare a local emergency unless expressly authorized by the agreement under which the agency functions. However, an inter-jurisdictional disaster agency shall provide aid and services in accordance with the agreement under which it functions.

SECTION 203.06 EMERGENCY REGULATIONS:

- A. Whenever necessary, to meet a declared emergency or to prepare for an emergency for which adequate regulations have not been adopted by the Governor or the City Council, the City Council may by resolution promulgate regulations, consistent with applicable federal or state law or regulation, respecting: the conduct of persons and the use of property during emergencies; the repair, maintenance, and safeguarding of essential public services, emergency health, fire, and safety regulations, drills or practice periods required for preliminary training, and all other matters which are required to protect public safety, health, and welfare in declared emergencies.
- B. Every resolution of emergency regulations shall be in writing; shall be dated; shall refer to the particular emergency to which it pertains, if so limited, and shall be filed in the office of the City Clerk. A copy shall be kept posted and available for public inspection during business hours. Notice of the existence of these regulations and their availability for inspection at the City Clerk's Office shall be conspicuously posted on the City's official bulletin board or other headquarters of the City or at other places in the affected area as the Council shall designate in the resolution. By resolution, the City Council may modify or rescind a regulation.
- C. The City Council may rescind any regulation by resolution at any time. If not sooner rescinded, every regulation shall expire at the end of 30 days after its effective date or at the end of the emergency to which it relates, whichever comes first. Any resolution, rule, or regulation inconsistent with an emergency regulation promulgated by the City Council shall be suspended during the period of time and to the extent conflict exists.
- D. During a declared emergency, the City is, under the provisions of Minn. Stat. § 12.37, and notwithstanding any statutory provision to the contrary, empowered, through its City Council, acting within or without the corporate limits of the City, to enter into contracts and incur obligations necessary to combat the disaster by protecting the health and safety of persons and property and providing emergency assistance to the victims of a disaster. The City may exercise these powers in the light of the exigencies of the disaster without compliance with the time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering into contracts, incurring obligations, employment of temporary workers, entering rental equipment agreements, purchase of supplies and materials, limitations upon tax levies, and the appropriation and expenditure of public funds, including, but not limited to, publication of resolutions, publication of calls for bids, provisions of personnel laws and rules, provisions relating to low bids, and requirement for bids.

SECTION 203.07 EMERGENCY MANAGEMENT A GOVERNMENT FUNCTION:

All functions and activities relating to emergency management are hereby declared to be

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

SECTION 203.08 NO TREE, DEBRIS OR OBSTRUCTION REMOVAL:

During a declared emergency, the City may, but has no obligation to remove trees, debris or other obstructions from private property or private roads or streets.

(Ord. 2025-2, 08/12/25)

ARTICLE III
COMMISSIONS AND BOARDS

CHAPTER 301

PLANNING COMMISSION

SECTION 301.01 APPOINTMENT OF PLANNING COMMISSION:

The Planning Commission shall comprise five (5) members. The existing members on the effective date of this Ordinance shall continue to serve the terms to which they were appointed with the result that the terms of two (2) members shall expire December 31, 1996, the term of one (1) member shall expire December 31, 1997, and the term of two (2) members shall expire December 31, 1998. Upon expiration of the respective terms, the persons appointed by the Council shall serve a three (3) year term commencing January 1st.

One of the five members shall be the chair of the commission. Each year at the December regular council meeting, the Mayor shall appoint one of the commission members to be the chair commencing January 1st.

Members to the commission shall be nominated by the Mayor and appointed by the Council by majority vote of the entire Council. The nominations and appointments shall occur at the December regular Council meeting and the term shall begin January 1st.

If a vacancy occurs during a member's term, then as soon as conveniently possible thereafter a replacement member shall be appointed to complete the remaining term. The replacement member shall be nominated by the Mayor and appointed by the Council by majority vote of the entire Council.

Members of the Planning Commission may be removed from office prior to the end of their term without a hearing and with or without cause by a majority vote of the entire Council.

(Ord. 96-13, 09/03/96)

SECTION 301.02 POWERS AND DUTIES OF THE PLANNING COMMISSION:

The Planning Commission shall have all of the powers and duties prescribed for the planning agency by Minnesota State Statutes. The Planning Commission shall consider amendments to the Zoning Ordinance, variances to the Zoning Ordinance upon reports from the City Council and such other matters as are required to be referred to it by the City Council or any statutes of the State of Minnesota. The City Council shall act as the board of adjustments and appeals for the City for all purposes.

Recommendations and findings of the Planning Commission shall in all cases be advisory to the City Council, which may take such action thereon as it deems proper.

(Ord. 96-14, 09/03/96)

SECTION 301.03 PROCEDURE OF THE PLANNING COMMISSION:

The Planning Commission shall prescribe its own rules of procedure to the extent permissible under statute and to the extent that such rules are consistent with the City Ordinances. The members may elect a vice chairman, a secretary, and such other officers as they shall deem appropriate. The Commission shall provide a written record of its proceedings, including the minutes of its meetings, findings, and the action taken by the Commission on each matter referred to it or heard by it, including the final recommendation. Hearings shall be held by the Commission in all matters where public hearings are required by the statutes of the State of Minnesota or the Ordinances of this City, and hearings may be afforded to any interested parties on any other matter where the Commission deems it appropriate.

The Commission shall submit reports directly to the City Council, which reports shall include the recommendations of the Commission as to action to be taken by the Council.

SECTION 301.04 TIME AND PLACE OF MEETING:

The Planning Commission shall have monthly regular sessions at the times and on the days shown by the schedule of regular meetings. The schedule shall be adopted by resolution of the commission and shall be kept on file at the City's primary office and at the clerk's office. If the regularly scheduled meeting falls on a holiday or on a day on which the commission is not by law permitted to meet, then the regular monthly meeting shall be one week later on the day of the week on which the commission usually holds its regularly scheduled meeting. Adjourned meetings of the commission and special meetings of the commission shall be set by the commission on days and at times that the commission may deem proper. All meetings shall be held in the place designated on the schedule by the commission. If the commission decides to hold a regular meeting at a time or place different from the time or place stated in its schedule of regular meetings, it shall give the same notice of the meeting that is provided for a special meeting.

The schedule of regular meetings shall be adopted by resolution at the December regular meeting for the upcoming calendar year.

Special meetings may be called by the chair or any two members in writing, filed with the clerk at least three (3) days prior to the time specified for the meeting, excluding Sundays and holidays. The demand for the special meeting shall specify the date, time, place and purpose of the special meeting. At least three (3) days prior to the meeting, excluding Sundays and holidays, the clerk shall mail a notice of the special meeting to all members; the notice shall state the date, time, place and purpose of the special meeting. The clerk shall prepare an affidavit that shows the mailing of the notice in the manner here

prescribed. The clerk shall post written notice of the date, time, place and purpose of the special meeting on the principal bulletin board of the City, or if the City has no principal bulletin board, then on the door of the commission's usual meeting place. The notice shall also be mailed or otherwise delivered to each person who has filed a written request for notice of special meetings with the City. This notice shall be posted and mailed or delivered at least three (3) days before the date of the meeting, excluding Sundays and holidays. A person filing a request for notice of special meetings may limit the request to notification of meetings concerning particular subjects, in which case the clerk is required to send notice to that person only concerning special meetings involving those subjects. The commission may establish an expiration date for request for notices of special meetings and require refiling of the request once each year. Not more than sixty (60) days before the expiration date of a request for notice, the clerk shall send notice of the refiling requirement to each person who filed during the preceding year.

Emergency meetings may be called by the chair or any two members in writing filed with the clerk. The demand for the emergency meeting shall specify the date, time, place and purpose of the emergency meeting. As soon as possible the clerk shall telephone all members and leave a message that informs the member of the date, time, place and purpose of the meeting; if a member cannot be reached by telephone, then the telephone message may be left with an adult at the residence of the member or on the answering machine of the member at the member's residence. If the message cannot so be left, the clerk shall deliver a written notice to the residence of the member and tape it to the front door of the residence. The clerk shall make good faith efforts to provide notice of the meeting to each news medium that has filed a written request for notice if the request includes the news medium's telephone number. Notice of the emergency meeting shall be given by telephone to each requesting news medium. Notice shall be provided to each news medium which has filed a written request for notice as soon as reasonably practicable after notice has been given to the members. Notice shall include the date, time, place and purpose of the emergency meeting. Posted or published notice of an emergency meeting shall not be required. An "emergency" meeting is a meeting called because of circumstances that, in the judgment of the commission, require immediate consideration by the commission.

If a person receives actual notice of a meeting of the commission at least 24 hours before the meeting, whether a special or emergency meeting, then all notice requirements of this Section 301.04 are satisfied with respect to that person, regardless of the method of receipt of notice. (Ord. 96-15, 09/03/96; Ord. 20-02, 11/04/20)

SECTION 301.05 APPLICATION DEADLINE:

Except as otherwise required under this Code, all applications for Planning Commission consideration must be received by the City Planner no later than thirty days before the Planning Commission meeting at which the application is to be considered. (Ord. 96-16, 09/03/96)

ARTICLE IV
PUBLIC HEALTH, WELFARE AND SANITATION

CHAPTER 401

INDIVIDUAL SEWAGE DISPOSAL

SECTION 401.01 ADOPTION OF STATE STANDARDS BY REFERENCE:

The Minnesota Pollution Control Agency Water Quality Division Individual Sewage Treatment Systems Standards, Minnesota Rules Chapter 7080, one copy of which is on file in the office of the City Clerk, is hereby adopted as the individual sewage disposal code for the City of Sunfish Lake. Such standards are hereby incorporated in this ordinance as completely as if set out in full.

SECTION 401.02 DEFINITIONS:

Whenever the word "agency" or "Minnesota Pollution Control Agency" is used in the Individual Sewage Treatment Systems Chapter 7080 regulations, it shall be held to mean the City of Sunfish Lake. Whenever the word "director" is used in the regulations, it shall be held to mean the building inspector or his authorized agent.

CHAPTER 402

SUBSURFACE SEWAGE TREATMENT SYSTEMS

402.01 PURPOSE, INTENT, AUTHORITY:

- A. Purpose. The purpose of this chapter is to establish minimum requirements for regulation of SSTS for the treatment and dispersal of sewage within the city to protect public health and safety, groundwater quality, and to prevent or eliminate the development of public nuisances. It is intended to serve the best interest of the city's citizens by protecting its health, safety, general welfare, and natural resources.
- B. Intent. The purpose of this chapter is to achieve and help ensure:
1. The protection of lakes, rivers and streams, wetlands, and groundwater in the city essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the city in perpetuity.
 2. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality.
 3. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
 4. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.
 5. The provision of technical assistance and education, plan review, inspections, SSTS surveys and complaint investigations to prevent and control water-borne diseases, lake degradation, groundwater related hazards, and public nuisance conditions.
- C. This chapter is adopted pursuant to Minn. Stat. chs. 115, 145A, 375, or successor statutes, and Minn. R. chs. 7081, 7081, and 7082, or successor rules.

402.02 DEFINITIONS:

Unless the context clearly indicates otherwise, the following words and phrases shall have the meanings ascribed to them in this section. Unless specifically defined herein, terms used in this chapter shall have the same definition as provided in Minn. Stat. §115.55 and Minn. R. chs. 7080, 7081, 7082, and 7083 and if not defined there, shall have common usage meaning.

- A. As Builts: "Record drawings" as defined below.
- B. Class V Injection Well: A shallow well used to place a variety of fluids directly below the land surface. This includes SSTS that are designed to receive sewage or non-sewage from a two-family dwelling or greater or receive sewage or non-sewage from another establishment that serves more than 20 persons per day. 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 and 146).
- C. Cluster System: A wastewater collection and treatment system 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.
- D. Commercial and Industrial Discharge: Those wastes that are part of a business's commercial and/or industrial process and excludes secondary discharge as defined by subsection 2.17 and excludes sewage as defined by Minnesota Rules, part 7080.1100 subpart 74.
- E. Department: The City's Septic System Inspector, regardless of whether a city employee or a city contract consultant, the Septic System Inspector's staff and any designated agents of the Septic System Inspector. The term Department may also include Dakota County if the City contracts with or otherwise delegates to Dakota County any of the rights or responsibilities of the Department contained in this Chapter 402. (Ord. 2012-01, 03/06/12)
- F. Design Flow: The daily volume of wastewater for which an onsite/cluster system is designed to treat and discharge.
- G. Failure to Protect Groundwater: An SSTS that does not protect groundwater such as a seepage pit, cesspool, drywell, leaching pit, or other pit; a SSTS with less than the required vertical separation distance described in Minn. R. 7080.1500, subps. 4(D) and 4(E); and a system not abandoned in accordance with Minn. R. 7080.2500. It also means a MSTS that is not in compliance with Minn. R. 7081.0080 subp. 4. The determination of the threat to groundwater for other conditions must be made by a qualified employee or a licensed inspection business.
- H. Imminent Threat to Public Health and Safety: An 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; sewage tanks with unsecured, damaged, or weak maintenance access covers; or any other situation with the potential to immediately and adversely affect or threaten public health or safety. The determination of protectiveness for other conditions must be made by a qualified employee inspector or a licensed inspection business.

- I. ISTS: An individual sewage treatment system as defined in Minn. R. 7080.1100, subp. 41.
- J. 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 concepts of the SSTS.
- K. MPCA: The Minnesota Pollution Control Agency.
- L. MSTS: A midsize subsurface sewage treatment system as defined in Minn. R. 7081.0020, subp. 4.
- M. Person: Any human being, any municipality or other governmental or political subdivision, or other public agency, any public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity.
- N. Record Drawings: A set of drawings which reasonably 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. Record drawings were previously known as “as built.”
- O. Registration Permit: The permit issued by the City to register the SSTS or MSTS located within the City for purposes of identifying the SSTS or MSTS, ensuring the required maintenance of the SSTS or MSTS and administering this Chapter.
- P. SSTS: A subsurface sewage treatment system as defined in Minn. R. 7080.1100, subp. 82.
- Q. Secondary Discharge: Those solids and liquids discharged intermittently which are not part of the business’s commercial and/or industrial process, including, but not limited to, floor drains and overflow from containment areas.

- R. Shoreland/Floodplain Area: Those shoreland and floodplain areas governed by city code Section 1209.
- S. Treatment Level: Treatment system performance levels as defined in Minn. R. 7083.4030, Table III for testing of proprietary treatment products.
- T. Type I System: An ISTS designed according to Minn. R. 7080.2200 through Minn. R. 7080.2240, as may be amended from time to time.
- U. Type II System: An ISTS designed according to Minn. R. parts 7080.2250 to 7080.2290, as may be amended from time to time.
- V. Type III System: An ISTS designed according to Minn. R. 7080.2300, as may be amended from time to time.
- W. Type IV System: An ISTS designed according to Minn. R. 7080.2350, as may be amended from time to time.
- X. Type V System: An ISTS an ISTS designed according to Minn. R. 7080.2400, as may be amended from time to time.

402.03 GENERAL PROVISIONS:

- A. Scope: This chapter regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the City of Sunfish Lake including but not limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the city shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in accordance with the provisions of this chapter or by a system that has been permitted by the MPCA. [Minn. R. 7082.0100, Subp. 3(Q)]
- B. Jurisdiction: This chapter applies to all land within the city.

402.04 ADMINISTRATION:

- A. The department shall administer the SSTS program and all provisions of this chapter. At appropriate times, the city shall review, revise, and update this chapter as necessary. The city shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program. [Minn. R. 7082.0040]
- B. State of Minnesota: When a single SSTS or group of SSTS under single ownership within one-half mile of each other have a design flow greater than 10,000 gallons

per day, the owner or owners shall make application for and obtain a state disposal system permit from the MPCA in accordance with Minn. R. ch. 7001. If the measured daily flows for a consecutive seven-day period exceed 10,000 gallons per day, a state disposal system permit is required. [Minn. R. 7081.0040, Subp. 1(B)]

A state disposal system permit is also required for any SSTS or group of SSTS that the commissioner determines has the potential or an increased potential to cause adverse public health or environmental impacts if not regulated under a state permit. Conditions for these permits include systems in environmentally sensitive areas, unsubstantiated or unexpected flow volumes, and systems requiring exceptional operation, monitoring, and management. [Minn. R. 7081.0040, Subp. 1(C)]

402.05 GENERAL REQUIREMENTS:

A. Retroactivity:

1. Except as provided herein, all provisions of this chapter shall apply to any SSTS regardless of the date it was originally permitted.
2. Unexpired permits, which were issued prior to the effective date of this chapter, shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system ownership. Pursuant to Section 402.07.G, system owners will be required to obtain a registration permit upon the expiration of the existing city issued system permit or a change in system ownership, whichever occurs first.
3. All lots created after January 23, 1996, must have a minimum of two soil treatment and dispersal areas that can support systems as described in Minn. R. parts 7080.2200 through 7080.2230 or site conditions described in Minn. R. 7081.0270, subps. 3 through 7. [Minn. R. 7082.0100, Subp. 3(F)]

B. Upgrade, Repair, Replacement, and Abandonment:

1. Failure to Protect Groundwater. An SSTS that is determined not be protective of groundwater in accordance with Minn. R. 7080.1500, subp. 4(B) or Minn. R. 7081.0080, subparts 2 or 4 shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this chapter within 10 months of receipt of notice of noncompliance from the department. [Minn. R. 7082.0100, Subp. 1(A)]
2. Imminent Threat to Public Health or Safety. An SSTS that is determined to be an imminent threat to public health or safety shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this

chapter within 30 days of receipt of notice of noncompliance from the department. [Minn. R. 7082.0100, Subp. 1(B)]

3. Abandonment. Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with section 8.00 of this chapter and Minn. R. 7080.2500. [Minn. R. 7082.0100, Subp. 3(B)]
 4. Insufficient Capacity. In the event that a bedroom addition causes the need for additional capacity, the SSTS shall be increased to sufficient capacity prior to the occupancy of the new bedroom. An SSTS, or any component thereof, that is determined to be undersized, shall be upgraded, repaired, replaced, or abandoned by the owner in accordance with the provisions of this chapter within 12 months of receipt of notice of noncompliance from the department.
- C. 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 of Minn. R. 7080.2270 and all relevant local requirements are met. [Minn. R. 7082.0100, Subp. 3(I)]
- D. 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 to submit SSTS inventory information to the United States Environmental Protection Agency and the MPCA. Owners are also required to identify all Class V injection wells in any property transfer disclosures. [Minn. R. 7082.0100, Subp. 3(M)]
- E. SSTS License Required: [Minn. R. 7082.0100, Subp. 3(A)]
1. All design, installation, alteration, repair, maintenance, operation, pumping, and inspection activities for SSTS located in the city must be completed by a business licensed by the state under Minn. R. ch. 7083, an appropriately certified qualified employee, or a person exempted under Minn. R. 7083.0700, subps. 1(A), (C), (D), (F), (G), (H) and (I). Individuals exempt from a state SSTS license under Minn. R. 7083.0700, subps. 1(A), (C), (D), (F), (G), (H) and (I) must follow all applicable local, state, and federal requirements. Property owners that employ a business to perform this work must hire a business that is licensed in accordance with Minn. R. ch. 7083.
 2. 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 the MPCA in accordance with Minn. R. ch. 7083.

3. Exceptions. A license is not required for:

- a. An individual who is a qualified employee performing work as directed by a state or local government employer;
- b. An individual who performs supervised labor or services as an employee of a licensed SSTS business;
- c. A farmer who pumps septage from an ISTS that serves dwellings or other establishments that are owned or leased by the farmer and applies septage on land that is owned or leased by the farmer;
- d. An individual or business who abandons an SSTS;
- e. An individual who maintains a toilet waste treatment device for a dwelling that is owned by the individual and functions solely as a dwelling or seasonal dwelling for that individual;
- f. An individual who performs tasks identified in the system's management plan that do not require a maintainer or service provider license for a dwelling that is owned by the individual and functions solely as a dwelling or seasonal dwelling for that individual; or
- g. The owner or designee of a campground or other similar facility who removes and transports sewage wastes from recreational vehicles into a holding or treatment system located on the same property as the facility.

F. Prohibitions:

1. Occupancy or Use of Building Without a Compliant SSTS. It is unlawful for any person to maintain, occupy, or use any building intended for habitation to dispose of wastewater in a manner that does not comply with the provisions of this chapter.
2. Sewage Discharge to Ground Surface or Surface Water. It is unlawful for any person to construct, maintain, or use any wastewater treatment system regulated under this chapter 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 by the MPCA under the National Pollutant Discharge Elimination System program. [Minn. R. 7082.0100, Subp. 3(H)]
3. 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 Minn. R. 4725.2050, or any other excavation in the ground that is not in compliance with this chapter.
4. Discharge of Hazardous or Deleterious Materials. It is unlawful for any person to discharge into any treatment system regulated under this chapter any

hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

5. Limits on Commercial and Industrial Discharge. No animal waste or commercial water waste or industrial wastewater shall be discharged on the surface or into the sub-surface unless the person allowing or causing the discharge first obtains a State Disposal System Permit from the Minnesota Pollution Control Agency. Such discharges must comply with the terms and requirements of the State Disposal System Permit in order to continue. A subsurface sewage treatment system that on March 31, 1996, was used for the discharge of animal waste or commercial wastewater or industrial wastewater may continue to be used for such purposes until such system becomes a failed subsurface sewage treatment system or the Minnesota Pollution Control Agency orders discontinuance, whichever occurs first.
6. Class V Injection Wells. Class V motor vehicle waste disposal wells and large capacity cesspools are specifically prohibited (See 40 CFR Parts 144 and 146).
- G. Required Submission of Maintenance Reports: Licensed maintenance businesses must abide by the requirements described in Minn. R. 7083.0770, subp. 2. All written reports required by Minn. R. 7083.0770, subp. 2 must be provided to the homeowner and the department within 30 days after any maintenance work is performed.

402.06 SSTS STANDARDS:

- A. Standards Adopted by Reference: Minn. Stat. § 115.55 and Minn. R. chs. 7080 and 7081 and all other referenced laws and rules, as may be amended from time to time, are adopted by reference and made a part of this chapter as if fully set forth herein. [Minn. R. 7082.0100, Subp. 3(C)]
- B. Amendments to the Adopted Standards:
 1. Determination of Hydraulic Loading Rate and SSTS Sizing. Table IX from Minn. R. 7080.2150, subp. 3(E) entitled Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Detail Soil Descriptions and Table IXa from Minn. R. ch. 7080.2150, subp. 3(E) entitled Loading Rates for Determining Bottom Absorption Area for Trenches and Seepage Beds for Effluent Treatment Level C and Absorption Ratios for Determining Mound Absorption Areas Using Percolation Tests are hereby adopted by reference as if fully set forth herein and shall both be used to size SSTS infiltration areas using the larger sizing factor of the two for SSTS design.

2. Holding Tanks. Holding tanks may be used for the following applications only after it can be shown conclusively by the property owner that a SSTS permitted under this chapter cannot be feasibly installed:
 - a. As a replacement for an existing failing SSTS;
 - b. For an SSTS that poses an imminent threat to public health or safety; or
 - c. For use with buildings with limited water use.
3. Effluent Screens. When provided pursuant to Minnesota Rules, part 7080.1930, subparts 2 or 3, effluent screens must be sized and utilized in accordance with the screen manufacturer's recommendations. The effluent screens must be of the non-bypass type and have certified documentation that shows at least three years successful field-testing and operation or that the screen meets the design standard for effluent screens in ANSI/NSF Standard 46. The documentation must show the effluent screen has continuously lowered the total suspended solids by a minimum of 30 percent and that under normal use the screen is capable of obtaining a minimum of 3 years between maintenance intervals.

The effluent screens must be placed within or following the last sewage tank or sewage tank compartment before distribution to the drainfield and be installed in accordance with the screen manufacturer's installation instructions. Effluent screens shall be properly cleaned, at the time of each tank pump out, by washing the screen waste into the septic tank or, if rinse water is not available, exchanged with a clean effluent screen.

C. Compliance Criteria for Existing SSTS:

1. SSTS built before April 1, 1996, outside of areas designated as shoreland areas, wellhead protection areas, or SSTS providing sewage treatment for food, beverage, or lodging establishments must have at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock. The vertical separation measurement shall be made outside the area of system influence in an area of similar soil. [Minn. R. 7082.0100, Subp. 1(D)].
2. SSTS built after March 31, 1996, or SSTS located in a shoreland area, wellhead protection area, or serving a food, beverage, or lodging establishment as defined under Minn. R. 7080.1100, subp. 84 must have a three-foot vertical separation between the bottom soil infiltrative surface and the periodically saturated soil and/or bedrock. Unless otherwise determined by the department, existing systems that have no more than a 15 percent reduction to the minimum

required 36-inch separation distance are considered compliant. (i.e., a separation distance no less than 30.6 inches). This reduction is to account for settling of sand or soil, normal variation of separation distance measurements and interpretation of limiting layer characteristics. The vertical separation measurement shall be made outside the area of system influence in an area of similar soil.

- D. Highest Standards Prevail: Where the conditions imposed by a provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by a provision of this chapter or any other applicable law, ordinance, rule, or regulation, the provision that establishes the more restrictive standard for the promotion and protection of the public health, safety, and general welfare shall prevail.

402.07 SSTS PERMITTING: [Minn. R. 7082.0100, Subp. 3(E)]

A. Permits Required:

1. Permit Required. It is unlawful for any person to maintain, construct, install, modify, or replace a SSTS in the city without the appropriate permit from the department. [Minn. R. 7082.0100, Subp. 3(Q)]
2. Permitting Not Exclusive. The obtaining of a city permit shall not be deemed to exclude the necessity of obtaining other appropriate permits or approvals from other agencies or departments. Compliance with the provisions of this chapter shall not relieve any person of the need to comply with any and all other applicable rules, regulations, and laws.

B. Construction Permit:

1. Activities Requiring a Construction Permit. A construction permit is required for installation of a new SSTS, for replacement of an existing SSTS, or for any 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. [Minn. R. 7082.0100, Subp. 3(O)]
2. Activities Not Requiring a Construction Permit. A construction 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's design, layout, or function. [Minn. R. 7082.0100, Subp. 3(O)]

3. **Application for Permit.** Permit applications shall be submitted to the department on forms provided by the department. Applicants shall provide all information as required for the administration of this chapter.
4. **Contents of Permit Application.** The permit application shall include the following:
 - a. The names, addresses, and telephone numbers of the applicant and permittee;
 - b. The property identification number and address or other description of the real property on which the system will be located;
 - c. A site evaluation report as described in Minn. R. 7080.1730 or Minn. R. 7081.0200 and for MSTs a groundwater report as described in Minn. R. 7081.0210 subp.6;
 - d. A design report as described in Minn. R. 7080.2430 or 7081.0270 subp. 11;
 - e. The infield verification as described in Minn. R. 7082.0500, subp. 3(A);
 - f. A management plan as described in Minn. R. 7082.0600 and section 7.03 of this chapter; and
 - g. Copies of any required municipal, county, state, or federal permits or approvals.
5. **Application Fee.** The application fee as set forth in the City Fee Schedule shall accompany the permit application.
6. **Application Review.** The department shall review a permit application and supporting documents to determine whether the application is complete. Upon satisfaction that the proposed work will conform to the provisions of this chapter, the department shall issue a written permit authorizing construction of the SSTs as designed. If the applicant changes the proposed work to be conducted under an approved permit application, the applicant must file an amended application with the department detailing the changed conditions prior to initiating or continuing construction, modification, or operation. The department shall review the amended application and either approve or deny the application.
7. **Approval of Permit Required.** The department must review and approve the permit application and management plan before issuing a permit. Construction must not be initiated until the department grants a construction permit.

8. Permit Expiration. The construction permit is valid for a period of no more than one year from its date of issue, unless it is extended in accordance with this section or construction has been completed satisfactorily, whichever is shorter. Satisfactory completion of construction shall be determined by receipt of final record drawings and a signed certification that the construction or installation of the system was completed in substantial conformance to the approved design documents by a qualified employee of the department or a licensed inspection business, which is authorized by the department and independent of the owner and the SSTS installer.
9. Extensions and Renewals. The department may grant an extension of the construction permit if the construction has commenced prior to the original expiration date of the permit. The permit may be extended for a period of no more than six months.
10. Permit not Transferable. A construction permit shall not be transferable to a new owner. The new owner must apply for a new construction permit in accordance with this section.
11. Posting. The construction permit shall be posted on the property in such a location and manner so that the permit is visible and available for inspection until construction is completed and certified.
12. Conflict of Interest.
 - a. A licensed inspection business that inspects an existing SSTS is allowed to subsequently design and install a new SSTS for that property provided the inspection business is also licensed to design and install SSTS.
 - b. A licensed inspection business working on behalf of the department must not design or install systems that the business will be responsible for permitting or inspecting as part of its contract with the city. [Minn. R. 7082.0700, Subp. 2(B)]
13. Suspension or Revocation. The department may suspend or revoke a construction permit issued under this section for any false statements, misrepresentations of facts on which the construction permit was issued, or violation of this chapter, 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's 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 pursuant to Section 402.11.H. If suspended or revoked,

installation or modification of a treatment system may not commence or continue until a valid construction permit is obtained or reinstated.

14. Dispute Resolution. If a documented discrepancy arises on the depth of the periodically saturated soil for SSTS design purposes between licensed businesses or between a licensed business and the department, all disputing parties must follow the dispute resolution procedure described in Minn. R. 7082.0700, subp. 5 [Minn. R. 7082.01000, subp. 5(N)]

C. Management Plan: [Minn. R. 7082.0100, Subp. 3(J)]

1. Purpose. The purpose of management plans is to describe how a particular SSTS is intended to be operated and maintained to sustain the performance required. The plan is to be provided by the certified designer to the system owner when the treatment system is commissioned.
2. SSTS Requiring Management Plans. Management plans are required for all new or replacement SSTS. The management plan shall be submitted to the department with the construction permit application for review and approval. The department shall be notified of any system modifications made during construction and the management plan revised and resubmitted at the time of final construction certification.
3. Required Contents. Management plans shall include:
 - a. Operating requirements describing tasks that the owner can perform and tasks that a licensed service provider or maintainer must perform;
 - b. Monitoring requirements;
 - c. Maintenance requirements including maintenance procedures and a schedule for routine maintenance;
 - d. Statement that the owner is required to notify the department when the management plan requirements are not being met;
 - e. Disclosure of the location and condition of the additional soil treatment and dispersal area on the owner's property or a property serving the owner's residence; and
 - f. Other requirements as determined by the department.

D. Operating Permit: [Minn. R. 7082.0100, Subp. 3(K)]

1. Permit Required. An operating permit is required for all treatment systems installed under Minn. R. 7080.2290 (holding tanks), Minn. R. 7080.2350 (Type IV System), Minn. R. 7080.2400 (Type V System) and Minn. R. ch. 7081 (MSTS). Sewage shall not be discharged to a treatment system requiring an operating permit until the department certifies that the treatment system was installed in substantial conformance with the approved plans, receives the final records drawings of the treatment system, and a valid operating permit is issued to the owner.
2. Application for Permit. Permit applications shall be submitted to the department on forms provided by the department. Applicants shall provide all information as required for the administration of this chapter.
3. Contents of Permit Application. The permit application shall include the following:
 - a. The names, addresses, and telephone numbers of the applicant and permittee;
 - b. The construction permit reference number and date of issue;
 - c. The final record drawings of the treatment system; and
 - d. Owners of holding tanks must submit a copy of a valid executed monitoring and disposal contract with a licensed maintenance business.
4. Application Fee. The application fee shall accompany the permit application.
5. Monitoring and Disposal Contract. Owners of holding tanks shall provide to the department a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business that guarantees the removal of the holding tank contents in a timely manner that prevents an illegal discharge in accordance with Minn. R. 7082.0100, subp. 3(G). The owner must hold a valid contract with a licensed maintenance business at all times until such time the holding tank is abandoned or the property sold. This contract requirement is waived if the owner is a farmer who is exempt from licensing under Minn. Stat. §115.56, subd. 2(b)(3), provided a written statement is first filed by the exempt owner with the department certifying an awareness of the state requirements for land application of septage and that said guidelines will be followed.
6. Application Review. The department shall review the application, the record drawings, operation and maintenance manual, management plan, maintenance and servicing contract, and any other pertinent documents as

appropriate for accuracy and completeness. If any deficiencies are identified, the operating permit shall be denied until the deficiencies are corrected to the satisfaction of the department. If the submitted application and documents fulfill the requirements, the department shall issue an operating permit within 10 working days of receipt of the permit application.

7. Permit Terms and Conditions. The operating permit shall include the following:

- a. System performance requirements;
- b. System operating requirements;
- c. Monitoring locations, procedures and recording requirements;
- d. Maintenance requirements and schedules;
- e. Compliance limits and boundaries;
- f. Reporting requirements;
- g. Department notification requirements for noncompliant conditions;
- h. Valid contract between the owner and a licensed maintenance business;
- i. Disclosure, location, and condition of acceptable soil treatment and dispersal system site; and
- j. Descriptions of acceptable and prohibited discharges. [Minn. R. 7082.0600, Subp. 2(B)]

8. Permit Expiration and Renewal.

- a. The duration of the operating permit shall be for three years. The permit shall be deemed revoked if the system becomes a failed subsurface sewage treatment system.
- b. An operating permit must be renewed prior to its expiration. If not renewed, the department may require the system to be removed from service or operated as a holding tank until which time the permit is renewed. If not renewed within 60 calendar days of the expiration date, the department may require that the system be abandoned.
- c. The department shall notify the holder of an operating permit of the permit renewal requirement at least 90 calendar days prior to expiration of the

permit. The owner must apply for renewal at least 30 calendar days before the permit expiration date.

- d. Application for permit renewal shall be made on a form provided by the department including:
 - i. The names, addresses, and telephone numbers of the applicant and permittee;
 - ii. b. Reference number of previous operating permit;
 - iii. Any outstanding compliance monitoring reports as required by the operating permit;
 - iv. Certified treatment system inspection signed and/or sealed by a certified designer, maintenance contractor, or operator at the discretion of the department;
 - v. Any revisions made to the operation and maintenance manual; and
 - vi. Any applicable fees as set forth in the City Fee Schedule.
- 9. Permit Not Transferable. The operating permit may not be transferred. A new owner shall apply for an operating permit in accordance with City Code Section 402.07.D. The department shall not terminate the current permit until 60 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 department may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.
- 10. Compliance Monitoring.
 - a. Performance monitoring of a SSTS shall be performed by a licensed service provider hired by the holder of the operating permit in accordance with the monitoring frequency and parameters stipulated in the permit.
 - b. A monitoring report shall be prepared and certified by the licensed service provider. The report shall be submitted to the department on or before the compliance reporting date stipulated in the operating permit. The report shall contain a description of the maintenance and servicing activities performed since the last compliance monitoring report as described below:
 - i. Owner name and address;

- ii. Operating permit number;
- iii. Average daily flow since last compliance monitoring report;
- iv. Description of type of maintenance and date performed;
- v. Description of sample taken (if required), analytical laboratory used, and results of analyses;
- vi. Problems noted with the system and actions proposed or taken to correct them; and
- vii. Name, signature, license and license number of the licensed professional who performed the work.

11. Initial Permits for Existing Systems. An operating permit is required for all existing holding tanks and existing performance-based treatment systems, including but not limited to systems having aerobic treatment tanks, and existing treatment systems with flows from 5,000 to 10,000 gallons per day. Owners of such systems shall obtain initial operating permits no later than January 1, 2012; except that if an owner holds a valid operational permit for such a system that was issued prior to the adoption of this chapter, then the expiration date of the operational permit shall be the deadline for obtaining an initial operating permit.

12. Suspension or Revocation. The department may suspend or revoke any operating permit issued under this section for any false statements, misrepresentations of facts on which the operating permit was issued, or violation of this chapter, or non-compliance with permit conditions, or system that is found to be an imminent threat to the environment or to the public health, safety or welfare. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the owner pursuant to Section 402.11.H. If suspended or revoked, the department may require that the treatment system be removed from service, operated as a holding tank, or abandoned in accordance with Section 402.08. At the department's discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

13. Limits on Type IV and Type V Systems. Type IV and Type V systems conforming to the requirements of this chapter are limited to the following installations:

- a. Tanks with a capacity not exceeding 2000 gallons may be used for collection of secondary discharge not suitable for on-site treatment.

- b. Replacement of failed individual sewage treatment systems on existing uses when no other means of treatment is possible.
- E. Duty to Comply with Permit Conditions: The permittee shall comply with all conditions stated in any permit issued by the department under this chapter. Failure of the permittee to do so is a violation of this chapter and is subject to the penalties provided herein.
- F. Systems Not Operated Under Management Plan: Owners of SSTS that are not operated under a management plan or operating permit must inspect treatment tanks and remove solids every three (3) years. Solids must be removed when their accumulation meets the limit described in Minn. R. 7080.2450. [Minn. R. 7082.0100, Subp. 3(L)]

(Ord. 2012-01, 03/06/12)

- G. Registration Permits: A registration permit is required for all treatment systems in the City.
 - 1. Existing City Issued Permits. Pursuant to Section 402.05.A.2, any previously issued city permit for a treatment system shall remain in effect until its expiration date or any change in system ownership, whichever occurs first. Upon the expiration of the existing permit or change in system ownership, whichever the case may be, the owner of the system must obtain a registration permit for the system from the department, in addition to any other permits required by law for the system.
 - 2. Registration Permit Duration. The duration of a registration permit is three years.

(Ord. 2012-01, 03/06/12)

- 3. Eligibility for Registration Permit. The department shall issue a registration permit only if the following requirements are met:
 - a. The owner of the treatment system has caused a licensed business to show evidence to the department in the form of a written report from the licensed business that the treatment system has been pumped within twelve months prior to the expiration of the existing City issued permit in the case of the system owner's initial registration permit or the expiration any registration permit, in the case of the system owner's subsequent registration permits.
 - b. The owner of the treatment system pays the required registration permit fee, if any.

4. Registration Permit Fee. No fee shall be imposed if the initial registration permit is obtained prior to the expiration of the existing city issued permit. Thereafter, no fee shall be required for any subsequent registration permit if the subsequent registration permit is obtained prior to the expiration of the existing registration permit. If the system owner allows the existing city issued permit or any registration permit to expire, the fee for the registration permit shall be the fee set forth in the Fee Schedule and must be paid by the system owner prior to issuance of a registration permit.
5. Application for Registration Permit. Registration permit applications shall be submitted to the department on forms provided by the department. Applications shall provide the information set forth in Section 402.07.G.6.
6. Contents of Registration Permit Application. The registration permit application shall include the following: The names, addresses, and telephone number of the permittee; and the property identification and address or other description of the real property on which the system will be located.

402.08 ABANDONMENT CERTIFICATION: [Minn. R. 7082.0100, Subp. 3(B)]

- A. Purpose: The purpose of the system abandonment certification is to ensure that a treatment system no longer in service is abandoned following decommissioning and in a manner that protects public health, safety, and water quality. The certification also terminates all permits associated with the SSTS.
- B. Abandonment Requirements:
 1. Whenever the use of a SSTS or any system component is discontinued as the result of a system repair, modification, replacement or decommissioning following connection to a municipal or private sanitary sewer, or condemnation or demolition of a building served by the system, further use of the system or any system component for any purpose is prohibited.
 2. Abandonment shall be completed in accordance with Minn. R. 7080.2500.
 3. An abandonment certificate shall be filed with the department on the "SSTS Abandonment Reporting Form" provided by the MPCA. The report shall include:
 - a. Owner's name and contact information;
 - b. Property address;
 - c. System construction permit and operating permit;

- d. The reason(s) for abandonment; and
- e. A brief description of the abandonment methods used, description of the system components removed or abandoned in place, and disposition of any materials or residuals.

402.09 COMPLIANCE MANAGEMENT

A. Compliance Inspection Program: [Minn. R. 7082.0700]

1. Department Responsibility. It is the responsibility of the department, or its agent, to perform various SSTS compliance inspections periodically to assure that the requirements of this chapter are met.
 - a. SSTS compliance inspections must be performed:
 - i. To ensure compliance with applicable requirements;
 - ii. For all new SSTS construction or replacement; and
 - iii. For an evaluation, investigation, inspection, recommendation, or other process used to prepare a disclosure statement if conducted by a party who is not the SSTS owner. Such an inspection constitutes a compliance inspection and shall be conducted in accordance with Minn. R. 7082.0700 using the SSTS inspection report forms provided by the MPCA.
 - b. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.
 - c. The department 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.
 - d. No person shall hinder or otherwise interfere with the department's employees or agents in the performance of their duties and responsibilities pursuant to this chapter. Refusal to allow reasonable access to the property by the department or its agent shall be deemed a violation of this chapter.
2. New Construction or Replacement.
 - a. Compliance inspections must be performed on new or replacement SSTS to determine compliance with Minn. R. chs. 7080 or 7081. SSTS found to

be noncompliant with other applicable requirements must be repaired or replaced according to the department's requirements.

- b. It is the duty of the permit holder or agent of the permit holder to notify the department at least one working day prior to any required inspection of work authorized by the construction permit. The work shall remain accessible and exposed until inspected and approved by the department. Inspections are required:
 - 1. After ground surface preparation for a mound system, but prior to placing sand fill;
 - 2. After all tanks, distribution media, piping, equipment and devices are in place, but prior to backfill;
 - 3. For building sewer inspection and testing in accordance with Minnesota Rules, parts 4715.2800 and 4715.2820;
 - 4. Final Inspection after all work is complete including final grading and erosion protection; and
 - 5. As may otherwise be required by the department to ascertain compliance with the provisions of this chapter and other laws enforced by the department.
- c. A certificate of compliance for new SSTS construction or replacement shall be issued by the department if the department has reasonable assurance that the SSTS was built in accordance with the applicable requirements as specified in the construction permit.
- d. The certificate of compliance 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 chapter 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 that includes a statement specifying those chapter provisions with which the SSTS does not comply.
- e. No SSTS maybe placed into operation until a valid certificate of compliance has been issued.
- f. Certificates of compliance for new construction or replacement shall remain valid for five years from the date of issue unless the department finds

evidence of an imminent threat to public health or safety requiring removal and abatement under Minn. Stat. §145A.04, subd. 8.

3. Existing Systems.

- a. Compliance inspections shall be required when any of the following conditions occur:
 - i. When a construction permit is required to repair, modify, or upgrade an existing system;
 - ii. Anytime there is an expansion of use of the building being served by an existing SSTS which may impact the performance of the system;
 - iii. Anytime there is a change in the use of the property being served by an existing SSTS which may impact the performance of the system;
 - iv. When an operating permit is to be renewed;
 - v. Prior to the sale or transfer of real property served by an existing SSTS if required by Section 402.09.A.4.a.i. below;
 - vi. During systematic shoreland or area-wide SSTS surveys by the department;
 - vii. At anytime as required by this chapter or the department deems appropriate such as upon receipt of a complaint or other notice of system malfunction; and
 - viii. Prior to the issuance of a building permit or variance for a bedroom addition on property served by an existing system; unless temporarily waived by the department for a bedroom addition permit for which the application is filed during the period from November 1 to April 30, provided a compliance inspection is performed by the following June 1 and the applicant submits a certificate of compliance by the following September 30.
- b. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by the MPCA. An inspection for existing SSTS must verify the conditions in Section 402.09.A.3.a-c.
 - i. Sewage tanks must be assessed for leakage below the operating depth. A leakage report must be completed that includes the method(s) used to make the assessment. The assessment must be made by a licensed

SSTS business (except a design business) hired by the system owner. A passing report is valid for three years unless the certified individual has reason to believe that a new inspection is to be conducted and the tank is found not to be watertight.

- ii. The vertical separation distance from the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock. This verification must be achieved by either conducting soil borings or by prior verifications by two independent parties. The soil borings used for system design or previous inspections qualifies as a verification. A vertical separation distance report must be completed that includes the method(s) used to make the assessment and includes any previous soil borings. The assessment must be made by a licensed SSTS business hired by the system owner. If the verification separation report consists of verifications by two independent parties, a subsequent verification is not required unless the inspector has reason to believe a noncompliant condition exists.

If a documented discrepancy arises on the depth of the periodically saturated soil between licensed businesses or between a licensed business and the department for SSTS compliance purposes, all disputing parties must follow the dispute resolution procedure described in Minn. R. 7082.0700, subp. 5. [Minn. R. 7082.0100, Subp. 3(N)]

- iii. Sewage backup, surface seeping or surface discharge from the system must be determined. A hydraulic function report must be completed that includes the method(s) used to make the assessment. The assessment must be made by a licensed inspection business hired by the system owner. A passing report is valid until a new inspection is requested or if the hydraulic performance is believed to have changed.
- c. A certificate of compliance shall be based on the results of the verifications in Section 402.09.A.3.b. The certificate of compliance must include a certified statement by a licensed inspection business whether the SSTS is in compliance with the chapter requirements. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those chapter provisions with which the SSTS does not comply. A construction permit application must be submitted to the department if the required corrective action is not a minor repair.
 - d. The certificate of compliance or notice of noncompliance must be submitted to the department and the property owner or owner's agent no later than 15 calendar days after the date the inspection was performed. The department

shall deliver the certificate of compliance or notice of noncompliance to the owner or the owner's agent within 15 calendar days of receipt from the licensed inspection business.

- e. Certificates of compliance for existing SSTS shall remain valid for three years from the date of issue unless the department finds evidence of an imminent threat to public safety requiring removal and abatement under Minn. Stat. § 145A.04, subd. 8.
- f. The department may waive a compliance inspection required by Section 402.09.A.3.a. if:
 - i. The owner of the real property served by an existing SSTS acknowledges in writing to the department that the existing SSTS is failing and shall be upgraded, repaired, replaced or abandoned in accordance with this chapter within 10 months; or
 - ii. The owner of the real property served by an existing SSTS acknowledges in writing to the department that the existing SSTS is an imminent threat to public health or safety and shall be upgraded, repaired, replaced or abandoned in accordance with this chapter within 30 days.

4. Property Transfer/Sale Requirements.

- a. No owner or other person acting with legal authority on behalf of an owner of real property served by an existing SSTS may sell or transfer to another party said real property unless the following requirements are met:
 - i. A compliance inspection has been performed and a certificate of compliance has been issued for the SSTS within three years if the SSTS is older than five years or within five years if the SSTS is less than five years old prior to the intended date of sale or transfer of the real property, unless evidence is found identifying an imminent threat to public health and safety. If this requirement cannot be met, a compliance inspection must be conducted in accordance with Section 402.09.A.3 above.
 - ii. The compliance inspection must have been performed following the procedures described in Section 402.09.A.3 by the licensed inspection business hired by the system owner.
 - iii. The seller/transferor of the real property must provide the disclosure required by Minn. Stat. § 115.55, subd. 6.

- iv. If the seller/transferor fails to provide a certificate of compliance, the seller/transferor shall provide the buyer/transferee sufficient security in the form of an escrow agreement to assure the installation of a complying SSTS. The security shall be placed in an escrow with a licensed real estate closer, licensed attorney, or federal or state chartered financial institution. The amount escrowed shall be equal to 125% of a written estimate to install a complying SSTS provided by a licensed and certified installer, or the amount escrowed shall be equal to 110% of the written contract price for the installation of a complying SSTS provided by a licensed and certified installer. After a complying SSTS has been installed and a certificate of compliance issued, the seller/transferor or the buyer/transferee shall provide the escrow agent a copy of the certificate of compliance.
- b. The compliance portion of the certificate of compliance need not be completed if the sale or transfer involves the following circumstances:
 - i. The affected real property is without buildings or contains no dwellings or other buildings with plumbing fixtures.
 - ii. The transfer is a tax forfeiture.
 - iii. The sale or transfer completes a contract for deed or purchase agreement entered into prior to the effective date of this chapter. This subsection applies only to the original vendor and vendee on such contract.
- c. All real property sales or transfers subject to this chapter occurring during the period between November 15th and April 15th when SSTS compliance cannot be determined due to frozen soil conditions shall require a winter agreement, which includes an application for an SSTS permit and an agreement to complete a compliance inspection by the following June 1st by a licensed inspection business. 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 noncompliant, an escrow agreement must be established in accordance with Section 402.09.A.4.a.iv above and the system upgraded.
- d. The responsibility for filing the completed compliance portion of the certificate of compliance under Section 402.09.A.4.a above or for upgrading a system found to be noncompliant shall be determined by the seller/transferor and the buyer/transferee. The seller/transferor and the buyer/transferee shall provide the department with a signed statement indicating responsibility for completing the compliance portion of the

certificate of compliance and for upgrading a system found to be noncompliant.

- e. The issuance of permits, certificates of compliance or notices of noncompliance as requested or issued shall not be construed to represent a guarantee or warranty of the system's operation or effectiveness. Such certificates signify that the system in question is or has been designed and installed in compliance or noncompliance with the provisions of this chapter.
5. Conflict of Interest. A licensed inspection business that inspects an existing SSTS is allowed to subsequently design and install a new SSTS for that property provided the inspection business is also licensed to design and install. A licensed inspection business working on behalf of a municipality must not design or install a system if there is likelihood that the inspector or business will be responsible for permitting or inspecting the system or system site. A person working for or on behalf of a municipality shall not use the person's position to solicit for private business gain. [Minn. R. 7082.0700, Subp. 2(B)]

402.10 VARIANCES

- A. Variances Allowed: [Minn. R. 7082.0100, Subp. 3(D)] With the exception of Section 402.10.B below, in any case where it appears by the reason of exceptional circumstances the strict enforcement of any provision of the standards would cause unnecessary hardship or that strict conformity with the standards would be unreasonable, impractical or not feasible under the circumstances in order to promote the effective and reasonable application and enforcement of the provisions of this chapter, the city council may permit a variance upon such conditions as it may prescribe consistent with the general purposes of this chapter and the intent of this and all other applicable state and local regulations.
- B. Prohibited Variances: The city council may not grant variances from the following standards:
 - 1. Minn. R. 7080.2150, subp. 2.
 - 2. Minn. R. 7081.0080, subps. 2 to 5, however, variances may be granted to Minn. R. 7081.0080, subp. 4(D)(1) for the replacement of MSTs serving existing dwellings or other establishments.
 - 3. Flow determinations under Minn. R. 7081.0110 if the deviation reduces the average daily flow from more than 10,000 gallons to 10,000 gallons per day or less.

C. Procedure for Requesting Variance:

1. Application for Variance. A variance application shall be submitted by the property owner to the department on forms provided by the department. Applicants shall provide all information as required for the administration of this chapter.
2. Contents of Variance Application. The variance application shall include development plans and specifications and such other information as may be required by other sections of this chapter or by the department. The application shall also include:
 - a. The legal description of the real property on which the system will be located;
 - b. The names, addresses and telephone numbers of the owners of the property or any person having a legal interest therein;
 - c. A site plan showing all pertinent dimensions, buildings, structures and significant natural features having an influence on the variance;
 - d. Copies of any required municipal, county, state, or federal permits or approvals;
 - e. A statement identifying the specific provision(s) in the chapter from which the variance is requested;
 - f. The reasons why compliance with the provision(s) is difficult or inappropriate;
 - g. The alternative measures that will be taken to ensure a comparable degree of compliance with the intention of the applicable provision(s);
 - h. The length of time for which the variance is requested;
 - i. Cost considerations; and
 - j. Other relevant information requested by the department as necessary to properly evaluate the variance request.
3. Application Fee. The application fee shall accompany the initial application for a variance request.

4. Site Investigation. Upon receipt of the variance application, the department shall decide if a site investigation conducted by the department is necessary. After the necessary information has been gathered, the department shall make a written recommendation to approve or deny the variance to the city council.
5. Notification. The city shall give written notice of the variance application which shall be published in the designated official newspaper for the city at least 10 days but not more than 30 days prior to the date of the meeting at which the variance application will be considered by the city council. An identical notice shall be mailed to the property owners and each of the property owners within 350 feet of the affected property at least 10 days before the meeting. The city council shall either approve or deny the variance request within the time limit established by Minnesota Statute §15.99.
6. Factors Required for Approval. The variance may be granted provided that:
 - a. The conditions causing the demonstrated hardship are unique to the property and were not caused by the action of the applicant;
 - b. The granting of the variance will not be contrary to the public interest or damaging to the rights of other person or to property values in the vicinity;
 - c. The property owner would have no reasonable use of the land without the variance;
 - d. The granting of the variance would not allow a prohibited use; and
 - e. The granting of the variance would be in accordance with Minn. R. chs. 7080, 7081, and 7082.
7. Conditions. The city council may impose conditions in granting the variance to ensure compliance and to protect the public health, safety, or welfare. Each violation of any condition set forth in the variance shall be a separate violation of this chapter subject to enforcement and shall be sufficient grounds for terminating the variance.
8. Denial of Variance. No application for a variance which has been denied wholly or in part shall be resubmitted for a period of six months from the date of said denial, except on the grounds of relevant new evidence or proof of a significant change of conditions.
9. Appeal. Any person aggrieved by the decision of the city council may appeal the decision to any court with appropriate jurisdiction.

402.11 VIOLATIONS

A. For violations of this chapter, the city may take the following actions:

1. Issuance of a warning notice;
2. issuance of a notice of violation;
3. issuance of a citation or complaint;
4. issuance of a cease and desist or stop work order;
5. abatement;
6. suspension or revocation of a permit issued under this chapter;
7. execution of a stipulation agreement; and/or
8. commencement of other civil proceedings.

B. Warning Notice:

The department may issue a warning notice to any person alleged to have committed a violation of this chapter. A warning notice shall serve to place the person on notice that compliance with specified chapter requirements must occur to avoid additional enforcement actions. Service of the warning notice shall be made by first class mail or by personal service. The warning notice shall contain:

1. A list of violations, including the chapter section(s), rule(s), or statute(s) violated, the factual basis for the violations, and the date of the violations.
2. The specific action(s) required to be taken by the person to correct the violations and the timeframes within which the corrections are required to be made.
3. A general description of the additional administrative and judicial enforcement actions that could be pursued by the department if the alleged violations are not satisfactorily corrected.

C. Notice of Violation (NOV):

The department may issue a notice of violation (NOV) to any person alleged to have committed a violation of this chapter. A NOV shall serve to place the person on notice that compliance with specified chapter requirements must occur to avoid additional enforcement actions. Service of the NOV shall be made by certified mail or by

personal service. The notice of violation shall contain:

1. Findings of fact with corresponding conclusions of law, which describe the alleged violations and the corresponding chapter section(s), statute(s), and/or rule(s) which are allegedly violated.
2. Orders for corrective actions, which describe specifically how each alleged violation must be corrected and the timeframes within which the corrections are required to be made.
3. Notice of further action, which describes in general terms, the additional administrative and judicial enforcement actions that could be pursued by the department if the alleged violations are not satisfactorily corrected.

D. Citations:

Any person who fails to comply with the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished as provided by law. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

An authorized representative of the department shall have the power to issue citations for violations of this chapter, but shall not be permitted to physically arrest or take into custody any violator.

A formal complaint may be issued in lieu of a citation as determined by the city attorney.

E. Abatement:

If a SSTS constitutes a public health nuisance, the department may enter the property and abate the nuisance and recover the costs of the same from the property owner through the following procedures:

1. Abatement Notice. The department shall serve an abatement notice on the property owner or occupant.
 - a. Contents of Abatement Notice. An abatement notice shall include the following:
 - i. Notice that there is a SSTS located on the property and that it constitutes a public health nuisance.

- ii. Notice that the property owner must abate the public health nuisance within a specified time period not to exceed ten (10) calendar days in order to avoid any liability for the costs of inspection and abatement that the city may incur.
 - iii. Notice that if the property owner fails to abate the public health nuisance within the specified timeframe, the department or its agent intends to enter the property and commence abatement of the public health nuisance and assess the costs of inspection and abatement against the real property on which the nuisance is located.
 - b. Service. The abatement notice must be served on a property owner by certified mail or personal service. Service by certified mail shall be deemed complete upon mailing. If the property owner is unknown or absent and has no known representative upon whom notice can be served, the department shall post a written or printed notice in a conspicuous place on the property stating that, unless the public health nuisance is abated within a period not longer than 10 days, the department will have the nuisance abated at the expense of the owner.
2. Abatement by the City. In the event a property owner does not abate the public health nuisance, the department may expend funds necessary to abate the nuisance as set forth in this Chapter.
3. Assessment of Abatement Costs.
- a. The costs of an enforcement action under this section may be assessed and charged against the real property on which the public health nuisance was located.
 - b. Failure to Abate; Abatement by City; Costs: The property owner's failure to abate the nuisance within the time limit stated in Section 402.11.E.1.a.ii shall authorize the department to the nuisance abated. The City may then charge all costs of abatement to the property owner and bill the property owner directly for such costs. If the owner does not pay the bill the costs due may be assessed. Failure by the property owner to abate the nuisance with the time period specified in the NOV is a violation of this chapter and shall be punishable as a misdemeanor.
 - c. Record of Costs: The department shall keep a record of the costs of abatements done under this Chapter and shall report monthly to the finance department and clerk all work done for which billings and assessments are to be made stating and certifying the description of the land, lots, and parcels involved and the amount chargeable to each.

- d. Assessment of Costs: On or before September 1 of each year, the clerk and finance department shall list the total unpaid charges for each abatement against each separate lot or parcel to which the charges are attributable under this Chapter. The city council may then spread the charges or any portion thereof against the property involved as a special assessment under Minnesota Statutes §429.101 and other pertinent statutes for certification to the county auditor and collection the following year along with current taxes.

F. Cease and Desist Orders:

Cease and desist orders (including “stop work orders”) may be issued when the department has probable cause that an activity regulated by this chapter or any other provision of the city code is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a cease and desist order, it shall not be resumed until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.

G. Stipulation Agreement:

The department and a person alleged to have violated provisions of this chapter may voluntarily enter into a stipulation agreement whereby the parties to the agreement: identify conditions on the property that require corrective action; agree on the corrective actions that must be performed by the person; and agree on the timeframes in which the corrective actions must be completed. If the person fails to fulfill the requirements of the agreement, the city may seek compliance with the terms of the agreement through a court of competent jurisdiction or pursue other enforcement action allowed by this chapter.

H. Suspension, Revocation or Denial of Permit:

For the grounds set forth in this chapter including, but not limited to, Sections 402.07.B.13 and 402.07.D.12 the department may suspend, revoke or deny a permit issued under this chapter for violations of this chapter. In the case of the suspension, revocation or denial of an operating permit, the department shall give notice of the suspension, revocation or denial to the property owner. In the case of the suspension, revocation, or denial of a construction permit, the department shall give notice of the suspension, revocation or denial to the permit holder or permit holder’s agent.

The property owner, permit holder or permit holder’s agent, whichever the case may be, shall be granted a public hearing upon at least ten (10) days’ notice before suspension, revocation or denial is ordered by the department.

For purposes of the subsection, “notice” shall mean, in the case of a property owner, written notice served upon the property owner personally or by leaving the same at the property owner’s usual place or abode with someone of suitable age and discretion and in the case of a permit holder or permit holder’s agent, by leaving the same at the permit holder or permit holder’s business with the person in charge thereof.

The notice shall state the time and location of the hearing and shall state the grounds for suspension, revocation or denial. No suspension, revocation or denial shall take place until the property owner or permit holder or permit holder’s agent, whichever the case may be, has been afforded an opportunity for a hearing with an opportunity to be heard and present evidence. The matter shall be heard by the city council, which shall issue written findings supporting the suspension, revocation or denial within thirty (30) days.

Any property owner or permit holder or permit holder’s agent, whichever the case may be, aggrieved by the decision of the city council may appeal that decision to any court with appropriate jurisdiction within fifteen (15) days of the date of the city council’s findings.

I. Commencement of Civil Court Action:

In the event of a violation or threat of violation of this chapter, the city council may institute appropriate civil actions or proceedings in any court of competent jurisdiction requesting injunctive relief to prevent, restrain, correct or abate such violations or threatened violations. The city may recover all costs, including reasonable attorney’s fees, incurred for enforcement of this chapter.

J. Correction Notice:

When an inspection of the work authorized by a construction permit finds that the work fails to comply with the standards adopted by this chapter, the department may issue a written correction notice to the permit holder or the permit holder’s agent. The notice shall describe the deficiencies or violations that must be corrected or completed before the inspection may be approved.

402.12 RECORD KEEPING AND ANNUAL REPORT

A. Record Keeping:

The department 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, an annual list of all sewage tanks

installed in the department's jurisdiction sorted by licensed installation businesses, and other records relevant to each system. [Minn. R. 7082.0300, Subp. 4]

B. Annual Report:

The department shall provide an annual report of SSTs permitting activities to the MPCA in accordance with the requirements set forth in Minn. R. 7082.0040, subp. 5, as may be amended from time to time. [Minn. R. 7082.0040, Subp. 5]

402.13 SEVERABILITY

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

402.14 REMEDIES CUMULATIVE

No remedy set forth in this chapter is intended to be exclusive, but each such remedy shall be cumulative and in addition to other remedies now or hereafter existing at law or in equity. No delay in the exercise of any remedy for violation of this chapter shall later impair or waive any such right or power of the city.

402.15 SITE EVALUATION FOR PLATTING OR WAIVER OF PLATTING

For all lots in unsewered areas that require platting or a waiver of platting, the landowner shall submit to the city a soil boring and analysis report prepared by a licensed designer or professional engineer trained in subsurface sewage treatment systems. The analysis shall show the existence of an adequate land area of suitable soils that will accommodate at least two sites for a soil treatment system on each lot, taking in account depth to water table, soil types and conditions, topographic features, flooding potential and mandatory setback requirements, as dictated by city ordinance and any applicable state and federal regulations. The evaluation of the soils and the soil borings as well as the two potential locations of the on-site subsurface sewage treatment system shall be submitted to the department for review and approval prior to any preliminary or final plat approval or waiver of platting being given for the subject property. Failure to provide the information required by this section or failure to have at least two potential sites for a soil treatment system on each lot shall be grounds for denial of the plat or grounds for denial of the waiver of platting.

402.16 CONFLICTING PROVISIONS

If any provision of this chapter is inconsistent with Minnesota Rules, chapters 7080, 7081, 7082, 7083, or Dakota County Ordinance No. 113, then that provision which is more demanding or provides a greater level of requirements or restrictions or provides an earlier date of compliance shall prevail and be controlling.

402.17 MISDEMEANOR VIOLATION

Any person violating this Chapter is guilty of a misdemeanor and subject to the penalties set forth in City Code Section 104.02. Moreover, presentation to the city of any false or

intentionally misleading statements, certificates, or applications by the owner or by the licensed designers or licensed installers or licensed inspectors or licensed maintainers or licensed service providers of subsurface sewage treatment systems shall also be a misdemeanor.

(Ord. 10-03; 11/09/10)

CHAPTER 403

RESERVED

CHAPTER 404

WELLS AND WATER SUPPLY MANAGEMENT

SECTION 404.01 REGULATION:

No one shall construct, repair and seal a well and water supply system except under the express standards and regulations set forth in Dakota County Ordinance No. 114, as amended from time to time, and without first having obtained a well permit as required under Dakota County Ordinance No. 114.

(Ord. 1998-09, 11/03/98)

ARTICLE V
TRAFFIC REGULATIONS

CHAPTER 501

ADOPTION OF HIGHWAY TRAFFIC REGULATION ACT

SECTION 501.01 ADOPTION:

Chapter 169 of Minnesota Statutes (the Highway Traffic Regulation Act), as amended to date, is hereby adopted by reference.

SECTION 501.02 PENALTY:

Any violation of said Chapter 169, commonly referred to as the Highway Traffic Regulation Act, which occurs within the limits of the City of Sunfish Lake is a violation of this Ordinance. Any person violating any provision thereof shall be guilty of a misdemeanor and shall be punished by a fine or by imprisonment, or both; provided, however, that petty misdemeanors as defined by said Chapter 169 as amended shall be punishable as petty misdemeanors under this Code.

ARTICLE VI
POLICE REGULATIONS

CHAPTER 601

FIREARMS

SECTION 601.01 DEFINITIONS:

The following definitions shall apply in the interpretation and enforcement of this Chapter 601:

- A. Firearm. A firearm is any mechanical device or weapon from which a missile or object is discharged by use of gunpowder, compressed air, or string bow (i.e., rifle, pistol, air rifle, bow and arrow, etc.).
- B. Discharge of Firearm. The operation or use of any firearm by which any object or missile is discharged including the use of blanks.

SECTION 601.02 VIOLATION:

- A. Discharge: Any discharge of any firearm in the City of Sunfish Lake is prohibited, except as provided in Section 601.04 subparagraphs 1, 2, 3 and 4 below.
- B. Firearms to Minor. No person shall sell, give, loan or in any way furnish any firearm or ammunition to a minor under the age of eighteen (18) years without the express written consent of his or her parents or guardian, police officer or magistrate.

SECTION 601.03 PENALTY:

Any person found guilty of violating the provisions of this Chapter 601 shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine, or imprisonment, or both, but in either case including the costs of prosecution thereof.

SECTION 601.04 EXCEPTIONS:

- A. Persons Required to Discharge Firearms. Section 601.02 Subd. 1 shall not apply to those representatives of the City, County, State and or Federal government who may, in the course of their duties, be required to discharge their firearms.
- B. Discharge for Defense or Enforcement. Section 601.02 Subd. 1 shall not apply to any individual who discharges a firearm when done in the lawful defense of person, property, or family, or the necessary enforcement of the law.

- C. Discharge Pursuant to City Agreement Between City of Sunfish Lake and Metro Bowhunters Resource Base, Inc. as Extended and Amended from Time-to-Time: Section 601.02 Subd. 1 shall not apply to any individual who discharges a firearm pursuant to and in accordance with and under the authorization of the Agreement Between the City of Sunfish Lake and Metro Bowhunters Resources Base, Inc. If the Agreement between City of Sunfish Lake and Metro Bowhunters Resource Base, Inc. requires the approval or a permit from the Minnesota Department of Natural Resources (DNR) then the authorized discharge must also comply with the conditions imposed by the Minnesota Department of Natural Resources.
- D. Discharge by Eligible Participant in Eligible Area. Notwithstanding Section 601.02 Subd. 1, an Eligible Participant (as defined in this Section 601.04 Subd. 4) within an Eligible Area (as defined in this Section 601.04 Subd. 4) may discharge a firearm by way of a bow and arrow for the purpose of shooting deer subject to the conditions set forth in this Section 601.04 Subd. 4, and in the Resident Volunteer Hunter Program as adopted and amended by the City Council from time-to-time.

The City Council shall adopt from time-to-time, a Resident Volunteer Hunter Program. The Resident Volunteer Hunter Program and the rules, regulations, requirements and mandates of the Program are hereby incorporated and made a part of this Chapter 601, together with such amendments which are made from time-to-time. The Eligible Participant must comply with the Resident Volunteer Hunter Program. A copy of the Program shall be on file with the City Clerk, and a copy of the Program shall be given to any person upon request.

For purposes of this Section 601.04 Subd. 4, an Eligible Participant means that the person meets all of the following qualifications:

1. Must have achieved current “sharpshooter” status as determined by the qualifications standards of Metro Bowhunters Resource Base, Inc.
2. Must possess a Bowhunter Education Certificate from the Minnesota Department of Natural Resources.
3. Must have a valid deer hunting license from the State of Minnesota.
4. Must be a current resident of the City of Sunfish Lake.
5. Must have passed a safety training course by the Minnesota Bow Hunters Association or firearm safety training course of similar scope

and purpose.

6. Must be the fee owner of the Eligible Area, or must have received in writing from the fee owner of the Eligible Area, written permission to hunt deer within the Eligible Area.

For purposes of Section 601.04 Subd. 4, Eligible Area means a parcel of private property of at least two (2) acres in size that has been inspected by the City Liaison and the City Council Liaison and has been determined by the City Liaison and the City Council Liaison, subject to the conditions hereafter set forth, to be suitable for hunting by reason of its configuration, size, topography, vegetative cover, and location of improvements and buildings.

The discharge of a firearm by way of a bow and arrow for the purpose of hunting deer is subject to the following conditions which must be met by the Eligible Participant.

- a. The only firearm allowed shall be bow and arrow unless the Council by resolution approves use of other firearms on a specific parcel under conditions specified by the Council in the resolution; all such conditions must be met.
- b. If the firearm discharge occurs pursuant to a Deer Management Program approved by the Minnesota Department of Natural Resources (DNR) and by the City, then all conditions imposed by the DNR and the City must be met. The Council by resolution shall specify the parcels where firearm discharge shall be allowed under the deer management program and the Council may impose conditions. Discharge shall only occur on such parcels.
- c. Discharge of the firearm must be only for the purpose of hunting deer.
- d. The person discharging the firearm must have passed a safety training course by the Minnesota Bow Hunters Association or a firearm safety training course of similar scope and purpose.
- e. No discharge shall be made within 200 feet of driveways on the Eligible Area and no discharge shall be made within 200 feet of any public or private roadways on or abutting the Eligible Area unless the owner of the land closest to the driveway or adjoining the public or private road and the City Council consent in writing to a lesser restriction.

- f. No discharge shall be made within 200 feet of the boundaries of the Eligible Area unless the owner of the land adjoining the boundary and the City Council consent in writing to a lesser restriction.
- g. No discharge shall be made within 200 feet of any residence or other building on the Eligible Area unless the owner of the Eligible Area and the City Council consent in writing to a lesser restriction.
- h. The person discharging the arrow must have a valid State of Minnesota deer hunting license and the license must be in possession of the person at all times while hunting on the Eligible Area.
- i. The person discharging the firearm must comply with all the laws and regulations of the State of Minnesota relating to deer hunting. The person discharging the firearm must comply with the rules, regulations, requirements, and mandates of the Resident Volunteer Hunter Program.
- j. If the discharge is to occur by the fee owner, then prior to any discharge the fee owner shall file with the City Clerk the following information in writing: name, address and telephone number of the fee owner; the dates and times when hunting is to occur; a general description of the location of the Eligible Area; evidence that the person has passed an archery safety training course; evidence that the person has met the qualifications of an Eligible Participant.
- k. If the discharge is to occur by a person who has received written permission from the fee owner, then prior to any discharge that person shall file with the City Clerk the following information in writing: name, address and telephone number of the fee owner and of the persons receiving the permission; the dates and times when hunting is to occur; a general description of the location of the subject parcel; a copy of the written permission received from the fee owner; the license plate number of the vehicle that the person will be driving to the subject parcel; evidence that the person has passed a safety training course; evidence that the person has met the qualifications of an Eligible Participant.
- l. The written permission from the fee owner must specifically state the names of the individuals that have the permission and must state the dates and times for which permission has been granted. The person receiving such permission must have the written permission in

possession at all times while hunting on the Eligible Area. Discharge of the firearm and hunting on the Eligible Area shall only occur on the dates and at those times stated on the written permission. No discharge of a firearm and no hunting shall occur on the Eligible Area if the fee owner revokes the written permission.

- m. No discharge shall occur except during the following times:
 - i. one-half (1/2) hour before sunrise to two (2) hours after sunrise
 - ii. from two (2) hours before sunset to sunset
- n. No discharge of a firearm shall occur prior to September 15 or such earlier date as approved by the Minnesota Department of Natural Resources (DNR) for a specific parcel. In each hunting season no discharge shall occur after either of the following events, whichever comes first:
 - i. December 31 or in lieu thereof that later date set by the DNR as part of an approved DNR deer management program;
 - ii. when the number of deer killed in that hunting season equals the respective deer kill limits by gender set by the City Council for that hunting season.
- o. Any person killing a deer on any of the Eligible Areas shall report the deer killing to the City Clerk and to the fee owner within twenty-four (24) hours after the killing has occurred. The gender of the deer shall also be reported.
- p. No discharge of firearms shall occur on the dates listed in the Resident Volunteer Hunter Program when hunting and discharge of firearms are prohibited.

When the Clerk receives notice that the limits stated in Section 601.04.D.6.n.ii above have been reached, the Clerk shall notify the fee owners of the Eligible Areas and those that have received permission from the fee owners that no further discharge of arrows can occur. Violation of this Chapter 601 shall be a misdemeanor. Notwithstanding anything to the contrary herein contained, any person that violates this Chapter 601 shall not be allowed to discharge a firearm.

Each year at the August regular Council meeting, the Council, by written resolution, shall set the deer kill limits for each gender of deer for the Eligible Areas. In setting such limits, the Council shall consider the density and location of the deer in the City as shown by surveys either from the Department of Natural Resources or from other organizations. The Council shall consider all other relevant factors in setting the deer limits. After passage, the Council's written resolution shall be sent by mail to the owners of all the Eligible Areas and the written resolution shall be on file with the City Clerk.

(Ord. 1993-1, 09/07/93; Ord. 94-5, 08/10/94; Ord. 1995-5, 08/01/95; Ord. 1997-12, 12/02/97; Ord. 2009-01, 10/6/09; Ord. 2010-02, 09/07/10; Ord. 23-03, 06/06/23)

CHAPTER 602

TRAPPING

SECTION 602.01 DEFINITIONS:

The following definitions shall apply in the interpretation and enforcement of this Ordinance:

- A. Trap: A mechanical device, snare, artificial light, net, bird, bird line, ferret, hawk, vehicle or any contrivance whatever.
- B. Trapping: The setting or laying or otherwise using of a trap to trap, catch, snare or otherwise restrain free movement of animals, wildlife or birds.

SECTION 602.02 VIOLATION:

Trapping anywhere in the City of Sunfish Lake is prohibited, except provided in Section 602.04 below.

SECTION 602.03 PENALTY:

Any person, firm or corporation who violates any of the provisions of this ordinance shall be guilty of a misdemeanor.

SECTION 602.04 EXCEPTIONS:

- A. Representatives of the City, County, State, or Federal Government: The provisions of this ordinance do not apply to representatives of the City, County, State or Federal government, who may, in the course of their duties, be required to use a trap to trap, catch, snare kill or otherwise restrain any animal to protect human life or property or to teachers for school programs or scientists intending to identify animals, wildlife or birds which will be returned to their natural environment uninjured. Any such trapping is permitted only with the express written consent of the landowner upon whose property the trapping occurs.
- B. One-year permit: The City Council of the City of Sunfish Lake, may issue a one-year permit which allows the permit holder and/or the family of the permit holder to trap animals according to the conditions of the permit. The holder of a permit may not attempt any trapping on the private property of another without the specific written permission of the owner of said property. Such written permission, or 2 copies thereof, must be carried on the person of anyone attempting any trapping on the private property of another. The permit must include the following information:
 - 1. The name of the permit holder and the names of his spouse and children.
 - 2. The address of the permit holder.
 - 3. A general description as to the land upon which trapping may be allowed.

C. Live Traps: The provisions of this ordinance do not apply to live traps provided the following occur:

- i. The live traps are checked at least daily; and
- ii. The animals trapped in the live traps are released unharmed or if such animals are injured, they must be disposed of in an humane manner.

D. Traps for Animals Underground: The provisions of this ordinance do not apply to traps designed to catch, snare, restrain or kill animals underground provided the following occur:

- i. The traps are placed on property owned by the person placing the trap or with the property owner's written consent; and
- ii. The traps are set in a manner that does not pose a risk of harm to non-targeted animals above ground.

(Ord. 96-17, 09/03/96)

CHAPTER 603

NUISANCES

SECTION 603.01 DEFINITIONS; GENERAL PROVISIONS:

A. The following words, terms, and phrases when used in this Section shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning:

1. Garbage: Organic refuse resulting from the preparation of food, and decayed and spoiled food from any source.
2. Enforcement Official: The City Administrator/City Clerk or their designee.
3. Meadow Vegetation: Grasses and flowering broad-leaf plants that are native to, or adapted to, the state of Minnesota, and that are commonly found in meadow and prairie plant communities, except weeds as defined herein.
4. Obstructions: Objects or conditions that interfere with, endanger, or prevent the ordinary or safe use of any property including public right-of-way.
5. 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.
6. Public Nuisance or Nuisance: Any substance, matter, emission or thing that creates a dangerous or unhealthy condition or that threatens the public peace, health, safety or sanitary condition of the City or that is offensive or has a blighting influence on the community and is found upon, in, being discharged or flowing from or onto any street, alley, highway, vehicle, water, excavation, building, erection, lot, grounds or other property located within the City or any offense that is deemed or declared to be a public nuisance by the City Code.
7. Responsible Party: Any one (1) or more of the following:
 - a. Owner;
 - b. Agent;
 - c. Contract for Deed holder;
 - d. Mortgagee or vendee in possession;

- e. Lessee; or
 - f. Other person, firm or corporation exercising apparent control over a property.
8. Rubbish: All inorganic refuse matter such as tin cans, glass, paper, ashes and the like.
9. Noxious Weeds, Grasses, and Rank Vegetation: Includes but is not limited to the following:
- a. Noxious weeds and rank vegetation shall include but not be limited to: alum (allium), Buckthorn, Bur Cucumber, Canada Thistle, Corncockle, Cress leaf Groundsel, Curly Dock, Dodder, Field Bindweed, French Weed, Hairy Whitetop, Hedge Bindweed, Hoary Cress, Horse nettle, Johnsongrass, Leafy Spurge, Mile-A-Minute Weed, Musk Thistle, Oxeye Daisy, Perennial Sow thistle, Poison Hemlock, Purple Loosestrife, Quack grass, Russian Knapweed, Russian Thistle, Serrated Tussock, Shatter Cane, Sorghum, Wild Carrot, Wild Garlic, Wild Mustard, Wild Onion, Wild Parsnip;
 - b. Bushes of the species of tall, common, or European barberry, further known as *Berberis vulgaris* or its horticultural varieties;
 - c. Any weeds, grass, or plants, other than trees, bushes, flowers, or other ornamental plants, growing to a height exceeding eight inches;
 - d. Rank vegetation includes the uncontrolled, uncultivated growth of annuals and perennial plants;
 - e. The term weeds does not include shrubs, trees, cultivated plants or crops.
 - f. Any other weed designated by Minn. Stat. § 18.77, Subd. 8 as noxious.
- B. General provisions. A person must not act, or fail to act in a manner that is or causes a public nuisance.
- C. Illustrative enumerations. Public nuisance includes, but is not limited to, the following:
- 1. Violations of Section 603.01. subd. 3.B.-K, or Sections 603.02-603.09.
 - 2. Obstructions, which include, but are not limited to:

- a. Water, ice or snow or wastewater falling or flowing from private property or buildings onto public property, except gutters, drainage ways and storm sewers.
 - b. Use of public street or sidewalk or use of property abutting a public street or sidewalk that causes large crowds of people to gather, blocking or obstructing traffic, streets or sidewalks, except in accordance with a lawful permit, or pursuant to law enforcement direction.
 - c. Signs, awnings, vegetation, or other objects located on private property that are not constructed and maintained as required by law that prevent persons from having a clear view of all traffic approaching an intersection, or that overhang and obstruct public property.
 - d. Tree limbs: All limbs or trees which are less than eight feet (8') above the surface of any public walkway or nine feet (9') above the surface of any street.
 - e. Utility wires: All utility wires which are strung less than fifteen feet (15') above the surface of the ground.
 - f. Digging, excavating, or doing any act that alters or effects the drainage of property or alters or effects flows of the public storm sewer and drainage ditch system, except in accordance with the regulations of the City.
 - g. Depositing snow onto a neighbor's property or into the right-of-way.
3. Animal nuisances. It shall be determined that an animal is a nuisance for the purposes of this ordinance to habitually or frequently bark or cry at night, to chase vehicles, to molest or annoy any person or other animal away from the property of his owner or custodian, or to damage, defile, or destroy public or private property. Failure of the owner or custodian of an animal to prevent the animal from committing such a nuisance is a violation of this ordinance.
4. Annoyances, which include, but are not limited to noises, odors, vibrations or emissions of smoke, fumes, gas, soot, cinders, dust, or ash;
- a. Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulations NCP 7010, as amended.

- b. The emission of odor by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 7005, as amended.
 - c. 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 7005, as amended.
 - d. Smoke emission and open burning:
 - i. The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 7009, as amended.
 - ii. The open burning of vegetative materials or other materials as allowed by Minnesota Statutes shall be in compliance with and regulated by the State of Minnesota Department of Natural Resources under Minnesota Statutes (Chapters 88.01 - 88.22, 88.75 and 88.76).
 - iii. A burning permit shall be required for all open burning and must be obtained from the City Forester after payment of a fee as provided for by City Council resolution.
 - iv. Property owners who fail to obtain a permit for purposes of open burning on land in the City or who otherwise violate Minnesota Statutes (Chapters 88.01 - 88.22, 88.75 and 88.76) shall be guilty of a misdemeanor and be liable to the state and any of its political subdivisions for all expenses incurred in fighting or preventing the spread of, or extinguishing, any fire caused by, or resulting from, any violation of this section.
5. Direct sky-reflected glare directed into any adjoining property where the bare lightbulb is in view of adjacent property or public street;
6. Engaging in any business, activity or conduct that is dangerous, hurtful, unwholesome, offensive or unhealthy to the neighborhood, or which constitutes an annoyance to considerable members of the public, or is detrimental to the property in the neighborhood or to the general public including but not limited to, chronic traffic congestion, noisy or late night parties or gatherings that

- disturb the repose of neighboring property owners, excessive or unreasonable amounts of otherwise lawful parking that causes the unsafe narrowing of traffic lanes and which parking is caused by crowds associated with parties or social gatherings; abusive or threatening language or gestures by residents of the property directed at adjacent or neighboring property owners; a property that is the location of gatherings of juveniles and residents or guests have received citations for underage consumption or the owner of the property has received a citation for allowing or aiding or abetting juvenile consumption; a property that has been allowed to physically deteriorate and has not been maintained and the neglect has measurably lessened the market value of nearby property in the opinion of an appraiser hired by the City for that purpose;
7. Permitting, suffering, maintaining, or failing to remove any offensive, nauseous, hurtful, dangerous or unhealthy condition resulting from a failure to properly dispose of garbage, sewage, waste, debris or any other unwholesome or offensive substance, liquid, or thing upon one's premises, or dropping, discharging, passing, depositing, or otherwise delivering the same upon the premises of another or public property;
 - a. Sewage disposal: The installation of on-site sewage treatment systems shall be in compliance with the provisions of the State Uniform Building Code, PCA 70-80 as may be amended, and other applicable state and city codes.
 - b. Bulk storage (liquid): All uses associated with the bulk storage of all gasoline, liquid fertilizer, chemical, flammable and similar liquids shall comply with requirements of the Minnesota State Fire Marshall's and Minnesota Department of Agriculture Offices and have documents from those offices stating the use is in compliance.
 8. Signs, poster, or advertisement that are in violation of City Code Section 1005;
 9. Any fence, wall, shed, deck, house, garage, building, structure, tree, pole, smokestack, excavation, hole, pit, basement, cellar, sidewalk, dock, lot, land, yard, premises, or location which by reason of the condition in which it is found or permitted to be or remain, does or may endanger the health, safety, life, limb or property, or cause any hurt, harm, inconvenience, discomfort, damage or injury to the public;
 10. Graffiti; or

11. Any other activity, place or thing that is defined in this Code as a nuisance or public nuisance or any other violations of the City Code or zoning ordinance that are a danger to the health, safety, and general welfare of the citizens of the City.

SECTION 603.02 PUBLIC NUISANCES AFFECTING HEALTH:

The following are hereby declared to be nuisances affecting health:

- A. Exposed accumulation of decayed or unwholesome food or vegetable matter, except within an enclosed compost pile that meets state and county regulations;
- B. All diseased animals running at large;
- C. Carcasses of animals not buried or destroyed within 24 hours after death;
- D. Deer feeding:
 1. Findings and Purpose: The City Council finds that feeding of deer contributes to a high deer density in the City which in turn causes a threat to the public health, safety and welfare. The high deer density has resulted in damage to landscapes and damage to the understory of wooded areas. Further, the high deer density causes an increased potential for accidents between vehicles and deer and the increased potential for contact with deer ticks that could result in contracting Lyme disease.
 2. Prohibition: No person shall feed deer within the City of Sunfish Lake. For purposes of this Section 603.02 subd. 1.D., feeding shall mean providing grain, fruits, vegetables, nuts, hay or other edible material, either on the ground or at a height of less than five feet (5') above the ground, in a manner that attracts or is designed to attract or is likely to attract deer on a regular basis. Living food sources, such as fruit trees, or other live vegetation, shall not be considered as deer feeding.
 3. Exception: The prohibition contained in Section 603.02 subd. 1.D.2 shall not apply to veterinarians or governmental game officials, who in the course of their duties have deer in their custody or under their management. Further, the prohibition contained in Section 603.02, subd. 1.D.2 shall not apply to a Minnesota Department of Natural Resources deer management program approved by the City of Sunfish Lake.
- E. Accumulations of manure, refuse, or other debris;

- F. Privy vaults and garbage cans which are not rodent free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- G. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- H. Diseased trees as defined by state law;
- I. All ponds or pools of stagnant water; and
- J. Any offensive trade or business as defined by statute or not operating under local license.

SECTION 603.03 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY:

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

- A. All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection;
- B. All wires and limbs of trees which are so close to the surface of street as to constitute a danger to pedestrians or vehicles;
- C. All unnecessary noises and annoying vibrations in violation of Minn. Rules Ch. 7030, which are hereby incorporated by reference into this Code;
- D. Obstructions and excavations affecting the ordinary use by the public of streets, or public grounds except under such conditions as are permitted by this ordinance or other applicable law;
- E. Radio aerials or television antennae erected or maintained in a dangerous manner;
- F. Any barbed wire fence less than six feet above the ground and within three feet of a public way;
- G. 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, snake or vermin, or to fire, health or safety hazards from such accumulation or from the rank growth of vegetation among the items so accumulated;

- H. Any well, hole or similar excavation which is left uncovered or in such other condition as to constitute a hazard to anyone lawfully coming on the premises where it is located;
- I. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials;
- J. The placing or throwing on any street, 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 such substance;
- K. The depositing of garbage or refuse on a public right-of-way or private road or on adjacent private property;
- L. The existence of a dump site or debris pile on any private property; and
- M. All other conditions or things which are likely to cause injury to the person or property of citizens of the City.

SECTION 603.04 GARBAGE AND RUBBISH:

- A. Sanitation collection service required. Every person owning, managing, operating, leasing or renting any premises or any place where garbage or rubbish accumulates shall subscribe to a sanitation collection service.
- B. Container required; placement.
 - 1. It shall be the duty of every person whose garbage and refuse are collected by the sanitation collection service to provide a container or containers for garbage and refuse, sufficient in size and number to accommodate and securely keep all garbage and refuse that may accumulate between collections. Garbage containers shall be watertight and constructed of a solid and durable grade of metal, plastic, or paper material.
 - 2. When awaiting collection, all garbage and rubbish must be properly placed in a container (including all loose contents), and stored in the front yard or driveway. It shall be the duty of every person whose garbage and refuse is collected by the sanitation collection service to place their garbage containers directly behind the curblin of the street abutting their property or in the absence of a curb directly behind the ditch line abutting their property. In no event shall containers be placed in the street or on the sidewalk or in any manner placed where the containers will interfere with vehicular or pedestrian traffic.

- a. Containers may be set out no sooner than two (2) days prior to collection day.
 - b. Containers (and any material not picked up by the garbage hauler) must be removed from the front yard, driveway or public boulevard by the end of the day following the collection day.
 3. When not awaiting collection, garbage and rubbish must be properly stored in containers that are kept in rear yards, in accessory buildings or in garages. Containers may only be stored in a side yard if the setback of the home is at least fifty (50) feet from the boundary line and they are stored behind the front building line of the home. If the setback of the home is not fifty (50) feet from the boundary line, then the containers may only be stored in a side yard if they are screened by a hedge or enclosure so that they are not in immediate view of the public street.
 4. Any accumulation of refuse on any premises not stored in containers which comply with City Code, or any accumulation of refuse including car parts on any premises which has remained thereon for more than one (1) week is hereby declared to be a nuisance and may be abated by order of the City Council, as provided by Minnesota Statutes and the cost of abatement may be assessed on the property where the nuisance was found, as provided by law.
- C. Containers to be kept sanitary and secure. All containers shall be kept clean and free from accumulation of any substance remaining attached to the inside of the container which would attract or breed flies, mosquitoes, or other insects. The area surrounding garbage containers shall be maintained in a clean and sanitary condition. The contents of all receptacles shall be protected so that the wind cannot scatter the contents over the streets, alleys or other property within the City. All containers shall be securely closed in a manner as to prevent the scattering of the contents and to make them inaccessible to insects, rodents and other animals. Failure to comply with this section shall be a public nuisance.
- D. Prohibited acts.
1. It shall be unlawful for any person to sweep, throw or deposit any garbage, trash, debris, stagnant water or dead animal into, upon or along any public property or private property of another, except as may be specifically provided by this Section.
 2. It shall be unlawful for any person owning or otherwise in control of any premises within the City to permit any of the conditions described in subdivision (1) to exist upon property owned or controlled by him or her after having actual or constructive notice thereof.

3. It shall be unlawful for any person to place in any container any material other than as specifically provided in this Section.
 4. It shall be unlawful for any person to deposit or maintain garbage or trash except as provided for by this Section.
 5. It shall be unlawful for any person to deposit any burning match, charcoal, ember, or other material in any container used for the disposal of garbage.
- E. Nonresidential customers; container types; collection schedules. It shall be the duty of the owner or person otherwise in charge of multi-family, commercial, institutional or industrial premises within the City to cause all garbage and trash accumulated on the premises to be placed in disposable containers, or commercial-type containers. Commercial-type containers may be used and may be placed at a location on the premises as arranged between the customer and the collector, but subject to review by the City at any time.
- F. Manner of collection and transportation.
1. Disposable containers shall be placed at a location on the premises which is readily accessible to the collector.
 2. The collection, removal and disposal of all garbage, trash and brush shall be carried on in a systematic, efficient manner to keep the City in a clean and sanitary condition.
 3. All vehicles used for the collection and transportation of garbage and trash shall be equipped with suitable covers which shall be used to prevent blowing or scattering of refuse while garbage and trash are being transported for disposal.

SECTION 603.05 EXTERIOR STORAGE

- A. General Prohibition: In all zoning districts, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties and local street rights-of-way, under the jurisdiction of the City of Sunfish Lake, except for the following:
1. Side or rear yards (not including required setback area):
 - a. Clothesline pole and wires.
 - b. Wood piles for the burning supply of the property resident.

2. Required front yards on an approved surface:

- a. Off-street parking of passenger vehicles and non-commercial trucks not exceeding a gross weight of 12,000 pounds in residential areas (both on and off-street).
- b. All yards. Construction and landscaping material currently and actively being utilized as part of a specific project being implemented on the site.

SECTION 603.06 BUILDING MAINTENANCE AND APPEARANCE:

- A. 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 (1) are unsightly, (2) decrease adjoining landowners and occupants' enjoyment of their property and neighborhood, and (3) adversely affect property values and neighborhood patterns.
- B. Standards. A building, fence or other structure is a public nuisance if it does not comply with the following requirements:
 1. No part of any exterior surface may have deterioration, holes, breaks, gaps, loose or rotting boards or timbers.
 2. 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:
 - a. Any one wall or other flat surface; or
 - b. All door and window moldings, eaves, gutters, and similar projections on any one side or surface.
 3. No glass, including windows and exterior light fixtures, may be broken or cracked, and no screens may be torn or separated from moldings.
 4. Exterior doors and shutters must be hung properly and have an operable mechanism to keep them securely shut or in place.
 5. 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.

6. Roof surfaces must be tight and have no defects that admit water. All roof drainage systems must be secured and hung properly.
 7. 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.
 8. Decks, landings, platforms, porches, and other similar architectural elements and foundations must be structurally sound and in good repair.
- C. No temporary structures, trailers, campers, motor homes, storage containers shall be used for human habitation.
- D. No parking is allowed on unapproved surfaces pursuant to Section 1207.10. D.

SECTION 603.07 JUNK VEHICLES:

- A. For purposes of this Section, the following terms shall have the following meanings:
1. Junk Vehicle: Junk Vehicle means any Motor Vehicle or Implement of Husbandry or Trailer which is not in good and operable condition, or which is partially dismantled, or which is used for sale of parts, or as a source of repair or replacement parts for other vehicles, or which is kept for scrapping, dismantling, or salvage of any kind. The term Junk Vehicle also includes a Motor Vehicle, except a Farm Tractor, which is not properly licensed for operation by the State of Minnesota.
 2. Vehicle: Vehicle means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.
 3. Motor Vehicle: Motor Vehicle means every Vehicle which is self-propelled and every Vehicle which is propelled by electric power obtained from overhead trolley wires. Motor Vehicle does not include a vehicle moved solely by human power.
 4. Farm Tractor: Farm Tractor means every Motor Vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other Implements of Husbandry.
 5. Trailer: Trailer means any Vehicle designed for carrying property or passengers on its own structure and for being drawn by a Motor Vehicle.

6. Implement of Husbandry: Implement of Husbandry means every Vehicle designed and adapted exclusively for agricultural, horticultural, or livestock-raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways.
- B. Parking and storage. No person shall park, keep, place, or store, or permit the parking or storage of a junk vehicle on a public street or alley, or on any private easement or on any private lands or premises which he owns, occupies, or controls unless the junk vehicle shall be within a building on such private premises.
- C. Repair, service or maintaining. No person shall service, repair, replace parts or do maintenance work on a Junk Vehicle on a public street or alley, or on any private easement or on any private lands or premises unless the junk vehicle shall be within a building on such private premises.

SECTION 603.08 WEEDS:

- A. 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.
- B. Owners responsible for trimming, removal. 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 eight inches (8") in height.
- C. These provisions shall not apply to an area established with meadow vegetation or managed natural landscape if:
1. The prior vegetation is eliminated, and the meadow vegetation or managed natural landscape is planted through transplanting or seed by human or mechanical means; and
 2. A sign is posted on the property in a location likely to be seen by the public, advising that a meadow or native landscape is being established. This sign must be no smaller than ten inches (10") square, no larger than one (1) square foot, and no higher than three feet (3') tall.
 3. For purposes of this section, meadow vegetation means grasses and flowering broad-leaf plants that are native to, or adapted to, the State, and that are commonly found in meadow and prairie plant communities, not including noxious weeds.

4. For purposes of this section, managed natural landscape means a planned, intentional, and maintained planting of native or nonnative grasses, wildflowers, forbs, ferns, shrubs, or trees, including, but not limited to, rain gardens, meadow vegetation, and ornamental plants. The term managed natural landscape does not include turf-grass lawns left unattended for the purpose of returning to a natural state. Managed natural landscapes may include plants and grasses that are in excess of eight inches in height and have gone to seed, but may not include any noxious weeds and must be maintained.
5. As required under Minn. R. 6106.0150, subp. 3.C., the following areas, identified in the MRCCA plan, are exempt from the vegetation ground cover height restriction:
 - a. Shore impact zone;
 - b. Bluff impact zone;
 - c. Within fifty feet (50') of a wetland or natural drainage way; or
 - d. Areas of native plant communities and significant vegetative stands.

SECTION 603.09 DISEASED TREES:

- A. Finding: The City Council hereby finds and determines that hazardous conditions may now or in the future, exist within the city limits with respect to disease or insect infestations, or other factors resulting in the death or weakening of all or major parts of individual trees. These conditions will adversely affect the health and welfare of Sunfish Lake.
- B. Declaration of policy: The City Council has determined that trees within the municipal limits are currently or may in the future be subject to hazardous conditions resulting from insect infestation or disease; storm or mechanical damage; or other biotic or abiotic agents. It has further determined that such hazardous conditions resulting in the spread of disease or insect infestation, or in the potential danger of windfall (or other breakage) of significant, weakened or dead standing tree material situated in the vicinity of common property boundaries or travel lanes, would substantially depreciate the value of property within the City and impair the safety, good order, general welfare, and convenience of the public. It is declared to be the intention of the City Council to control and prevent the spread of any disease or insect infestation, and to control the potential danger posed by significant, weakened or dead standing tree material falling across common property boundaries or onto common travel lanes.

C. City Forester:

1. The position of City Forester is hereby created and the powers and duties of such office are hereby conferred upon the City Forester by the City Council of Sunfish Lake, Minnesota. Such powers and duties of the City Forester shall be designated from time to time by the City Council.
2. It is the duty of the City Forester to coordinate, under the direction and control of the City Council, all activities of the City related to the control and prevention of tree disease or insect infestation, and the potential danger posed by significant, weakened or dead standing tree material, from any cause, situated in the vicinity of common property boundaries or travel lanes. The City Forester shall recommend to the City Council the details of a program for the control of said conditions and perform the duties incident to such a program as adopted by the City Council.

D. The following things are public nuisances whenever they may be found within the City:

1. Any living or standing tree or part thereof infected to any degree with a plant pest as defined by Minn. Stat. § 18G.02.
2. Any diseased or dead elm, oak, ash or part thereof, including logs, branches, stumps, firewood or other material, from which the bark has not been removed, chipped or burned.
3. Any insect, nest, or egg mass of an insect that threatens the health of the shade trees, including, but not limited to, elm bark beetle, spongy moth, Asian long-horned beetle, emerald ash borer, and spotted lanternfly.
4. Weakened or dead standing tree material, from any cause, situated in the vicinity of common property boundaries or travel lanes.

E. Inspection and investigation:

1. Between April 15 and November 1 of each year, the Forester or his duly appointed agents shall maintain a continuous survey of the City to ascertain the location of trees having disease or insect infestation, or else posing potential danger from significant, weakened or dead standing tree material falling across common property boundaries or onto common travel lanes. Each affected tree shall be properly marked, and its owner shall be notified of the

existence of such affected trees pursuant to Section 603.11 and provided with notice to abate the nuisance.

2. In addition to regular inspections, the City Forester shall, whenever deemed it necessary, conduct additional emergency inspections, report the results of such inspections to the City Council, and take such further action authorized by this section.

F. Abatement of nuisances by property owners:

1. An owner of real property in the City who is notified of the existence of a diseased trees or insect infestation, or else posing potential danger from significant, weakened or dead standing tree material falling across common property boundaries or onto common travel lanes shall remove or direct the removal of all such public nuisance and dispose of all associated material thereof in a manner satisfactory to the City Forester, so as to insure safe elimination of the public nuisance.
2. All disease prevention activities shall be approved by the City Forester prior to such implementation.

G. Abatement by City: In the event the owner fails or refuses to abate the public nuisance as required, the City Forester shall abate the public nuisances pursuant to section 603.11.

H. Interference prohibited: It is unlawful for any person to prevent, delay or interfere with the City Forester or designees while they are engaged in the performance of duties imposed by this section.

I. Request for laboratory testing of diseased tree material: Any owner of real property in the City who receives any notice as provided herein, may request the City Forester to obtain a laboratory test of one or more of such trees. Such request shall be made to the City Forester within five (5) days after the date of said notice. Upon receipt of such request, the City Forester shall promptly engage the services of a qualified laboratory to make such tests. If the test confirms the original analysis that the tree is diseased, notice of such results shall be sent to the owner by the City Forester, and the owner shall remove such tree or trees within seven (7) days after the date of said notice.

J. Limitation on power of City of Forester: Notwithstanding anything to the contrary contained in this Ordinance, the City Forester shall not be required or authorized to inspect or direct the removal of uninfested major dead, or otherwise weakened, standing tree material located along property boundaries or private travel lanes

provided, however, that the Council may authorize the City Forester to make such inspections or removal.

SECTION 603.10 DUTIES OF CITY OFFICERS:

For purposes of Section 603, the person designated by the City Council 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.

SECTION 603.11 NOTICE; ABATEMENT PROCEDURE:

A. Notice.

1. Service of Notice of Violation. Written notice of violation shall be served on the owner of record and occupant of the premises either in person or by mail or personal service. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of violation, notice of violation shall be served by posting it on the premises.
2. Service of Notice of City Council Hearing. Written notice of any City Council hearing to abate a nuisance shall be served on the owner of record and occupant of the premises either in person or by mail or personal service. If the premises is not occupied, the owner of record is unknown, or the owner of record or occupant refuses to accept notice of the City Council hearing, notice of City Council hearing shall be served by posting it on the premises.
3. Service of Notice of City Council Order. Written notice of any City Council order shall be served in person or by registered or certified mail.

- B. Content of Notice. 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 may notify in writing the owner of record and 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 and shall be served as provided in Section 603.11.A. If the notice of violation is not complied with within the time specified, the officer or designated person shall report to the City Council. Thereafter, the City Council may, after notice to the owner and occupant, hold a hearing and determine that the condition identified in the notice of violation is a

nuisance. Upon a finding of a nuisance, the City has the authority to enter upon the property and abate the public nuisance. In abating the nuisance, the City may go to whatever extent necessary to complete the abatement of the public nuisance, including obtaining a court order. The City may by private contract cause the abatement of the public nuisance. If any material derived from the abatement is salvageable, the City may treat the property as abandoned.

- C. If the City performs the work pursuant to this section, the City will maintain a record showing the cost of the work attributable to each separate lot and parcel, including administrative costs. Abatement costs shall include, but are not limited to, the cost of abatement, the cost of investigation, such as title searches, inspection and testing, the cost of notification, filing costs, consultant costs, attorneys' fees and administrative costs, including an overhead charge of up to 25% for administrative costs.
- D. Emergency Procedure; Summary Enforcement. In cases of emergency, where delay in abatement required to complete the notice and procedure requirements set forth in Sections 603.11 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 and 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 and 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 this Section 603.11 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.
- E. 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 603.12 RECOVERY OF COST:

- A. Personal Liability. The owner of premises on which a nuisance has been abated by the City or a person who has caused a public nuisance on a property not owned by that person 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.

- B. Assessment. After notice and hearing as provided in Minn. Stat. § 429.061, if the nuisance is a public health or safety hazard on private property, 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 November 1 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 Minn. Stat. § 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 603.13 PENALTY:

Unless otherwise stated herein, violation of this Section 603 shall be a misdemeanor.

(Ord. 25-11, 12/09/25)

CHAPTER 604

RECREATIONAL MOTOR VEHICLES

SECTION 604.01 DEFINITIONS:

The following words and terms when used in this Ordinance shall have the following meanings unless the context clearly indicates otherwise:

- A. Recreational Motor Vehicle: Any self-propelled vehicle used for recreational purposes and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including but not limited to a trail bike or other all-terrain vehicle, hovercraft, snowmobile, or motor vehicle licensed for highway operation which is being used for off-road recreational purposes.
- B. Waterbody: Any body of water in the City, navigable or unnavigable, including Sunfish Lake, Hornbeam Lake and Horseshoe lake, with access to more than one property within the City.

SECTION 604.02 PROHIBITED AREAS AND ACTS:

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

- A. On private property of another without specific written permission of the owner of said property. Such written permission, or a copy thereof, must be carried on the person of anyone operating a recreational motor vehicle on the private property of another.
- B. On City owned land including school grounds, park property.
- C. 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.
- D. While under the influence of intoxicating liquor or narcotics or habit forming drugs.
- E. At a rate of speed greater than reasonable or proper under all the surrounding circumstances or greater than the posted speed limit, whichever, is lower.
- F. At any place in a careless, reckless, or negligent manner so as to endanger or likely to endanger any person or property or cause injury or damage thereto.
- G. On any public street, highway, or right-of-way, unless licensed pursuant to Minnesota Law.
- H. To intentionally drive, chase, run over, or kill any animal, wild or domestic.

- I. Within 150 yards of any public recreational area, church, or dwelling. This provision does not apply to the occasional use of recreational motor vehicles on private property for the purpose of loading or unloading it from a trailer or for mechanically checking it.
- J. Upon any waterbody surface, whether open water or frozen, during all times of the year.

SECTION 604.03 EXCEPTION:

Authorized governmental resource management, emergency and enforcement personnel when acting in the performance of their assigned duties shall be exempt from this Ordinance.

SECTION 604.04 ENFORCEMENT:

The provisions of this Ordinance shall be enforced by City authorized peace officers and officers of the Dakota County Sheriff's Office.

SECTION 604.05 PENALTIES:

Violation of any provision of this Ordinance shall be a misdemeanor as defined by Minnesota Statute.

SECTION 604.06 NOTIFICATION:

It shall be the responsibility of the City of Sunfish Lake to provide for adequate notification of the public, which shall include placement of necessary signs.

(Ord.1997-02, 01/07/97; Ord. 1997-09, 12/02/97)

CHAPTER 605

MOTORIZED WATERCRAFT

SECTION 605.01 FINDINGS:

The City Council has found that due to the size of the bodies of water located within its boundaries and due to the fact that all of these bodies of water are surrounded by single-family homes and, further, because the City is zoned for the quiet and pastoral enjoyment of this unique residential setting, that motorboats are inimical to the purpose of the Zoning Code and hereby prohibited.

SECTION 605.02 DEFINITIONS:

- A. Motorboat: "Motorboat", shall mean any watercraft propelled in any manner by machinery, including watercraft temporarily equipped with detachable motors, as defined by Minnesota Statute 86B.005, Subd. 9, as may be amended.
- B. Bodies of Water: "Bodies of Water", shall mean any body of water in the City, including Sunfish Lake, Hornbeam Lake and Horseshoe Lake, navigable or unnavigable, with access to more than one property within the City.

SECTION 605.03 GENERAL PROHIBITION:

The use of motorboats on or in any body of water in the City of Sunfish Lake is prohibited.

SECTION 605.04 EXCEPTION:

Authorized governmental resource management, emergency and enforcement personnel when acting in the performance of their assigned duties shall be exempt from this Ordinance.

SECTION 605.05 ENFORCEMENT:

The provisions of this Ordinance shall be enforced by City authorized peace officers, officers of the Dakota County Sheriff's Office and Conservation Officers of the Minnesota Department of Natural Resources.

SECTION 605.06 PENALTIES:

Violation of any provision of this Ordinance shall be a misdemeanor.

(Ord. 1997-01, 01/07/97, Ord. 1997-10, 12/02/97)

CHAPTER 606

TREE-HOLE MOSQUITO CONTROL/CALIFORNIA ENCEPHALITIS (LA CROSSE STRAIN) CONTROL

SECTION 606.01 DEFINITIONS:

Words and phrases defined in this section have, when used in this ordinance, the meanings given below.

- A. Tree-hole Mosquito: *Aedes triseriatus*; a carrier of California encephalitis (La Crosse strain).
- B. Habitat: In any shaded or wooded area. Any natural or man-made object in which water or debris may accumulate and which is conducive to the breeding of the Tree-hole Mosquito; including, but not limited to: natural or artificial holes in trees or stumps; unused tires which are not mounted on wheels; pots, pans, cans, pails, bottles or other containers left outdoors; gutters which are clogged or which otherwise do not properly allow for runoff; and other objects in which standing water accumulates, all of which are 7' or less from the ground.
- C. Person: An individual, firm, partnership, corporation, trustee, association, the state and its agencies and subdivisions, or any body or person whether incorporated or not.
- D. City: The City of Sunfish Lake, Minnesota.
- E. City Forester: An official appointed by the City Council of the City, and serving at the discretion of said Council, charged with enforcement of this ordinance and entrusted with the authority to make investigations and issue citations pursuant to this ordinance.

SECTION 606.02 GENERAL PROHIBITION:

No Person shall allow a habitat for the Tree-hole mosquito to exist on property owned, leased, or otherwise occupied by that Person.

SECTION 606.03 ENFORCEMENT:

- A. Enforcement Duties: The City Forester shall enforce the provisions of this ordinance. The City Forester or his duly authorized agent may inspect private premises, other than the interior of private residences, and may make all reasonable efforts to prevent violations of this ordinance.
- B. Citation: The City Forester shall issue a citation to any Person in violation of the General Prohibition contained in Section 606.02 of this ordinance. Such citation shall state the general nature of the violation and shall specify a date not less than fourteen

(14) nor more than thirty (30) calendar days after the date of the citation (the "abatement date"). Such citation shall be served upon a Person by delivering a copy to him or her personally or by leaving a copy at his or her usual place of abode with some person of suitable age and discretion. In the case of a partnership, association or corporation, service may be made on a general partner of the partnership, a member of the association or an officer of the corporation, as the case may be. In either case, the citation shall be mailed to the Person in violation of this ordinance of his or her usual place of abode by certified mail, return receipt requested. In any event, if the Person in violation of this ordinance is unavailable for personal service, the citation may be served by posting a copy of the citation in a conspicuous place on the land subject to the citation for two consecutive weeks, and by sending a copy of the citation to the last known address of the owners of the land subject to the citation by certified mail, return receipt requested. Said notice shall be deemed sufficient upon mailing.

- C. Abatement Date: On or after the abatement date, the City Forester shall re-inspect the land subject to the citation. If the conditions described in the citation as violations of this ordinance have not been remedied or diligently pursued toward a remedy, the person named in the citation shall be charged with a violation of this ordinance.
- D. Civil Remedies: This ordinance may be enforced by injunction, action for abatement, and other appropriate civil remedy.
- E. Criminal Penalties: Every Person who violates this ordinance and is charged with such violation pursuant to Subd. 3 above is guilty of a misdemeanor and shall, upon conviction, be subject to a fine or imprisonment, or both, plus, in either case, the costs of prosecution. Each act of violation and each day a violation occurs or continues constitutes a separate offense.

SECTION 606.04 SEVERABILITY:

If any provision of this ordinance or the application of any provision to a particular situation is held to be invalid by a court of competent jurisdiction, the remaining portions of the ordinance and the application of the ordinance to any other situation shall not be invalidated.

SECTION 606.05 CONFLICT WITH OTHER CITY ORDINANCES:

If any provision of this ordinance is in conflict with a provision of any other City ordinance, the provision which establishes a higher standard for the promotion and protection of the residents of the City shall prevail.

CHAPTER 607

ALARM SYSTEMS

SECTION 607.01 TITLE:

This ordinance shall be known, cited, and referred to as "The Alarm Ordinance," except as herein referred to as "this ordinance."

SECTION 607.03 PURPOSE AND SCOPE:

To protect the public health, safety and welfare, the City Council deems it necessary to provide for the special and express regulations of alarm systems which are designed to signal the presence of a hazard requiring urgent attention and to which public safety personnel are expected to respond. The City Council finds that the regulation of alarm systems is necessary in order to reduce the increasing frequency of false alarms in the City. The great number of and increasing frequency of these false alarms require intensive and time-consuming efforts by the police and fire departments and thereby distract from and reduce the level of services available to the rest of the community. This diminishes the ability of the City to promote the general health, welfare and safety of the community. In consideration for the necessity on the part of the City to provide numerous public safety services to all segments of the community, without an undue concentration of public services in one area to the detriment of members of the general public, it is hereby decided that the alarm systems shall be regulated through the process described below.

SECTION 607.05 DEFINITIONS:

For the purposes of this Section 607, the following terms shall have the following meanings.

- A. Public Safety Personnel: "Public Safety Personnel" means duly authorized City police and fire personnel.
- B. Alarm User: "Alarm User" means the person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure, or facility wherein an alarm system is maintained.
- C. Public Safety Communications Center: "Public Safety Communications Center" is the facility used by the City to receive emergency requests for service and general information from the public to be dispatched to respective public safety personnel.
- D. Alarm System: "Alarm System" means and include any alarm installation designed to be used for the prevention or detection of burglary, robbery or fire or an emergency situation on the premises which contain an alarm installation.

- E. False Alarm: "False Alarm" means an alarm signal eliciting a response by public safety personnel when a situation requiring a response does not, in fact, exist, and which is caused by the activation of the alarm system through mechanical failure, alarm malfunctions, improper installation or the inadvertence of the owner or lessee of an alarm system or of his/her employees or agents.

False alarms do not include alarms caused by climatic conditions such as tornadoes, thunderstorms, utility line mishaps, violent conditions of nature or any other conditions which are clearly beyond the control of the alarm manufacturer, installer or owner.

False alarms do not include alarms occurring in the first thirty (30) days of operation of a new alarm system.

SECTION 607.07 USER FEES:

- A. False alarms for police response: An alarm system may report as many as two (2) false alarms requiring police response within a twelve (12) month period without charge. A user fee of \$50 shall be paid by the alarm user for the third false alarm requiring a police response within a twelve (12) month period. A user fee of \$100 per false alarm shall be paid by the alarm user thereafter for additional police responses within a twelve (12) month period.
- B. False alarms for fire department response: An alarm system may report as many as one (1) false alarm requiring fire department response within a twelve (12) month period without charge. For the second false alarm within a twelve (12) month period that requires a fire department response, the alarm user shall pay a user fee of \$150. For any false alarm in a twelve (12) month period requiring a fire department response after the second false alarm, the alarm user shall pay a user fee equal to the sum of the following formula:
1. \$150 plus
 2. \$100 times a multiplier which multiplier is the number of false alarms in a twelve (12) month period that required a fire department response minus two (2).
- C. Written appeal of a false alarm charge: An alarm user which is required by the City to pay a user fee as the result of a false alarm may make a written appeal of the false alarm charge to the City Administrator within ten days of receipt of notice by the City of the false alarm charge. The City Administrator will have authority to make a final determination as to whether the appellant is to be charged with a false alarm, based on circumstances and culpability.

SECTION 607.09 PAYMENT OF FEES:

Payment of user fees provided by Section 607.07 must be paid to the City Treasurer within

30 days from the date of notice by the City to the alarm user. Failure to pay the fee within 30 days' notice will cause the alarm user to be considered delinquent and subject to a penalty of ten percent (10%) of the fee.

SECTION 607.11 ALARM EQUIPMENT SPECIFICATIONS:

Except for equipment of a type or category for which no Underwriters Laboratory (UL) standards have been established, no robbery/burglary alarm equipment may be installed hereafter unless it is listed on the UL Burglary Protection Equipment List. All equipment shall be installed according to UL standards. This shall not be construed as requiring UL certification of an alarm system.

SECTION 607.13 CONFIDENTIALITY:

All information submitted in compliance with this ordinance shall be held in confidence and shall be deemed a confidential record exempt from discovery to the extent permitted by law. Subject to requirements of confidentiality, the Chief of Police or the Fire Chief, or their designees, may develop and maintain statistics for the purpose of ongoing alarm systems evaluation.

SECTION 607.15 COMMUNICATIONS CENTER:

No automatic dialing devices shall be connected to the public safety communications center through any telephone line. Use of automatic dialing devices will be considered a violation of this ordinance.

SECTION 607.17 ENFORCEMENT AND PENALTIES:

- A. Failure or omission to comply: Failure or omission to comply with any section of this ordinance shall be deemed a misdemeanor and may be so prosecuted, subject to the penalty provided in Subd. 2 of this section.
- B. Violation: Violation of this ordinance shall be punishable upon conviction by a fine of not more than \$1,000, imprisonment for a period not to exceed 90 days, or both.

(Ord. 1992-1, 07/07/92; Ord. 1996-1, 03/04/96; Ord. 96-20, 08/06/96)

SECTION 607.19 REMOTE MONITORING LOCATIONS:

With respect to a fire alarm system that is monitored by a company or person at a location that is remote or off-site from the residence that contains the fire alarm system, the company or person providing the remote monitoring must verify the fire alarm signal with respect to the residence prior to reporting the fire alarm to the fire service or the Public Safety Communication Center, provided the verification process does not delay the reporting by more than 90 seconds.

(Ord. 2003-03, 11/04/03)

SECTION 607.21 CERTIFICATION OF CHARGES FOR FALSE ALARMS TO THE DAKOTA COUNTY AUDITOR TO BECOME PAYABLE WITH PROPERTY TAXES WITH RESPECT TO THOSE PROPERTIES THAT HAVE NOT PAID SUCH CHARGES:

- A. Purpose and Intent: The purpose and intent of this Section 607.21 is to enable the City to certify to the Dakota County Auditor any delinquent, unpaid charges and fees of an alarm user so that such unpaid charges and fees become payable with the real estate taxes for the property of the alarm user. This Section 607.21 seeks to utilize the authority and powers contained in Minnesota Statutes §§ 366.011, 366.012 and 415.01 which provide as follows:

1. Minn. Stat. § 366.011. Charges For Emergency Services Collection.

A town may impose a reasonable service charge for emergency services, including fire, rescue, medical, and related services provided by the town or contracted for by the town. If the service charge remains unpaid 30 days after a notice of delinquency is sent to the recipient of the service or the recipient's representative or estate, the town or its contractor on behalf of the town may use any lawful means allowed to a private party for the collection of an unsecured delinquent debt. The town may also use the authority of section 366.012 to collect unpaid service charges of this kind from delinquent recipients of services who are owners of taxable real property in the town.

The powers conferred by this section are in addition and supplemental to the powers conferred by any other law for a town to impose a service charge or assessment for a service provided by the town or contracted for by the town.

2. Minn. Stat. § 366.012 Collection of Unpaid Service Charges.

If a town is authorized to impose a service charge on the owner, lessee, or occupant of property, or any of them, for a governmental service provided by the Town, the town board may certify to the county auditor, on or before October 15 for each year, any unpaid service charges which shall then be collected together with property taxes levied against the property. A charge may be certified to the auditor only if, on or before September 15, the town has given written notice to the property owner of its intention to certify the charge to the auditor. The service charges shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes. This section is in addition to other law authorizing the collection of unpaid costs and service charges.

3. Minn. Stat. §415.01 Town Laws, Application; Exercise of Powers by City.

- a. General. A town must not exercise the powers conferred in chapters 365 to 368 within the territory embraced within the limits of any city, but a city has and may exercise within its limits any of the powers conferred by these chapters upon towns.
- b. Charges For Emergency Services. A city may exercise the power under sections 366.011 and 366.012 relating to charges for emergency services only if the city adopts an ordinance authorizing the manner and amount of charging for those services.

B. Certification of Charges To County Auditor For Payment With Real Estate Taxes:

If the alarm user does not pay the fees and charges imposed by Sections 607.07 and 607.09 of this Code, then, on or before October 15 of each year, the City Council may certify to the Dakota County Auditor any unpaid fees and charges which shall then be collected together with the property taxes levied against the property owned by the alarm user where the alarm system is located, provided, however, the following conditions must be met:

1. Prior to September 15, the City must have given written notice to the property owner of the fees and charges that are owing; the written notice must state the property owner has thirty (30) days to make payment and if payment is not made the fees and charges are considered delinquent.
2. Prior to September 15, the City must have given written notice to the property owner of the City's intention to certify the delinquent fees and charges to the Dakota County Auditor.
3. The property owner must have been given an initial period of thirty (30) days to pay the fees and charges.
4. The fees and charges are still unpaid for thirty (30) days after the City has sent a written notice of delinquency to the property owner that informs the property owner that a delinquency has occurred because the fees and charges were not paid within the first thirty (30) days after the first notice of the fees and charges.

(Ord. 2003-02; 11/04/03)

CHAPTER 608

REGULATION OF ANIMALS

608.01 KEEPING ANIMALS:

A. Definitions. The following definitions shall apply in the interpretation and enforcement of this Ordinance:

1. Domestic Animals: For purposes of this Chapter, domestic animal shall be defined as house pets such as dogs, cats, rabbits, pot-bellied pigs and traditional and typical animal pets, and birds (not including pigeons, chickens, geese, turkeys or other fowl) which can be contained within a principal structure throughout the entire year, provided that the containment can be accomplished without special modification to the structure requiring a building permit from the City. Animals normally classified as wild which have been domesticated are not included as a domestic animal.
2. Farm Animals: Cattle, hogs, bees, sheep, goats, chickens, turkeys, ducks, horses, and other animals traditional and commonly accepted as farm animals in the State of Minnesota.

B. The following regulations apply to the keeping of animals in the City:

1. Permitted animals:
 - a. Domestic animals.
 - b. Animals being kept as part of the Minnesota Zoological Gardens, St. Paul Como Zoo, or similar institutional docent programs. Before such animals are allowed, however, the participant in the program must notify immediately abutting property owners and the City Planner in writing of their participation in the program and identify the animals being kept.
 - c. Chickens, horses, bees, or other farm animals deemed similar by the City Planner, with a permit as provided herein.
2. No farm animals or other non-domestic animals are allowed within the City without a permit from the City Planner.
3. Farm animals for purposes of removal of buckthorn or other invasive species are allowed by temporary permit from the City Forester. The applicant shall pay a permit fee as required in the fee schedule and submit a plan specifying the area in which the animals will be allowed, how the animals will be contained, where they will be kept and a timeframe for the permit, as well as any other

information deemed necessary by the City Forester. The City Forester shall approve or deny the temporary permit within fourteen (14) days of receipt of the application. Temporary permits may be revoked at any time by the City Forester if the applicant violates the terms and conditions of the temporary permit.

4. Farm animals may not be kept for commercial purposes.

C. General permit requirements. Farm animals are allowed by permit from the City Planner pursuant to the requirements of this Section. The consideration involving the approval or denial of a permit shall include, but is not limited to:

1. The notification of immediately abutting property owners and an evaluation of the possible negative impacts upon such properties.
2. The adequacy of the site and buildings to accommodate the animals.
3. The public health, safety, and general welfare concerns posed by the animals.
4. Any animal enclosure must maintain setbacks set forth in this section and must be in compliance with the Accessory Building requirements in City Code Section 1207.014 (where setback or location standards conflict, the more restrictive requirements shall apply; chicken enclosures must comply with setbacks in Section 608.02 Subd. 2.F.2):
 - a. The animal enclosure shall not be located closer to the lot line of an adjacent property than to the principal structure on the animal owner's property, but in no event shall it be less than twenty-five feet (25') from any lot line.
 - b. The animal enclosure shall not be located closer than twenty-five feet (25') from wetlands or public waters.
5. No property owner may obtain a permit for more than two (2) large farm animals. The permitted number of other farm animals (except chickens and bees, as provided herein) shall be determined by the City Planner.
6. Performance standards for chickens are regulated in Section 608.02 and bees are regulated in Section 608.03.

D. Permit application process for farm animals.

1. Upon submission of a complete application for a permit on forms provided by the City and payment of the permit fee pursuant to the City fee schedule, the City Planner shall provide written notice of the request to the immediately

abutting property owners within seven (7) business days of the receipt of the complete application. Permit fees are not prorated.

2. Notice. The notice shall specify that any written objections be received by the City Planner within seven (7) days of mailing. If any written objection of a substantive nature is received within seven (7) days and is unresolved between the objector and the City Planner, the review of the permit may be forwarded to the City Council for approval or denial.
 3. Unless referred to the City Council for a decision, the City Planner shall approve or deny the permit within thirty (30) days from the date of submission of a complete application.
 4. A written notification shall be issued by the City Planner on the approval or denial of the permit. If approved, specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances, and the standards of this Section shall be attached to the notification which shall serve as the permit.
- E. Permit Term. The initial term of a permit shall be for a period of one (1) year, from January 1 through December 31. After the initial term, a renewal application must be submitted using the same process as the initial term. In cases where complaints from neighbors have been received during a term or where there has been a change in conditions or violations, a renewal application shall require City Council approval. If there are no changes in conditions and no violations or complaints, subsequent renewal terms shall be for a period of three (3) years.
- F. Denial and Revocation of Permit; Appeals.
1. The permit may be revoked by the City Planner if the animals cause a nuisance or endanger the health or safety of the community or if the permit holder is non-compliant with applicable codes, ordinances, and the standards. Determination of non-compliance shall be communicated to the permit holder in writing and the permit shall be considered revoked unless, within ten (10) days of such notice, the permit holder takes corrective action to the satisfaction of the City Planner.
 2. Denial or revocation of a permit may be appealed to the City Council by filing a written notice to the City Clerk within ten (10) business days of the decision, paying the applicable fee and stating the grounds upon which the appeal is made. The permit holder will be sent notice of a hearing date at least fourteen (14) days prior to the hearing. The City Council shall hold a hearing and render a decision, which shall be final.

608.02 REGULATION OF CHICKENS:

A. Purpose. Recognizing the desire for some residents to raise chickens, the City wishes to allow that within the community, while establishing requirements to protect the health, safety and welfare of neighboring properties.

B. Performance Standards:

1. An owner of residential property who resides at the property may keep up to ten (10) chickens with an approved permit.
2. No roosters are allowed.
3. No person may allow chickens to range freely without fencing unless supervised, unless the lot is five (5) acres or more.
4. No person may keep any chickens inside the house.
5. No person may slaughter any chickens within the City.
6. Chickens must be provided a secure and well-ventilated, windowed, roofed structure (coop) that complies with the following regulations:
 - a. No larger than 100 square feet;
 - b. Not closer than 150 feet from any lot line;
 - c. Is located in a rear or side yard;
 - d. The floors and walls of the roofed structure are kept in a clean, sanitary and healthy condition with all droppings placed in a fireproof covered container until applied as fertilizer, composted or transported off the premises;
 - e. It is attached to a chicken run area that is enclosed with fencing or in a mesh-type material that is no greater than 200 square feet.
7. Chicken feed products must be stored in such a way as to prevent mice, rats or other scavengers from becoming a nuisance.
8. Public sales of eggs may occur on the premises pursuant to the following requirements:
 - a. The permit-holder must comply with home occupation requirements pursuant to Section 1207.08.

- b. One sign may be placed on the premises, not to exceed six (6) square feet in size that complies with Section 1005.05.

C. Violations.

- 1. First violation for free ranging outside of the permit-holder's property shall result in a warning;
- 2. Any subsequent violation may result in revocation of the permit unless the permit holder agrees to keep the chickens in a fully enclosed run area.

608.03 REGULATION OF BEES:

A. Purpose. Recognizing the importance of pollinators, the City wishes to encourage beekeeping within the community while establishing requirements to protect the health, safety and welfare of the public.

B. Number of colonies. An owner of residential property who resides at the property may keep up to five (5) colonies of honeybees with an approved permit.

C. Performance standards.

- 1. Location of colonies. Colonies must be located on the lot as follows:

- a. In a rear yard not adjacent to a street;
- b. At least twenty-five feet (25') from any residence on the lot or any adjacent lot;
- c. Set back at least ten feet (10') from any lot line.

- 2. Fencing. Colonies must be fenced to prevent or deter unauthorized access. Fencing need not be permanent and may be made of wire or mesh fencing or netting.

- 3. Water and food supply. A convenient source of water must be readily available on the premises at all times. All materials used to feed bees must be stored in sealed containers or placed within a building unless it is inside the hive.

D. Sales of products. Public sales of bee products may occur on the premises pursuant to the following requirements:

- 1. Food products and packaging of all bee products must comply with State and federal laws.

2. The permit-holder must comply with home occupation requirements pursuant to Section 1207.08.
 3. One sign may be placed on the premises, not to exceed six (6) square feet in size that complies with Section 1005.05.
- E. City inspections. The City, upon the receipt of a complaint, shall be allowed to inspect any structure or premises and issue any order as may be necessary to carry out the provisions of this section.

608.04 REGULATION OF DOGS:

A. Definitions. The following definitions shall apply in the interpretation and enforcement of this Ordinance:

1. Dog Owner: Any person or persons, firm, association, or organization or department possessing, harboring, keeping, having an interest in or having care, custody or control of a domestic animal.
2. Running At Large: An dog is running at large if it:
 - a. Is not effectively contained within a fenced area; or
 - b. Is on any unfenced area or lot abutting a street, alley, public park, public place or upon any other private land without being effectively restrained by chain, leash, or an electronic pet containment device from moving beyond such unfenced area or lot; or
 - c. Is on any street, public park, school grounds or public place without being effectively restrained by chain or leash, except for a dog within the boundaries of the public off leash dog park and the owner has verbal or physical command over the dog.

B. Vaccinations, Tags and Violations.

1. Vaccination Required. The owner of every dog in the City shall cause such dog to be currently vaccinated for rabies. A certificate of vaccination or other statement of the same effect executed by a licensed veterinarian shall constitute prima facie proof of the required vaccination.
2. Affixation of Tag Required. The owner of every dog in the City shall affix a tag to the collar of the dog in such a manner that the tag may be easily seen. The tag shall contain information of the current rabies vaccination, and identifying the owner, the owner's address and telephone number.

3. It shall be unlawful to permit a dog to run at large, whether or not the owner is present, within the limits of the City. Dogs must be continuously under restraint on a leash and accompanied by a person reasonably able and effectively restraining the dog or cat. The City may charge the owner for all costs incurred in capturing, impounding, and maintaining of a dog running at large.

608.05 REGULATION OF DANGEROUS DOGS:

Minn. Stat. §§ 347.50 through 347.565 regulating Dangerous Dogs are hereby adopted.

608.06 PENALTY:

Other than violations of City Code Section 608.05 which penalties shall be prescribed pursuant to state law, any person found guilty of violating the provisions of this Section 608 shall be guilty of a petty misdemeanor.

(Ord. 607-1, 03/07/95; Ord. 96-23, 09/03/96; Ord. 25-10, 12/09/25)

CHAPTER 609

PARK REGULATIONS

SECTION 609.01 REGULATION OF HOURS:

Musser Park and Harmon Park are closed to the public from sunset to sunrise. No person shall be in Harmon Park or in Musser Park during the hours from sunset to sunrise, except for the following:

- A. City employees;
- B. public safety personnel, including police and fire personnel;
- C. City Forester;
- D. any person who has received express permission by the City Council to inspect or improve the park grounds or to monitor the use of the park grounds.

SECTION 609.02 PENALTY:

Any person found guilty of violating the provisions of this Ordinance shall be guilty of a misdemeanor.

(Ord. 2003-01, 10/07/03)

CHAPTER 610

PEDDLERS AND SOLICITORS

SECTION 610.01 PURPOSE:

The City has the authority to regulate nuisances created by certain business practices under the police power. It is the purpose and intent of this Section to establish regulations relating to Peddlers, Solicitors and Transient Merchants as specifically authorized by Minnesota Statutes Sections 329.15 and 412.221 Subd. 19.

SECTION 610.03 DEFINITIONS:

The following definitions shall apply in the interpretation and enforcement of this Chapter 610:

- A. Peddler: A Peddler means a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property, that the person is carrying or otherwise transporting. The term "Peddler" also includes the term "hawker."
- B. Person: A person means an 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.
- C. Police Chief: Police Chief means the West St. Paul Police Chief, acting as Police Chief for Sunfish Lake by contractual agreement.
- D. Solicitor: A Solicitor means 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 a person 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 does 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 "Solicitor" also includes the term "canvasser."
- E. Transient Merchant: A Transient Merchant means a person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter 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 in any one location for more than fourteen (14) consecutive days.

SECTION 610.05 EXCEPTIONS:

For the purpose of this Chapter, the terms “Peddler” “Solicitor” or “Transient Merchant” shall not apply to the following:

- A. Auctions: Any persons conducting an auction with a licensed auctioneer.
- B. Government Sales: Any government agency conducting a sale, including court-ordered sale, a sheriff’s sale or the sale of the government agency’s surplus property shall not be required to obtain a license or register with the City.
- C. Customer Route Sales: 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, frozen goods and milk, or any person making deliveries of perishable food and dairy products to the customers on an established regular delivery route.
- D. Exercise of Constitutional Rights: Any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when that activity is for the purpose of exercising that person’s State or Federal constitutional rights (i.e., freedom of speech, press, religion, etc.), except that this exemption may be lost if the person’s exercise of constitutional rights is merely incidental to a commercial activity. However, professional fundraisers working on behalf of an otherwise exempt person or group must comply with the licensing requirements in Section 610.07.
- E. Flea Markets: Any person participating in an organized multi-person bazaar or flea market, when there are no more than two (2) such sales in each calendar year and the sale lasts no longer than one (1) week.
- F. Garage Sales: Any person conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, when there are no more than two (2) such sales in each calendar year. Sales shall last no longer than three (3) days, and sales of individual household items shall last no longer than fifteen (15) days. Sales are conducted on the owner’s property. Multiple family sales are permitted if they are held on the property of one (1) of the participants. No goods purchased for resale may be offered for sale. No consignment goods may be offered for sale. All directional and advertising signs shall be free standing, no larger than two (2) feet by three (3) feet, must be placed on private property with the property owner’s permission, and must be removed immediately after completion of the sale.

- G. Isolated Sales: Any isolated or singular sale of property.
- H. Wholesalers: Any person selling or attempting to sell any goods, wares, products, merchandise or other personal property to a retailer at wholesale.
- I. Advertising Material: Any person engaging in the mere distribution of flyers or other advertising material from house-to-house or place-to-place where personal contact is not made.
- J. Newspapers: Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.

Exemption from the Peddler, Solicitor and Transient Merchant requirements shall not, for the scope of this Chapter 610, excuse any person from complying with any other applicable statutory provisions or requirement provided by another City ordinance.

SECTION 610.07 PEDDLERS:

Except as provided in Section 610.11 or Section 610.15, no person may conduct business as a Peddler in the City without obtaining a license from the City. A separate license is required for each person engaging in the proposed activity.

- A. Contents of License Application: The application shall contain the following information:
 - 1. Name, address, date of birth, driver's license number and contact information of applicant.
 - 2. Name, address and contact information of employer.
 - 3. Description of the product being sold.
 - 4. Length of time desired for the business activity.
 - 5. Employer's Minnesota tax identification number.
- B. Submission of Application: The license application shall be submitted to the City at least thirty (30) business days before the applicant desires to conduct business in the City. An application shall be determined to be complete only if all the required information under subdivision 1 is provided. If the City Clerk, Police Chief, or their

designee, determines that an application is incomplete, it shall inform the applicant of the information required to be provided prior to issuance of the license.

- C. Procedure for Approval or Denial of License: The Police Chief or their designee, shall review the license application and order an investigation, including a background check for which the appropriate fee must be paid, necessary to verify the information provided in the application. The Police Chief shall either approve or deny the license within ten (10) business days of the license application's submission to the City. If the application is approved, the license shall be issued. If the application is rejected, the applicant shall be notified in writing of the decision, the reason for the denial, and the applicant's right to appeal the denial by requesting a public hearing before the City Council. The applicant's request for a public hearing must be made within twenty (20) days of the date the notice of denial is received, or the applicant's right to a hearing will be deemed waived. Within twenty (20) days of the receipt of the applicant's request for a public hearing on the denial of the license, a public hearing will be held before the City Council. At the hearing, the applicant has the right to be represented by counsel, the right to respond to the reason for denial, and the right to present evidence through witnesses under oath. Following the hearing, the City Council will render a decision on the approval or denial of the license. The decision of the City Council following the hearing is final.
- D. Photo Identification Required: No Peddler may conduct business within the City without obtaining a photo identification card authorized by the City.
- E. Fee: The license fee, photo identification card fee, and background investigation fee are established by City Council Resolution.
- F. License Term: The term of the license shall be the lesser of either the length of time set forth in the application for which the applicant desires to conduct the business activity, or twelve (12) months from the date the license is approved.

SECTION 610.09 SOLICITORS:

Except as provided in Section 610.11 or Section 610.15, all Solicitors are required to obtain a Certificate of Registration from the City Clerk. A registration application may be submitted on behalf of a group or organization, however, each person who will be engaging in the proposed activity shall be listed on the application.

- A. Contents of Registration Application: The application shall contain the following information:
 - 1. Name, address, date of birth, driver's license number and contact information of applicant.

2. Name, address and contact information of employer, if related to the business activity.
 3. Description of the product being sold.
 4. Length of time desired for the business activity.
 5. Employer's Minnesota tax identification number.
 6. Name and address of each person who will be engaging in the proposed activity.
- B. Background Investigation: A background investigation of the applicant may be conducted at the discretion of the City Clerk, Police Chief, or City Council, but no fee shall be required of the applicant.
- C. Action by City Clerk: The application shall be submitted to the City at least thirty (30) business days before the applicant desires to conduct business in the City. An application shall be determined to be complete only if all the required information under subdivision 1 is provided. If the City Clerk determines that an application is incomplete, it shall inform the applicant of the information required to be provided prior to issuance of the Certificate of Registration. The City Clerk shall review and verify the information provided in the application and either approve or deny the Certificate of Registration within ten (10) business days of the application's submission to the City. If the application is approved, the Certificate of Registration shall be issued.
- D. Denial of Certificate of Registration: If the application is rejected by the City Clerk, the applicant shall be notified in writing of the decision, the reason for the denial, and the applicant's right to appeal the denial by requesting a public hearing before the City Council. The applicant's request for a public hearing must be made within twenty (20) days of the date the notice of denial is received, or the applicant's right to a hearing will be deemed waived. Within twenty (20) days of the receipt of the applicant's request for a public hearing on the denial of the Certificate of Registration, a public hearing will be held before the City Council. At the hearing, the applicant has the right to be represented by counsel, the right to respond to the reason for denial, and the right to present evidence through witnesses under oath. Following the hearing, the City Council will render a decision on the approval or denial of the Certificate of Registration. The decision of the City Council following the hearing is final.
- E. Registration Fee: No registration fee is required.

- F. Registration Term: The term of the registration shall be the lesser of either the length of time set forth in the application for which the applicant desires to conduct the business activity, or twelve (12) months from the date the registration is approved by the City Clerk.

SECTION 610.11 NON-PROFIT, CHARITABLE, RELIGIOUS ORGANIZATIONS; PUBLIC OR PRIVATE SCHOOLS:

All non-profit organizations, charitable organizations, religious organizations or public or private schools are required to obtain a Certificate of Registration from the City Clerk prior to engaging in the activity of a Peddler or Solicitor. A registration application may be submitted on behalf of a group or organization, however, each person who will be engaging in the proposed activity shall be listed on the application.

- A. Contents of Registration Application: The application shall contain the following information:
1. Name, address, date of birth, driver's license number and contact information of applicant.
 2. Name, address and contact information of employer, if related to the business activity.
 3. Description of the product being sold.
 4. Length of time desired for the business activity.
 5. Employer's Minnesota tax identification number.
 6. Name and address of each person who will be engaging in the proposed activity.
- B. Background Investigation: A background investigation of the applicant may be conducted at the discretion of the Council, but no fee shall be required of the applicant.
- C. Action by City Clerk: The application shall be submitted to the City at least thirty (30) business days before the applicant desires to conduct business in the City. An application shall be determined to be complete only if all the required information under subdivision 1 is provided. If the City Clerk determines that an application is incomplete, it shall inform the applicant of the information required to be provided prior to issuance of the Certificate of Registration. The City Clerk shall review and verify the information provided in the application and either approve or deny the Certificate of Registration within ten (10) business days of the application's submission to the City. If the application is approved, the Certificate of Registration shall be issued.
- D. Denial of Certificate of Registration: If the application is rejected by the City Clerk, the applicant shall be notified in writing of the decision, the reason for the denial,

and the applicant's right to appeal the denial by requesting a public hearing before the City Council. The applicant's request for a public hearing must be made within twenty (20) days of the date the notice of denial is received, or the applicant's right to a hearing will be deemed waived. Within twenty (20) days of the receipt of the applicant's request for a public hearing on the denial of the Certificate of Registration, a public hearing will be held before the City Council. At the hearing, the applicant has the right to be represented by counsel, the right to respond to the reason for denial, and the right to present evidence through witnesses under oath. Following the hearing, the City Council will render a decision on the approval or denial of the Certificate of Registration. The decision of the City Council following the hearing is final.

- E. Registration Fee: No registration fee is required.
- F. Registration Term: The term of the registration shall be the lesser of either the length of time set forth in the application for which the applicant desires to conduct business activity, or twelve (12) months from the date the registration is approved by the City Clerk.

SECTION 610.13 TRANSIENT MERCHANTS:

Pursuant to Section 1201.08 of the City Code, whenever in any zoning district a use is neither specifically allowed nor denied, the use shall be considered prohibited. The City does not have a zoning district for business activity, for retail sales, or for any commercial enterprise. Subject to the applicable zoning district provisions, no person may conduct business as a Transient Merchant in the City, unless the business activity involves selling local farm or garden products under Section 610.15 or qualifies as an exception under Section 610.05.

SECTION 610.15 CULTIVATED FARM PRODUCTS:

Pursuant to Article 13, Section 7 of the Constitution of the State of Minnesota, any person may sell or peddle the products of the farm or garden occupied and cultivated by them without obtaining a license. Any person selling or attempting to sell, or to take or attempt to take orders for any product grown, produced, cultivated, or raised on their own farm is required to obtain a Certificate of Registration from the City Clerk. A registration application may be submitted on behalf of a group or organization, however, each person who will be engaging in the proposed activity shall be listed on the application.

- A. Contents of Registration Application: The application shall contain the following information:
 - 1. Name, address, date of birth, driver's license number and contact information of applicant.

2. Name, address and contact information of employer, if related to the business activity.
 3. Description of the product being sold.
 4. Length of time desired for the business activity.
 5. Employer's Minnesota tax identification number.
 6. Name and address of each person who will be engaging in the proposed activity.
- B. Additional Information: In addition to the information required under subdivision 1 of this Section, the person or organization must provide the following information:
1. The address and specific location of the farm or garden upon which the product was cultivated.
 2. A signed affidavit from the registrant that the product that will be sold was from property occupied, rented or used by the registrant and the product was cultivated by the registrant.
 3. The address and specific location on which the product will be sold and a written acknowledgement from the property owner that includes the following:
 - a. Consent from the property owner to use the property for the sale of the product;
 - b. A site map showing the location on the property that will be used for the sale of the product.
 4. A written acknowledgement from the registrant that the registrant will adhere to the following conditions:
 - a. The registrant shall not interfere with or obstruct the free flow of vehicular or pedestrian traffic or any right-of-way in order to conduct the business activity, including loading and unloading the product;
 - b. All structures, tables, tents, canopies, shelters or other coverings and areas, including the property used for the business activity, shall be maintained in a neat and professional manner during the hours of operation;
 - c. All vehicles used to assist with the business activity shall be properly licensed and operable and maintained in a neat and professional manner;

- d. The property used for conducting the business activity shall be maintained in a neat and clean condition and no evidence of the business activity shall remain on the property upon removal of the business activity each day.
- C. Background Investigation: A background investigation of the applicant may be conducted at the discretion of the City Clerk, Police Chief, or City Council, but no fee shall be required of the applicant.
- D. Action by City Clerk: The application shall be submitted to the City at least thirty (30) business days before the applicant desires to conduct business in the City. An application shall be determined to be complete only if all the required information under subdivision 1 is provided. If the City Clerk determines that an application is incomplete, it shall inform the applicant of the information required to be provided prior to issuance of the Certificate of Registration. The City Clerk shall review and verify the information provided in the application and either approve or deny the Certificate of Registration within ten (10) business days of the application's submission to the City. If the application is approved, the Certificate of Registration shall be issued.
- E. Denial of Certificate of Registration: If the application is rejected by the City Clerk, the applicant shall be notified in writing of the decision, the reason for the denial, and the applicant's right to appeal the denial by requesting a public hearing before the City Council. The applicant's request for a public hearing must be made within twenty (20) days of the date the notice of denial is received, or the applicant's right to a hearing will be deemed waived. Within twenty (20) days of the receipt of the applicant's request for a public hearing on the denial of the Certificate of Registration, a public hearing will be held before the City Council. At the hearing, the applicant has the right to be represented by counsel, the right to respond to the reason for denial, and the right to present evidence through witnesses under oath. Following the hearing, the City Council will render a decision on the approval or denial of the Certificate of Registration. The decision of the City Council following the hearing is final.
- F. Registration Fee: No registration fee is required.
- G. Registration Term: The term of the registration shall be the lesser of either the length of time set forth in the application for which the applicant desires to conduct business activity, or twelve (12) months from the date the registration is approved by the City Clerk.

SECTION 610.17 CONDITIONS OF LICENSES AND CERTIFICATES OF REGISTRATION:

- A. Display: Every licensee shall display the photo identification card on his or her person in a conspicuous place showing the license number and photo identification card.
- B. Production of Photo ID, License and Certificate of Registration: Every licensee shall produce and show the photo identification card and license number and every Registrant shall produce and show the Certificate of Registration upon the request of a resident, police officer or City-identified staff person.
- C. Non-Transferable: No license or Certificate of Registration is transferable from one person to another. Each person shall obtain a separate license and each group or organization shall obtain a separate Certificate of Registration.
- D. Conduct of Business: No person shall conduct the business of a Peddler, Solicitor or Transient Merchant in any of the following manners. No person requiring a license or certificate of registration under this Chapter 610 shall conduct such activities in any of the following manners.
 - 1. Conducting business as a Peddler or Solicitor without a license or Certificate of Registration required by Chapter 610.
 - 2. Calling attention to their business or items to be sold by means of blowing a horn or whistle, ringing a bell, crying out, or by any other noise so as to be unreasonably audible within an enclosed structure.
 - 3. Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right-of-way.
 - 4. Conducting business in such a way so as to create a threat to the health, safety and welfare of any individual or the public.
 - 5. Conducting business before 8:00 a.m. or after 9:00 p.m.
 - 6. Failing to provide proof of license, registration, or identification, when requested.
 - 7. Using the license or registration of another person.
 - 8. 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.

9. 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.
10. Failure to abide by the Exclusion by Placard requirements of Section 610.17, subdivision 5.

- E. Exclusion by Placard: Unless invited to do so by the property owner or tenant, no Peddler, Solicitor or Transient Merchant 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 4 inches long and 4 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 prominently placed in a location clearly visible upon or near the primary entrance to the residence or within three (3) feet near the primary entrance to the residence. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this Section.

SECTION 610.19 REVOCATION, SUSPENSION OR DENIAL OF LICENSE OR CERTIFICATE OF REGISTRATION:

- A. Grounds for Denial, Suspension or Revocation: A license or Certificate of Registration may be revoked, suspended or denied for one or more of the following reasons:
1. Failure to abide by the license or certificate of registration requirements of Chapter 610.
 2. The proposed use does not comply with the Zoning Code, State law or other applicable City Code provision.
 3. The applicant has failed to pay any of the appropriate fees.
 4. The applicant has made fraudulent statements, misrepresentations, or false statements on the application or as part of the background investigation.
 5. Conviction of any crime directly related to the business or activity being applied and failure to show sufficient rehabilitation and present fitness to perform the duties of the business.

6. Conducting the business activity in such a manner as to constitute a breach of the peace, menace to the health, safety and welfare of the public, or a disturbance of the peace or comfort of the residents of the City, upon a recommendation of the Police Chief or an appropriate City Official.
 7. Actions unauthorized or beyond the scope of the license or Certificate of Registration.
 8. The applicant's license or Certificate of Registration has been denied, revoked or suspended by the City or another governmental unit in the past three (3) years.
 9. Violation of any regulation or provision of the City Code, State law, or Zoning Code applicable to the activity for which the license or Certificate of Registration has been granted, or any regulation or state law that may be applicable.
 10. Failure to abide by the Exclusion by Placard requirements of Section 610.17, subdivision 5.
 11. Other good cause.
- B. Action on License: Before the suspension or revocation of any license, the City must provide written notice informing the licensee of the right to a hearing.
1. Notice. The notice must be served at least twenty (20) days prior to the time and place of the hearing and state the grounds for suspension or revocation. The notice must be served upon the licensee personally or by certified mail to the address listed on the license application.
 2. Hearing. A hearing will be conducted before the City Council. At the hearing, the licensee has the right to be represented by counsel, the right to respond to the charges, the right to present evidence through witnesses under oath and the right to confront and cross-examine witnesses under oath.
 3. Final Decision of the City Council. Following the hearing, the City Council may choose to suspend, revoke or take no action on the license. The decision of the City Council following a hearing is final.
 4. 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 licensee under Chapter 610, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed under this subdivision.

C. Action on Certificate of Registration: A Certificate of Registration may be revoked, suspended or denied by the City Clerk following a recommendation of the Police Chief, based on a reason stated in Section 609.19 subd. 1.

1. Notice. The notice must be served at least twenty (20) days prior to the time and place of the hearing and state the grounds for suspension or revocation. The notice must be served upon the registrant personally or by certified mail to the address listed on the certificate of registration application.
2. Hearing. A hearing will be conducted before the City Council. At the hearing, the registrant has the right to be represented by counsel, the right to respond to the charges, the right to present evidence through witnesses under oath and the right to confront and cross-examine witnesses under oath.
3. Final Decision of the City Council. Following the hearing, the City Council may choose to suspend, revoke or take no action on the certificate of registration. The decision of the City Council following a hearing is final.
4. 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 registrant under Chapter 610, the City Council may immediately suspend the person's certificate of registration and provide notice of the right to hold a subsequent public hearing as prescribed under this subdivision.

SECTION 610.21 PENALTIES:

Any person who violates a provision of this Chapter 610 is guilty of a misdemeanor. Each day on which a violation occurs or continues is a separate violation.

(Ord. 2006-02; 11/07/06; Ord. 23-02, 04/04/23)

CHAPTER 611

PROHIBITION OF TARGETED RESIDENTIAL PICKETING

SECTION 611.01 DEFINITIONS:

For the purpose of this chapter, the term "Targeted Residential Picketing" means:

- A. Marching, standing or patrolling by one (1) or more persons directed solely at a particular residential building in a manner that adversely affects the safety, security, or privacy of an occupant of the building; or
- B. Marching, standing or patrolling by one (1) or more persons which prevents an occupant of a residential building from gaining access to or exiting from the property on which the residential building is located; or
- C. Standing, marching, patrolling or picketing by one (1) or more persons focused in front of or adjacent to a particular residential dwelling without the consent of that dwelling's occupants.

SECTION 611.02 PURPOSE:

The City has an interest in the protection of residential privacy, the wellbeing and tranquility of the home, and protecting citizens from unwanted speech when they are a captive audience within their homes. The City Council finds that, without resorting to Targeted Residential Picketing, ample opportunities exist for those otherwise engaged in Targeted Residential Picketing to exercise constitutionally protected freedoms of speech and expression.

SECTION 611.03 PROHIBITED ACTIVITY:

No person shall engage in Targeted Residential Picketing within the City.

SECTION 611.04 VIOLATION/PENALTY:

Every person convicted of a violation of any provision of this chapter shall be guilty of a misdemeanor.

SECTION 611.05 SEVERABILITY:

Should any subdivision, clause or other provision of this chapter be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the chapter as a whole, or of any part thereof, other than the part held to be invalid.

(Ord. 2022-01, 02/08/22)

CHAPTER 612

PROHIBITING CANNABIS USE AND PROHIBITING USE OF HEMP-DERIVED CONSUMER PRODUCTS WITHIN THE PUBLIC PARKS OF MUSSER PARK AND HARMON PARK LOCATED WITHIN THE CITY OF SUNFISH LAKE

SECTION 612.01 DEFINITIONS:

The following definitions shall apply in the interpretation and enforcement of this Chapter 612:

- A. Artificially derived cannabinoid. Has the meaning as defined in Minn. Stat. § 342.01.
- B. Cannabis flower and cannabis products. Have the meanings as defined in Minn. Stat. § 342.01.
- C. Hemp-derived consumer products. Have the meanings as defined in Minn. Stat. § 342.01.

SECTION 612.03 PROHIBITION:

No person shall use cannabis flower or cannabis products or artificially derived cannabinoids or hemp derived consumer products within the public parks of Musser Park and Harmon Park located in the City of Sunfish Lake.

SECTION 612.05 PENALTY:

A violation of this Chapter 612 is a petty misdemeanor and is subject to petty misdemeanor penalties.

(Ord. 2023-04, 10/03/23)

CHAPTER 613

ESSENTIAL SERVICES

613.01 PURPOSE:

The purpose of this Section is to provide for the installation of essential services such as telephone lines, pipelines, electric transmission lines and substations in such a manner that the health, safety and welfare of the City will not be adversely affected. Essential services should also be installed in cognizance of existing and projected demands for such services.

613.02 SPECIAL PERMIT REQUIRED:

All underground telephone lines, pipelines for local distribution, underground electric transmission lines, and overhead utility lines and electric transmission lines and substations less than 33 KV, when installed in any public right-of-way in any zoning district, shall require a permit approved by the City Engineer, and shall be subject to conditions imposed by any applicable franchise agreement.

613.03 CITY APPROVAL REQUIRED:

All underground telephone lines, pipelines for local distribution, underground transmission lines, and overhead utility lines and electric transmission lines less than 33 KV, which are extended to serve more than one parcel and are proposed to be installed at locations other than in public right-of-way, shall require a special permit issued by the City after approval by the City Engineer. Approval by the City Engineer shall be based upon the information furnished in the following procedural requirements:

- A. Prior to the installation of any of the previous essential services, the owner of such service shall file with the City Planner, all maps and other pertinent information as deemed necessary for the City Engineer to review the proposed project.
- B. The City Planner shall transmit the map and accompanying information to the City Engineer for review and approval regarding the project's relationship to the Comprehensive Plan and parts thereof and/or City Code provisions.
- C. The City Engineer shall report the findings to the City Planner as to the compliance of the proposed project with the Comprehensive Plan and City Code provisions.
- D. In considering applications for the placement of essential services, as regulated in this Section, the City Engineer shall consider the effect of the proposed project upon the health, safety and general welfare of the City, as existing and as anticipated; and the effect of the proposed project upon the Comprehensive Plan.
- E. Upon receiving the approval of the City Engineer, the City Planner shall approve or deny the permit for the installation and operation of the applicant's essential

services. If the permit is denied, the applicant may appeal said decision to the Board of Appeals and Adjustments pursuant to City Code Section 1203.10.

(Ord. 25-7, 12/09/25)

ARTICLE VII
FIRE REGULATIONS

CHAPTER 701

PARKING REGULATIONS

SECTION 701. 01 GENERAL PARKING REGULATIONS:

- A. Powers of Council to Designate Permanent “No Parking” Zones or Limit Time of Parking: Pursuant to Minnesota Statutes 169.04, the City Council is authorized to designate certain streets or portions of streets as “No Parking” zones and to designate certain streets or portions of streets where the right to park is limited during specified hours. In establishing or changing permanent “No Parking” zones or parking restrictions, the City Council shall pass a resolution or ordinance at a meeting adequately describing and defining said “No Parking” zones or parking restrictions. No Person shall park a vehicle in a designated “No Parking” zone or park a vehicle in any limited parking zone for a longer period than so specified.
- B. Temporary “No Parking” Zones. The Chief of Police is hereby authorized to issue and post temporary “No Parking” signs that, in the Chief’s judgment and discretion, are necessary to administer any large event or special event, protect public safety, and preserve public safety vehicle access within the City. No Person may park a vehicle in any temporary “No Parking” zone.
- C. “Temporary Parking” Zones: The Chief of Police is hereby authorized to designate a Temporary Parking area in an established No Parking Zone and to post “Temporary Parking” signs, if necessary, identifying the location where temporary parking is allowed. Temporary Parking shall only be allowed in such areas pursuant to the Police Chief’s order.
- D. Signs: All signs, upon placement, shall be in full force and effect under the Laws of the State of Minnesota Chapter 169, the Highway Traffic Regulation Act.
- E. Penalty: Any Person found guilty of violating the provisions of this Section shall be guilty of a petty misdemeanor and, upon conviction, shall be punished by a fine, including the costs of prosecution thereof.
- F. Towing: Pursuant to and in accordance with state law, the Police Department may cause any vehicle parked in violation of this Section to be towed at its owner’s sole expense.

(Ord. 2008-01, 02/12/08; Ord. 2024-2, 07/09/24)

CHAPTER 702

FIRE DEPARTMENT; FIRE PREVENTION AND PROTECTION

SECTION 702.01 ADOPTION OF MINNESOTA STATE FIRE CODE:

The current edition of Chapter 299F of the Minnesota Statutes (the Minnesota State Fire Code) and any amendments thereto established and promulgated by the Minnesota Commissioner of Public Safety, is hereby adopted as the Fire Code of the City of Sunfish Lake.

SECTION 702.02 DEFINITIONS:

For this Part, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- A. Fire Chief and/or Fire Marshal: The Fire Chief and Fire Marshal of the Fire Department providing fire protection services to the City.

SECTION 702.03 FIRE DEPARTMENT:

The City of Sunfish Lake shall have a Fire Department with such duties and qualifications as authorized and required by Minnesota law and this Code. In fulfilling this mandate, the City may hire and support appropriate staff to conduct the Fire Department functions, or the City may contract with one or more governmental entities maintaining qualified firefighters to fulfill these duties and provide Fire Department services to the City.

The approach decided upon shall be determined by the City Council, and if these functions are to be provided through a contract with another governmental entity, all references in the City Code and the ordinances of the City of Sunfish Lake to the "Fire Department," "Sunfish Lake Fire Department," or the "Fire Department of the City of Sunfish Lake" shall mean the Fire Department designated by the City Council, and references to the Fire Chief, Fire Marshal, and other Fire Department personnel shall mean the Fire Chief, Fire Marshal, and other Fire Department personnel of said designated Fire Department.

SECTION 702.04 ENFORCEMENT:

The Fire Marshal, the Fire Marshal's designees, or the City's Police Department shall be responsible for the enforcement of this Part. The Fire Chief, Fire Marshal, and the designees of the Fire Chief and Fire Marshal are authorized to issue citations for violations of the Minnesota State Fire Code and any provisions of this Part.

(Ord. 2025-3, 10/14/25)

ARTICLE VIII
PUBLIC WAYS AND PROPERTY; FRANCHISES AND UTILITIES

CHAPTER 801

EASEMENTS FOR NATURAL GAS SERVICE

SECTION 801.01 DEFINITIONS:

The following definitions shall apply in the interpretation and enforcement of this Ordinance.

- A. City Utility System: "City Utility System" means the facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting or other forms of energy.
- B. Company: "Company" means Northern States Power Company, a Minnesota corporation, its successors and assigns.
- C. Gas: "Gas" as used herein shall be held to include natural gas, manufactured gas, or other forms of gaseous energy.
- D. Notice: "Notice" means a writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to the President, NSP Gas, 825 Rice Street, St. Paul, MN 55117. Notice to City shall be mailed to the City Clerk, 1633 Lamplight Dr., Sunfish Lake, MN 55125. Either party may change its respective address for the purpose of this Ordinance by written notice to the other party.
- E. Public Ground: "Public Ground" means land owned by the City for park, open space or similar purpose, which is held for use in common by the public.
- F. Public Way: "Public Way" means any street, alley, walkway or other public right-of-way within the City.

SECTION 801.02 GRANT OF FRANCHISE:

City hereby grants Company, for a period of 20 years from the date hereof; the non-exclusive right and privilege of erecting a gas distribution system and using the Public Ways and Public Grounds of City for the purpose of constructing, operating, repairing, and maintaining in, on, over, under and across the same, all gas pipes, mains and appurtenances usually, conveniently, or necessarily used in connection therewith, for the purpose of the transmission of gas, or the distribution of gas, for public and private use within and through the limits of City as its boundaries exist or as they may be extended in the future. Company may also do all reasonable things necessary or customary to

accomplish these purposes, subject, however, to the further provisions of this franchise agreement.

SECTION 801.03 RESTRICTIONS:

- A. Gas pipes, regulators and other property and facilities: All gas pipes, mains, regulators, and other property and facilities shall be located and constructed so as not to interfere with the safety and convenience of ordinary travel along and over said Public Ways. Company's construction, operation, repair, maintenance and location of such facilities shall be subject to other reasonable regulations of the City to the extent not inconsistent with the terms of this franchise agreement. Company may abandon underground gas facilities in place, provided at City's request Company removes abandoned metal pipe interfering with a City improvement project to the extent such metal pipe is uncovered as part of the City improvement project.
- B. Prior Written Consent: Company shall not construct any new or modified installations within or upon any Public Grounds without receiving the prior written consent of an authorized representative of City for each such new installation.
- C. Constructing, Removing, Replacing, Repairing or Maintaining: In constructing, removing, replacing, repairing, or maintaining said gas pipes, mains and appurtenances, Company shall, in all cases, place the Public Ways in, on, under or across which the same are located in as good condition as they were prior to said operation and maintain any restored paved surface in such condition for two years thereafter.

SECTION 801.04 SERVICE AND RATES:

The service to be provided and the rates to be charged by Company for gas service in City are subject to the jurisdiction of the Public Utilities Commission of this State or its successor agency.

SECTION 801.05 RELOCATION:

- A. Public Way or City Utility System: Whenever City at its cost shall grade, regrade, or change the line of any Public Way, or construct or reconstruct any City Utility System therein and shall, in the proper exercise of its police power, and with due regard to seasonable working conditions, when necessary, and after approval of its final plans have been obtained, order Company to relocate permanently its mains, services, and other property located in said Public Way, Company shall relocate its facilities at its own expense. City shall give Company reasonable notice of plans to grade, regrade or change the line of any Public Way or to construct or reconstruct any City Utility System therein. However, after Company has so relocated, if a subsequent relocation or relocations shall be ordered within five years from and after first relocation, City shall reimburse Company for such non-betterment relocation expense which Company may incur on a time and material

basis; provided, if subsequent relocations are required because of the extension of City Utility System to previously unserved areas, Company may be required to relocate at its own expense at any time.

- B. Necessary Construction or Reconstruction: Nothing contained in this franchise shall require Company to relocate, remove, replace or reconstruct at its own expense its facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement.
- C. Federally-Aided Highway Project: Any relocation, removal, or rearrangement of any Company facilities made necessary because of the extension into or through City of a federally-aided highway project shall be governed by the provisions of Minnesota Statutes Section 161.46 as supplemented or amended; and further, it is expressly understood that the right herein granted to Company is a valuable property right and City shall not order Company to remove or relocate its facilities without compensation when a Public Way is vacated, improved or realigned because of a renewal or a redevelopment plan which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment costs of such a relocation and the loss and expense resulting therefrom are first paid to Company.
- D. Company Right-of-Way: The provisions of this franchise shall not be construed to waive or modify any rights obtained by Company for installations within a Company right-of-way acquired by easement or prescriptive right before the applicable Public Way or Public Ground was established, or Company's rights under state or county permit.

SECTION 801.06 INDEMNIFICATION:

- A. Company: Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits, or the operation of the gas facilities located in the Public Ways and Public Grounds. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of; Company's plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper manner of acts reasonably deemed hazardous by Company, and such performance is nevertheless ordered or directed by City after notice of Company's determination.
- B. Litigation: In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall

defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City; and Company, in defending any action on behalf of the City shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf.

SECTION 801.07 VACATION OF PUBLIC WAYS:

The City shall give Company at least two weeks prior written notice of a proposed vacation of a Public Way. Except where required solely for a City improvement project, the vacation of any Public Way, after the installation of gas facilities, shall not operate to deprive Company of its rights to operate and maintain such gas facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way under Minnesota Statutes, Section 16O.29.

SECTION 801.08 WRITTEN ACCEPTANCE:

Company shall, if it accepts this Ordinance and the rights and obligations hereby granted, file a written acceptance of the rights hereby granted with the City Clerk within 90 days after the final passage and any required publication of this Ordinance.

SECTION 801.09 GENERAL PROVISIONS:

- A. Severability: Every section, provision, or pan of this Ordinance is declared separate from every other section, provision, or part; and if any section, provision, or pan shall be held invalid, it shall not affect any other section, provision, or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.
- B. Default: If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. if a mediator is not used or if the parties are unable to resolve the dispute within 30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law.

- C. Franchise Agreement: This Ordinance constitutes a franchise agreement between the City and Company as the only parties and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.
- D. Successor Obligations: Any change in the form of government of the City shall not affect the validity of this Ordinance. Any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.
- E. Liability: Nothing in this Ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Company's facilities while performing any activity.

SECTION 801.10 PUBLICATION EXPENSE:

The expense of any publication of this franchise Ordinance required by law shall be paid by Company.

SECTION 801.11 EFFECTIVE DATE:

This Ordinance is effective as provided by statute or charter and upon acceptance by provided in Section 801.09.

(Ord. 1996-21, 09/03/96; Ord. 1997-13, 11/04/97)

CHAPTER 802

EASEMENTS FOR ELECTRICAL SERVICE

SECTION 802.01 DEFINITIONS:

The following definitions shall apply in the interpretation and enforcement of this Ordinance:

- A. City Utility System: "City Utility System" means the facilities used for providing non-energy related public utility service owned or operated by City or agency thereof, including sewer and water service, but excluding facilities for providing heating, lighting or other forms of energy.
- B. Company: "Company" means Northern States Power Company, a Minnesota corporation its successors and assigns.
- C. Notice: "Notice" means a writing served by any party or parties on any other party or parties. Notice to Company shall be mailed to the General Counsel, Law Department, 414 Nicollet Mall, Minneapolis, MN 55401. Notice to City shall be mailed to the City Clerk, 1633 Lamplight Dr., Sunfish Lake, MN 55125. Either party may change its respective address for the purpose of this Ordinance by written notice to the other party.
- D. Public Ground: "Public Ground" means land owned by the City for park, open space or similar is held for use in common by the public.
- E. Public Way: "Public Way" means any street, alley, walkway or other public right-of-way within the City.

SECTION 802.02 GRANT OF FRANCHISE:

City hereby grants Company, for a period of 20 years from the date hereof, the right to transmit and furnish electric energy for light, heat, power and other purposes for public and private use within and through the limits of City as its boundaries now exist or as they may be extended in the future. For these purposes, Company may construct, operate, repair and maintain electric distribution system and electric transmission lines, including poles, lines, fixtures, and any other necessary appurtenances in, on, over, under and across the Public Ways and Public Grounds of City. Company may do all reasonable things necessary or customary to accomplish these purposes, subject, however, to the further provisions of this franchise agreement.

SECTION 802.03 RESTRICTIONS:

- A. Electric Distribution System, Transmission Lines and Appurtenances: Company facilities included in such electric distribution system, transmission lines and

appurtenances thereto, shall be located and constructed so as not to interfere with the safety and convenience of ordinary travel along and over said Public Ways. Company's construction, operation, repair, maintenance and location of such facilities shall be subject to other reasonable regulations of the City to the extent not inconsistent with the terms of this franchise agreement. Company may abandon underground electric facilities in place, provided at City's request Company removes abandoned concrete or metal conduit interfering with a City improvement project to the extent such conduit is uncovered as part of the City improvement project.

- B. Prior Written Consent: Company shall not construct any new installations within or upon any Public Grounds without receiving the prior written consent of an authorized representative of City for each such installation.
- C. Constructing, Removing, Replacing, Repairing or Maintaining: In constructing, removing, replacing, repairing, or maintaining said poles, lines, fixtures and appurtenances, Company shall, in all cases, place the Public Ways in, on, under or across which the same are located in as good condition as they were prior to said operation and maintain any restored paved surface in such condition for two years thereafter.

SECTION 802.04 TREE TRIMMING:

Company is also granted the permission and authority to trim all trees and shrubs in the Public Ways and Public Grounds of City interfering with the proper construction, operation, repair and maintenance of any poles, lines, fixtures or appurtenances installed in pursuance of the authority hereby granted, provided that Company shall save City harmless from any liability in the premises. Prior to commencing Company's regular tree trimming program in the Public Ways and Public Grounds of the City, a Company representative shall meet and confer with the City Council or a City designated representative to review the program.

SECTION 802.05 SERVICE AND RATES:

The service to be provided and the rates to be charged by Company for electric service in are subject to the jurisdiction of the Public Utilities Commission of this State or its successor agency.

SECTION 802.06 RELOCATING:

- A. Public Way or City Utility System: Whenever City at its cost shall grade, regrade or change the line of any Public Way, or construct or reconstruct any City Utility System therein and shall, in the proper exercise of its police power, and with due regard to seasonable working conditions, when necessary, and after approval of its final plans have been obtained, order Company to relocate permanently its lines, services and other property located in said Public Way, Company shall relocate its facilities at its own expense. City shall give Company reasonable notice

of plans to grade, regrade or change the line of any Public Way or to construct or reconstruct any City Utility System therein. However, after Company has so relocated, if a subsequent relocation or relocations shall be ordered within five years from and after first relocation, City shall reimburse Company for such non-betterment relocation expense which Company may incur on a time and material basis; provided, if subsequent relocations are required because of the extension of City Utility System to previously unserved areas, Company may be required to relocate at its own expense at any time.

- B. Necessary Construction or Reconstruction: Nothing contained in this franchise shall require Company to relocate, remove, replace or reconstruct at its own expense its facilities where such relocation, removal, replacement or reconstruction is solely for the convenience of the City and is not reasonably necessary for the construction or reconstruction of a Public Way or City Utility System or other City improvement.
- C. Federally-Aided Highway Project: Any relocation, removal, or rearrangement of any Company facilities made necessary because of the extension into or through City of a federally-aided highway project shall be governed by the provisions of Minnesota Statutes Section 161.46 as supplemented or amended; and further, it is expressly understood that the right herein granted to Company is a valuable property right and City shall not order Company to remove or relocate its facilities without compensation when a Public Way is vacated, improved or re-aligned because of a renewal or a redevelopment plan which is financially subsidized in whole or in part by the Federal Government or any agency thereof, unless the reasonable non-betterment costs of such relocation and the loss and expense resulting therefrom are first paid to Company.
- D. Company Right-of-Way: The provisions of this franchise shall not be construed to waive or modify any rights obtained by Company for installations within a Company right-of-way acquired by easement or prescriptive right before the applicable Public Way or Public Ground was established, or Company's rights under state or county permit.

SECTION 802.07 INDEMNIFICATION:

- A. Company: Company shall indemnify, keep and hold the City free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the construction, maintenance, repair, inspection, the issuance of permits. or the operation of the electric facilities located in the Public Ways and Public Grounds. The City shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the City's negligence as to the issuance of permits for, or inspection of, Company's plans or work. The City shall not be indemnified if the injury or damage results from the performance in a proper manner of acts reasonably deemed hazardous by

Company, and such performance is nevertheless ordered or directed by City after notice of Company's determination

- B. Litigation: In the event a suit is brought against the City under circumstances where this agreement to indemnify applies, Company at its sole cost and expense shall defend the City in such suit if written notice thereof is promptly given to Company within a period wherein Company is not prejudiced by lack of such notice. If Company is required to indemnify and defend, it will thereafter have control of such litigation, but Company may not settle such litigation without the consent of the City, which consent shall not be unreasonably withheld. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the City; and Company, in defending any action on behalf of the City shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf

SECTION 802.08 VACATION OF PUBLIC WAYS:

The City shall give Company at least two weeks prior written notice of a proposed vacation of a Public Way. Except where required solely for a City improvement project, the vacation of any Public Way, after the installation of electric facilities, shall not operate to deprive Company of its rights to operate and maintain such electric facilities, until the reasonable cost of relocating the same and the loss and expense resulting from such relocation are first paid to Company. In no case, however, shall City be liable to Company for failure to specifically preserve a right-of-way, under Minnesota Statutes, Section 160.29.

SECTION 802.09 WRITTEN ACCEPTANCE:

Company shall, if it accepts this Ordinance and the rights and obligations hereby granted, file a written acceptance of the rights hereby granted with the City Clerk within 90 days after the final passage and any required publication of this Ordinance.

SECTION 802.10 GENERAL PROVISIONS:

- A. Severability: Every section, provision, or part of this Ordinance is declared separate from every other section, provision or part; and if any section, provision or part shall be held invalid, it shall not affect any other section, provision or part. Where a provision of any other City ordinance conflicts with the provisions of this Ordinance, the provisions of this Ordinance shall prevail.
- B. Default: If either party asserts that the other party is in default in the performance of any obligation hereunder, the complaining party shall notify' the other party of the default and the desired remedy. The notification shall be written. Representatives of the parties must promptly meet and attempt in good faith to negotiate a resolution of the dispute. If the dispute is not resolved within 30 days of the written notice, the parties may jointly select a mediator to facilitate further discussion. The parties will equally share the fees and expenses of this mediator. If a mediator is not used or if the parties are unable to resolve the dispute within

30 days after first meeting with the selected mediator, either party may commence an action in District Court to interpret and enforce this franchise or for such other relief as may be permitted by law or equity for breach of contract, or either party may take any other action permitted by law,

- C. Franchise Agreement: This Ordinance constitutes a franchise agreement between the City and Company as the only parties and no provision of this franchise shall in any way inure to the benefit of any third person (including the public at large) so as to constitute any such person as a third party beneficiary of the agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.
- D. Successor Obligations: Any change in the form of government of the City shall not affect the validity of this Ordinance, any governmental unit succeeding the City shall, without the consent of Company, succeed to all of the rights and obligations of the City provided in this Ordinance.
- E. Liability: Nothing in this Ordinance relieves any person from liability arising out of the failure to exercise reasonable care to avoid damaging Company's facilities while performing any activity.

SECTION 802.11 PUBLICATION EXPENSE:

The expense of any publication of this franchise Ordinance required by law shall be paid by Company.

SECTION 802.12 EFFECTIVE DATE:

This Ordinance is effective as provided by statute or charter and upon acceptance by Company as provided in Section 802.09.

(Ord. 1996-22, 09/03/96; Ord. 1997-12, 11/04/97)

CHAPTER 803

CABLE TELEVISION

SECTION 803.01 ADOPTION BY REFERENCE:

The Sunfish Lake City Council hereby adopts by reference Ordinance No. 27, regarding the installation and maintenance of a cable television system, one copy of which is on file in the office of the City Clerk. Such ordinance is hereby incorporated in this Code as completely as if set out in full.

NOTE: Ordinance No. 27 was amended by Ordinance No. 1991-01 which eliminated the requirement for geographic narrowcasting capability as part of the system design. Ordinance No. 1991-01 is on file with the City Clerk.

CHAPTER 804

INSTALLATION OF NEW UTILITY SERVICES

SECTION 804.01 DEFINITIONS:

The following definitions shall apply in the interpretation and enforcement of this ordinance:

- A. Utility Service: Utility Service means all public or private utility distribution lines, and associated structures including service to street lights, electrical circuits, all communications circuits and services including cable television distribution lines as defined in the National Electric Code ("NEC"), as adopted by the City of Sunfish Lake and all facilities or other similar associated utility services.
- B. Existing Utility Service: Existing Utility Service means any above ground or overhead Utility Service as defined in Paragraph 1 of this Section which exist and on which construction has been completed as of the effective date of this ordinance.
- C. New Utility Service: As defined in subdivision 1 of this Section on which construction has not physically begun as of the effective date of this ordinance.

SECTION 804.02 UNDERGROUND UTILITIES REQUIRED:

As of the effective date of this ordinance, all New Utility Service shall be installed underground, such installation to be subject to the installation/excavation requirements of the Minnesota State Building Code as adopted by the City of Sunfish Lake.

SECTION 804.03 EXCEPTIONS:

Notwithstanding the provisions of Section 804.02 above, the City Council of Sunfish Lake, upon petition, may waive the requirement for underground installation of New Utility Service upon a finding that:

- A. The installation of utilities underground would not be compatible with the proposed development, existing or surrounding development.
- B. Technical conditions make the underground installation unreasonable or impractical. The following technical conditions may be considered among others that may be applicable: unusual topographical, soil or other physical conditions that make underground installation of such lines unreasonable or impractical.
- C. When the utilities are being installed for a temporary time not to exceed one year.

The decision of the City Council as to whether to grant a waiver is final.

SECTION 804.04 EXISTING UTILITIES:

- A. Removal of Existing Utility Service: The City Council may, from time to time, call public hearings to ascertain whether the public necessity, convenience, health or safety requires the removal existing Utility Service from some designated areas of the City. For this purpose the City Clerk shall notify all affected property owners as shown in the last recorded tax roll of the City affected by such existing Utility Service by mail of the time and place of such hearings at least 30 days prior to the date thereof.
- B. Underground Utility District: If, after such hearing, the Council finds that the public necessity, convenience, health or safety requires such removal, the Council shall by Ordinance declare such an area as an underground utility district. Such ordinance shall include a description of the area comprising such district and shall fix the time which such Existing Utility Service shall be removed and within which affected property owners must be ready to receive underground service. The Council shall allow a reasonable time for such removal, having due regard for the availability of necessary labor, material and equipment for such removal and for installation of such underground facilities as may be occasioned thereby.
- C. Notice of Requirements: After a hearing as described above and an ordinance amending this ordinance has become effective the City Council shall cause to be delivered to all affected persons notice of the requirements of said ordinance.
- D. Special Assessments: Payment for the removal of existing Utility Service and installation of underground service shall be by special assessment against each benefited property.

SECTION 804.05 UNLAWFUL CONSTRUCTION:

From and after the effective date of this ordinance it shall be unlawful for any person to erect, construct, use or maintain any Utility Service contrary to the provisions of this ordinance.

SECTION 804.06 PENALTY:

Violation of any provision of this ordinance shall be a misdemeanor.

CHAPTER 805

CITY PUBLIC STREET EASEMENTS OR RIGHTS-OF-WAY, OPEN SPACE, PARKS AND TRAILS

SECTION 805.01 PURPOSE:

The purpose of this chapter is to regulate the use of the City of Sunfish Lake street easements or rights-of-way, open spaces, parks and public properties to further promote their safe and orderly use to further the health, safety, and welfare of persons within Sunfish Lake.

SECTION 805.02 REGULATIONS FOR PUBLIC STREET EASEMENTS OR RIGHTS OF-WAY:

The following regulations shall apply to all City street easements or rights-of-way:

A. Street Easements or Rights-of-Way:

1. Placement or installation of utilities within a City street easement or right-of-way shall be in accordance with Chapters 801, 802, 803 and 804 of Article VIII of the Sunfish Lake City Code.
2. No person within a City street easement or right-of-way shall:
 - a. Dig or remove any soil, rock, stones, trees, shrubs or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means, except as allowed under Chapter 801, 802, 803, or 804 of the City Code, or a City approved project or street maintenance.
 - b. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special written permit issued by the City hereunder.
 - c. Bring in or dump, deposit, or leave any broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash.
 - d. Leave, store or abandon personal property within a public street right-of-way.
 - e. Paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or street or utility rights-of-way, unless approved by the City.

- f. Geocache within a public street easement or right-of-way.

SECTION 805.03 REGULATIONS FOR ALL CITY PUBLIC OPEN SPACE, PARKS AND TRAILS:

The parks and open spaces within Sunfish Lake are Harmon Park, Musser Park, and Russ Wahl Wetland. These sites have been acquired by the City and have been and are intended to be kept in their natural state. Therefore, they shall be governed by the following regulations:

A. Public Property: No person within City public open space, park, or trails shall:

1. Willfully mark, deface, disfigure, injure, tamper with or displace or remove any structures, bridges, tables, benches, railings, paving or, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.
2. Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds of any tree or plant. A person shall not dig in or otherwise disturb grass areas or in any other way injure or impair the natural beauty or usefulness of any area except for City approved projects or park maintenance.
3. Dig or remove any soil, rock, stones, trees, shrubs or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blasting, or other means except for City approved projects or park maintenance.
4. Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special written permit issued by the City hereunder.
5. Climb, walk, stand or sit upon monuments, railing, fences or upon any other property not designated or customarily used for such purposes.

B. Sanitation, Litter, Beverages, and Fires: No person in City public open space, parks, or trails shall:

1. Throw, discharge or otherwise place or cause to be placed in the waters of any pond, lake, stream, bay or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any

substance, matter or thing, liquid or solid, which will or may result in, the pollution of said waters.

2. Have brought in or shall dump, deposit, or leave any broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left on the grounds thereof, but shall be placed in the proper trash receptacles where these are provided; where trash receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.
3. Possess alcoholic beverages or display or use a glass container.
4. Start or ignite a fire without City approval.
5. Place, leave, store or abandon personal property within a public park or open space.
6. Geocache within a public park or open space.

C. Motorized Vehicles, Bicycles, or Parking: No person within the City public open space, parks, or trails shall:

1. Operate motorized vehicles (all as defined in Minnesota statutes section 169.11); all terrain vehicles (as defined in Minnesota statutes section 84.92, subdivision 8); or snowmobiles (as defined in Minnesota statutes section 84.81, subdivision 3) without the approval of the city, except for city vehicles and public safety vehicles.
2. Ride a bicycle in areas other than a paved vehicular road or path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or on any paved area reserved for pedestrian use.
3. Park beyond the public street easement or right-of-way or in unidentified parking areas.

D. Sales and Advertisement: No person within the City public open space, parks, or trails shall:

1. Expose or offer for sale any article or thing. Nor shall he station or place any stand, cart, or vehicle for the transportation, sale or display of any such article or thing within a public park or open space.

2. Advertise, announce, or call the public attention in any way to any article or service for sale or hire.
3. Paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park unless approved by the City.

E. Behavior: No person within the City public open space, parks, or trails shall:

1. Engage in loud, boisterous, threatening, abusive, insulting, or indecent language, or engage in any disorderly conduct or behavior tending to breach the public peace.
2. Be under the influence or consume intoxicating drugs or alcoholic beverages.
3. Throw or cast any stone or other object 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.

F. Other Regulations: No person within the City public open space, parks, or trails shall:

1. Use or be in this area between the hours of dusk to dawn.
2. Swim, bathe, or wade in any waters or water-ways in or adjacent to any park.
3. Set up tents, shacks, or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in a park after closing hours any movable structure or special vehicle to be used or that could be used for such purpose, such as a house trailer, camp-trailer, camp-wagon, or the like.
4. Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird, nor shall he remove or have in his possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird; nor shall he collect, remove, have in his possession, give away, sell or offer to sell, or buy or offer to buy, or accept as a gift, any specimen alive or dead; nor shall he carry, or possess firearms of any descriptions, or air rifles, spring guns, bow and arrows, slings or any other form of weapons potentially inimical to wild life and dangerous to human safety, or any instrument that can be loaded with a fire blank cartridges, or any kind of trapping device; unless a permit is approved by the state and the city.

SECTION 805.04 MISDEMEANOR VIOLATION PENALTIES:

Every person violates any provision of this chapter when such person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful and, upon conviction thereof, shall be punished as for a misdemeanor as provided in Section 104.02 of this Code.

(Ord. 2012-02, 04/03/12)

CHAPTER 806

RIGHT OF WAY MANAGEMENT

SECTION 806.01 FINDINGS, PURPOSE AND INTENT:

- A. To provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights of way, the city strives to keep its rights of way in a state of good repair and free from unnecessary encumbrances.
- B. Accordingly, the city enacts this Chapter relating to right of way permits and administration. This Chapter imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within the city rights of way or to be placed therein at some future time. This Chapter is intended to complement the regulatory roles of state and federal agencies. Under this Chapter, persons excavating and obstructing the rights of way will bear financial responsibility for their work through the recovery of out of pocket and projected costs from persons using the public rights of way.
- C. This Chapter shall be interpreted consistently with 1997 session laws, Chapter 123, substantially codified in Minnesota Statutes Sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "act") and 2017 session laws, Chapter 94 amending the act and the other laws governing applicable rights of the city and users of the rights of way. This Chapter shall also be interpreted consistent with Minnesota Rules 7819.0050 through 7819.9950, where possible. To the extent that any provision of this Chapter cannot be interpreted consistently with the Minnesota Rules, the interpretation most consistent with the act and other applicable statutory and case law is intended.

SECTION 806.02 ELECT TO MANAGE PUBLIC RIGHTS OF WAY:

Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city elects, pursuant to Minnesota Statutes Section 237.163 subdivision 2(b), to manage rights of way within its jurisdiction.

SECTION 806.03 DEFINITIONS:

The following definitions apply in this Chapter:

- A. Abandoned Facility: A facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right of way user.
- B. Applicant: Any person requesting permission to excavate or obstruct a right of way.

- C. City: The city of Sunfish Lake, Minnesota. For purposes of Section 806.22 of this Chapter, "City" means its elected officials, officers, employees and agents.
- D. Collocate or Collocation: To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the City or other governmental unit.
- E. Commission: The Minnesota public utilities commission.
- F. Congested Right of Way: A crowded condition in the subsurface of the public right of way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statutes Section 216D.04, subdivision 3, over a continuous length in excess of five hundred feet (500').
- G. Construction Performance Bond: Any of the following forms of security provided at permittee's option:
1. Individual project bond, including a license and permit bond.
 2. Cash deposit.
 3. Security of a form listed or approved under Minnesota Statutes Section 15.73, subdivision 2.
 4. Letter of credit, in a form acceptable to the City.
 5. Self-insurance, in a form acceptable to the City.
 6. A blanket bond for projects within the City, or other form of construction bond, for a time specified and in a form acceptable to the City.
- H. Degradation: A decrease in the useful life of the right of way caused by excavation in or disturbance of the right of way, resulting in the need to reconstruct such right of way earlier than would be required if the excavation or disturbance did not occur.
- I. Degradation Cost: Subject to Minnesota Rules 7819.1100, means the cost to achieve a level of restoration as determined by the City at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13 set forth in Minnesota Rules parts 7819.9900 to 7819.9950.

- J. Degradation Fee: The estimated fee established at the time of permitting by the City to recover costs associated with the decrease in the useful life of the right of way caused by the excavation, and which equals the degradation cost.
- K. Delay Penalty: The penalty imposed as a result of unreasonable delays in right of way excavation, obstruction, patching, or restoration as established by permit.
- L. Department Inspector: Any person authorized by the City to carry out inspections related to the provisions of this Chapter.
- M. Engineer: The City Engineer or his designee.
- N. Emergency: A condition that:
1. Poses a danger to life or health, or of a significant loss of property; or
 2. Requires immediate repair or replacement of facilities in order to restore service to a customer.
- O. Equipment: Any tangible asset used to install, repair, or maintain facilities in any right of way.
- P. Excavate: To dig into or in any way remove or physically disturb or penetrate any part of a right of way.
- Q. Facility or Facilities: Tangible asset in the public right of way required to provide utility service.
- R. High Density Corridor: A designated portion of the public right of way within which telecommunications right of way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.
- S. Hole: An excavation in the right of way, with the excavation having a length less than the width of the pavement or adjacent pavement.
- T. Local Representative: A local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this Chapter.
- U. Management Costs: The actual costs the City incurs in managing its rights of way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right of way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting,

protecting, or moving user facilities during right of way work; determining the adequacy of right of way restoration; restoring work inadequately performed; mapping of as built location of facilities located in the right of way; revoking right of way or small wireless facility permits; and performing all other tasks required by this Chapter, including other costs the City may incur in managing matters described in this Chapter. Management costs do not include payment by a telecommunications right of way user for the use of the right of way, unreasonable fees of a third-party contractor used by the City including fees tied to or based on customer counts, access lines, or revenues generated by the right of way or for the City, the fees and costs of litigation relating to the interpretation of Minnesota session laws 1997, Chapter 123; Minnesota Statutes Section 237.162 or 237.163 or any ordinance enacted under those Sections, or the City fees and costs related to appeals taken pursuant to Section 806.24 of this Chapter.

- V. Obstruct: To place any tangible object in a right of way so as to hinder free and open passage over that or any part of the right of way.
- W. Obstruction Permit: The permit which, pursuant to this Chapter, must be obtained before a person may obstruct a right of way, allowing the holder to hinder free and open passage over the specified portion of that right of way, for the duration specified therein, including a blanket permit for a period of time and for types of work specified by the Engineer, if deemed appropriate in his or her discretion.
- X. Obstruction Permit Fee: Money paid to the City by a permittee to cover the costs as provided in Section 806.07, Subd. 3 of this Chapter.
- Y. Patch or Patching: A method of pavement replacement that is temporary in nature. A patch consists of:
 - 1. The compaction of the subbase and aggregate base; and
 - 2. The replacement, in kind, of the existing pavement for a minimum of two feet (2') beyond the edges of the excavation in all directions.
- Z. Pavement: Any type of improved surface that is within the public right of way and that is paved or otherwise constructed with paver blocks, bituminous, concrete, aggregate, or gravel.
- AA. Permit: Has the meaning given "right of way permit" in Minnesota Statutes Section 237.162.
- BB. Permittee: Any person to whom a permit to excavate or obstruct a right of way has been granted by the City under this Chapter.

CC. Person: An individual or entity subject to the laws and Rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

DD. Public Right of Way: Has the meaning given thereto in Minnesota Statutes Section 237.162, subdivision 3.

EE. Registrant: Any person who:

1. Has or seeks to have its equipment or facilities located in any right of way; or
2. In any way occupies or uses, or seeks to occupy or use, the right of way or place its facilities or equipment in the right of way.

FF. Restore or Restoration: The process by which an excavated right of way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

GG. Right of Way Permit: Either the utility permit or the obstruction permit, or both, depending on the context, required by this Chapter.

HH. Right of Way User:

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

II. Service Lateral: An underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.

JJ. Service or Utility Service: Means and includes:

1. A. Those services provided by a public utility, as defined in Minnesota Statutes Section 216B.02, subdivisions 4 and 6;
2. B. Services of a telecommunications right of way user, including transporting of voice or data information;

3. C. Services of a cable communications system as defined in Minnesota Statutes Section 238.02, subdivision 3;
4. D. Natural gas or electric energy or telecommunications services provided by the City;
5. E. Services provided by a cooperative electric association organized under Minnesota Statutes Chapter 308A; and
6. F. Water, sewer, including service laterals, steam, cooling or heating services.

KK. Small Wireless Facility: A wireless facility that meets both of the following qualifications:

1. Each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or could fit within such an enclosure; and
2. All other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than twenty-eight (28) cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

LL. Supplementary Application: An application made to excavate or obstruct more of the right of way than allowed in, or to extend, a permit that has already been issued.

MM. Telecommunications Right of Way User: A person owning or controlling a facility in the right of way, or seeking to own or control a facility in the right of way that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this Chapter, a cable communication system, defined and regulated under Minnesota Statutes Chapter 238, and telecommunications activities related to providing natural gas or electric energy services, whether provided by a public utility as defined in Minnesota Statutes Section 216B.02, a municipality, a municipal gas or power agency organized under Minnesota Statutes Chapters 453 and 453A, or a cooperative electric association organized under Minnesota Statutes Chapter 308A, are not telecommunications right of way users for purposes of this Chapter except to the extent such entity is offering wireless service.

NN. Temporary Surface: The compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation.

- OO. Trench: An excavation in the right of way, with the excavation having a length equal to or greater than the width of the pavement or adjacent pavement.
- PP. Utility Permit: The permit which, pursuant to this Chapter, must be obtained before a person may excavate in a right of way. A utility permit allows the holder to excavate that part of the right of way described in such permit.
- QQ. Utility Permit Fee: Money paid to the City by an applicant to cover the costs as provided in Section 806.07, Subd. 3 of this Chapter.
- RR. Utility Pole: A pole that is used in whole or in part to facilitate telecommunications or electric service.
- SS. Wireless Facility: Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, or not otherwise immediately adjacent to and directly associated with a specific antenna.
- TT. Wireless Service: Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.
- UU. Wireless Support Structure: A new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the City.

SECTION 806.04 ADMINISTRATIVE OFFICIAL:

The Engineer is the principal City official responsible for the administration of the rights of way, right of way permits, and the ordinances related thereto. The Engineer may delegate any or all of the duties hereunder.

SECTION 806.05 UTILITY COORDINATION COMMITTEE:

The City may create an advisory utility coordination committee. Participation on the committee is voluntary. The committee will be composed of any registrants that wish to assist the City in obtaining information and by making recommendations regarding use of the right of way, and to improve the process of performing construction work therein. The City may determine the size of such committee and shall appoint members from a list of registrants that have expressed a desire to assist the City.

SECTION 806.06 REGISTRATION AND RIGHT OF WAY OCCUPANCY:

A. Registration Required:

1. Each person who occupies, uses, or seeks to occupy or use the right of way or place any equipment or facilities in or on the right of way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the City. Registration will consist of providing application information and paying a registration fee. Registration shall be renewed annually. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof in, any right of way without first being registered with the City.
2. Nothing in this Chapter shall be construed to repeal or amend the provisions of a City ordinance establishing the rights of and limitations placed on persons to plant or maintain boulevard plantings or gardens in the area of the right of way between their property and the street curb. Persons carrying out or requesting the following work shall not be deemed to use or occupy the right of way within the meaning of this Chapter, and shall not be governed by this Chapter:
 - a. Persons planting or maintaining vegetation in the boulevard.
 - b. Persons installing driveways.
 - c. Persons erecting fences over drainage or utility easements, subject to zoning restrictions.
 - d. Persons engaged in snow removal activities.
 - e. Persons installing mailboxes.
 - f. Persons installing irrigation systems.
 - g. Persons installing pet containment systems.
3. Nothing herein relieves a person from complying with the provisions of the Minnesota Statutes Chapter 216D, gopher one call law.

B. Required Information: The registrant shall provide the following at the time of registration and shall promptly notify the City of changes in such information:

1. Registrant's name, address, telephone number, facsimile number and gopher one call registration certificate number if required by state law.

2. Name, address, telephone number, e-mail address, and facsimile number of the person responsible for fulfilling the obligations of the registrant.
3. A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other authorization or approval from the applicable state or federal agency to lawfully operate in the City, where the person is lawfully required to have such authorization or approval from said commission or other state or federal agency.
 - a. A certificate of insurance from a company licensed to do business in the state of Minnesota providing coverage in the following amounts:
 - i. General Liability: Public liability, including premises, products and complete operations:

Bodily injury liability	\$1,000,000.00 each person
	\$3,000,000.00 each occurrence
Property damage liability	\$3,000,000.00 each occurrence
Bodily injury and property damage combined	\$3,000,000.00 single limit
 - ii. Comprehensive: Automobile liability insurance, including owned, non-owned and hired vehicles:

Bodily injury liability	\$1,000,000.00 each person
Property damage liability	\$3,000,000.00 each occurrence
In lieu of the above, bodily injury and property damage combined	\$3,000,000.00 single limit
 - b. Such certificate shall verify that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the: 1) use and occupancy of the right of way by the registrant, its officers, agents, employees and permittees; and 2) placement and use of equipment or facilities 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 equipment and collapse of property. Such certificate shall also name 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 such coverages. Such certificate shall require that the Engineer be notified thirty (30) days prior to cancellation of the policy.

4. Twenty-four (24) hour emergency number.
 5. An acknowledgment by the registrant of the indemnification pursuant to Section 806.22 of this Chapter.
 6. Such other information the Engineer may require.
- C. Notice of Changes: The registrant shall keep all of the information listed in Subsection B of this Section current at all times by providing to the City information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.
- D. Construction and Maintenance Plan:
1. If requested by Engineer, each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the City. Such plan shall be submitted using a format designated by the City and shall contain the information determined by the City to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights of way. The plan shall include, but not be limited to, the locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year.
 2. Notwithstanding the foregoing, the City will not deny an application for a right of way permit for failure to include a project in a plan submitted to the City if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

SECTION 806.07 PERMIT REQUIREMENTS:

- A. Permits Required: Except as otherwise provided in this code, no right of way user may obstruct or excavate any right of way or install or place facilities in the right of way without first having obtained the appropriate right of way permit from the City to do so.
1. Utility Permit: A utility permit is required by a registrant to excavate that part of the right of way described in such 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.
 2. Obstruction Permit: An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of the 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 utility permit for the same project.

3. Other Permits: Other permits may be required for persons in accordance with this code.
 4. Overhead Facilities: Permits for installation, repair or other work on aboveground facilities within the meaning of Minnesota Statutes Section 237.163, subdivision 6(b)(4), will be obstruction permits, notwithstanding the need for excavation, provided the excavation is augered or hand dug for the purpose of placing a pole type structure.
 5. Small Wireless Facility Permit: A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion of the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.
- B. Application for Permit: Application for a permit is made to the City. Right of way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:
1. Registration with the City pursuant to this Chapter.
 2. Submission of a completed permit application form as provided by the City, including all required attachments, and five (5) copies of scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities owned or operated by the applicant. Plans must include scaled dimensions indicating the proposed location of the facility within the right of way and scaled dimensions of the facility from an existing physical topographic feature (such as "back of curb", "edge of bituminous road"). Plans must also show all existing physical topographic features (trees, shrubs, culverts, driveways, fences, street signs) that lie within ten feet (10') of the proposed facility location.
 3. Scaled drawings showing the location of any public streets, alleys, sidewalks, or trails that will be disrupted by the work.
 4. Scaled drawings showing the location of any public streets, alleys, sidewalks, or trails that will be temporarily closed to traffic or obstructed by the work.
 5. A description of methods to be used for restoration of streets or boulevards.
 6. Payment of money due the City for:

- a. Permit fees, estimated restoration costs and other management costs.
 - b. Prior obstructions or excavations.
 - c. Any undisputed loss, damage, or expense suffered by the City because of applicant's prior excavations or obstructions of the rights of way or any emergency actions taken by the City.
- 7. Payment of disputed amounts due the City by posting security or depositing in an escrow account an amount equal to at least one hundred percent (100%) of the amount owing.
 - 8. Posting an additional or larger construction performance bond for additional facilities when the applicant requests a utility permit to install additional facilities and the City deems the existing construction performance bond inadequate under applicable standards.

C. Permit Fees:

- 1. Fee Schedule and Fee Allocation: The City permit fee schedule shall be available to the public and established in advance where reasonably possible. The permit fees shall be designed to recover the City's actual costs incurred in managing the right of way and shall be based on an allocation among all users of the right of way, including the City.
- 2. Fees Established:
 - a. Utility Permit Fee: The City shall establish a utility permit fee in an amount sufficient to recover the following costs:
 - i. City management costs.
 - ii. Degradation costs, if applicable.
 - b. Obstruction Permit Fee: The City shall establish the obstruction permit fee which shall be in an amount sufficient to recover the City management costs.
 - c. Small Wireless Facility Permit Fee: The City shall impose a small wireless facility permit fee in an amount sufficient to recover:
 - i. City management costs.

- ii. City engineering, make-ready, and construction costs associated with collocation of small wireless facilities.
 - 3. Payment of Fees: No utility permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees.
 - 4. Fees Nonrefundable: Permit fees that were paid for a permit that the City has revoked for a breach, as stated in Section 806.07, Subd. 10 of this Chapter are not refundable.
 - 5. 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.
- D. Security: A construction performance bond in an amount determined by the Engineer shall be required from each applicant. A surety bond shall be from a corporate surety authorized to do business in the state. Security required pursuant to this Section shall require that the holder will perform the work in accordance with this Chapter and applicable permits and regulations; will pay to the City any costs incurred by the City in performing work pursuant to this Chapter; and will indemnify and save the City and its officers, agents and employees harmless pursuant to this code. The construction performance bond shall be released by the City upon completion of the work and compliance with all conditions imposed by the permit. For permits allowing excavations within the public right of way, the construction performance bond shall be held for a period of twenty-four (24) months to guaranty the adequacy of all restoration work.
- E. Issuance of Permit; Conditions:
- 1. Issuance: If the applicant has satisfied the requirements of this Chapter, the City shall issue a permit within ten (10) business days of receiving a completed application. If the City issues a permit under this Chapter, the applicant shall not be required to obtain a permit for the same work under Chapters 801, 802, 803 and 804.
 - 2. Conditions: The City may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right of way and its current use. The permittee shall comply with all conditions contained in the permit.
 - 3. Notice of Work: Upon request by the Engineer, the permittee shall notify in writing, in a form approved by the Engineer, all residents specified by the Engineer whose property is adjacent to the right of way where the proposed

work is to be done indicating start and completion dates. Written notification is not required for routine obstruction and excavation projects described in Section 806.09 of this Chapter.

4. Small Wireless Facility Conditions:

- a. In addition to conditions under Section 806.07, Subd. 5(B), the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions: A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.
- b. No new wireless support structure installed within the right-of-way shall exceed fifty (50) feet in height without the City's written authorization, provided that the City may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding fifty (50) feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
- c. No wireless facility may extend more than ten (10) feet above its wireless support structure.
- d. Where an applicant proposes to install a new wireless support structure in the right-of-way, the City may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.
- e. Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the City may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.
- f. Where an applicant proposes to replace a wireless support structure, the City may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

5. Small Wireless Facility Agreement: A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the City, or any other City asset in the right-of-way, after the applicant has executed a

standard small wireless facility collocation agreement with the City. The City may require payment of the following in the standard collocation agreement:

- a. Up to \$150 per year for rent to collocate on the City structure.
- b. \$25 per year for maintenance associated with the collocation;
- c. A monthly fee for electrical service as follows:
 - i. \$73 per radio node less than or equal to 100 maximum watts;
 - ii. \$182 per radio node over 100 maximum watts; or
 - iii. The actual costs of electricity, if the actual cost exceed the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the City and applicant.

6. Action on Small Wireless Facility Permit Applications:

- a. Deadline for Action: The City shall approve or deny a small wireless facility permit application within ninety (90) days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the City fails to approve or deny the application within the review periods established in this Section.
- b. Consolidated Applications: An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to fifteen (15) small wireless facilities, or a greater number if agreed to by a local government unit, provided that all small wireless facilities in the application:
 - i. are located within a two (2) mile radius;
 - ii. consist of substantially similar equipment; and
 - iii. are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the City may approve some small wireless facilities and deny others, but may not use denial of one or

more permits as a basis to deny all small wireless facilities in the application.

7. Tolling of Deadline: The 90-day deadline for action on a small wireless facility permit application may be tolled if:

- a. The City receives applications from one or more applicants seeking approval of permits for more than thirty (30) small wireless facilities within a seven-day period. In such case, the City may extend the deadline for all such applications by thirty (30) days by informing the affected applicants in writing of such extension.
- b. The applicant fails to submit all required documents or information and the City provides written notice of incompleteness to the applicant within thirty (30) days of receipt the application. Upon submission of additional documents or information, the City shall have ten days to notify the applicant in writing of any still-missing information.
- c. The City and a small wireless facility applicant agree in writing to toll the review period.

F. 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; or for the following specific violations:

1. Failure to register pursuant to Section 806.06 of this Chapter.
2. A proposed excavation within a street or sidewalk surface that has been constructed or reconstructed within the preceding seven (7) years, unless the Engineer determines that no other locations are feasible or when necessitated by emergency.
3. The applicant is subject to revocation of a prior permit issued pursuant to this Chapter.
4. The proposed schedule for the work would conflict or interfere with an exhibition, celebration, festival or any other similar event.
5. The right of way would become unduly congested due to the proposed facilities and equipment when combined with other uses in the right of way, as provided in Section 806.18(F) of this Chapter.
6. Businesses or residences in the vicinity will be unreasonably disrupted.

7. The applicant failed to meet a reasonable schedule to participate in a mandated joint trench operation with other applicants, and the additional work will unreasonably disrupt the restored right of way, businesses or residences.
 8. The proposed schedule conflicts with scheduled reconstruction of the right of way.
- G. Procedural Requirements: The denial or revocation of a permit must be made in writing and must document the basis for the denial. The City must notify the applicant or right-of-way user in writing within three business days of the decision to deny or revoke a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the City and resubmit its application. If the application is resubmitted within thirty (30) days of receipt of the notice of denial, no additional application fee shall be imposed. The City must approve or deny the resubmitted application within thirty (30) days after submission.
- H. Display of Permit: Permits issued under this Chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the City.
- I. Extension of Permit: No person may excavate or obstruct the right of way beyond the date or dates specified in the permit unless: a) such person makes a supplementary application for another right of way permit before the expiration of the initial permit or requests a verbal extension; and b) a new permit or permit extension is granted. Verbal extensions may be granted by the Engineer for a period no greater than forty-eight (48) hours or for emergencies.
- J. Joint and Individual Applications:
1. Joint Trenching: The Engineer may require registrants to jointly apply for permits to excavate or obstruct the right of way at the same place and time.
 2. Fees: The registrant who applies for a joint utility permit shall pay the required permit fee.
- K. Revocation of Permits:
1. Substantial Breach: The City reserves its right 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 permittee shall include, but shall not be limited to, the following:
 - a. The violation of any material provision of the right of way permit;

- b. 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;
 - c. Any material misrepresentation of fact in the application for a right of way permit;
 - d. 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 permittee's control; or
 - e. The failure to correct, in a timely manner, work that does not conform to a condition indicated on a written notice issued pursuant to Section 806.14 of this Chapter.
2. 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 such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated in Subsection A of this Section, will allow the City to place additional or revised conditions on the permit to mitigate and remedy the breach.
 3. Response to Notice: Within a time established by the Engineer following permittee's receipt of notification of the breach, the permittee shall provide the City with a plan to cure the breach, acceptable to the City. The permittee's failure to submit a timely and acceptable plan, or the permittee's failure to timely implement the approved plan, shall be cause for immediate revocation of the permit.
 4. 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 attorney fees incurred in connection with such revocation.

L. Supplementary Applications:

1. 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 who determines that an area greater than that specified in the permit will be obstructed or excavated must, before working in that greater area: 1) make

application for a permit extension and pay any additional fees required thereby; and 2) be granted a new permit or permit extension.

2. Limitation on Dates:

- a. A right of way permit is valid only for the dates specified in the permit. No permittee may begin work before the permit start date or, except as provided herein, continue working after the end date. Except in the case of verbal extensions, 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.
- b. 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 City by supplementary application of the accurate information as soon as this information is known.

SECTION 806.08 OTHER OBLIGATIONS:

- A. Compliance with Other Laws: Obtaining a right of way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the City or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including, but not limited to, Minnesota Statutes Sections 216D.01 to 216D.09 (gopher one call excavation notice system) and Minnesota Rules Chapter 7560. A permittee shall perform all work in conformance with all applicable codes and established Rules and regulations, and is responsible for all work done in the right of way pursuant to its permit, regardless of who does the work.
- B. Prohibited Work: Except in an emergency, or with the approval of the City, no right of way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.
- C. Interference with Right of Way: A permittee shall not so obstruct a right of way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with, unless otherwise approved by the Engineer. Private vehicles of those doing work in the right of way may not be parked within or next to a permit area, unless parked in conformance with City parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.
- D. Traffic Control: A permittee shall implement traffic control measures in the area of the work and shall use traffic control procedures in accordance with the most

recent manuals on uniform traffic control, traffic control devices and traffic zone layouts published by the state of Minnesota.

- E. Trenchless Excavation: As a condition of all applicable permits, permittees employing trenchless excavation methods, including, but not limited to, horizontal directional drilling, shall follow all requirements set forth in Minnesota Statutes Chapter 216D and Minnesota Rules Chapter 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the Engineer.

SECTION 806.09 ROUTINE OBSTRUCTION AND EXCAVATION:

Routine excavations and obstructions are permitted without separate notice and separate compensation for such projects. Projects that do not involve excavation of paved surface and that last less than a continuous eight (8) hour period in duration between seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M., Monday through Friday, excluding holidays, may, in the Engineer's discretion, be considered routine obstruction and excavation and include, by way of example, switching, replacing fuses, replacing transformers, placing line guards, leak surveys, anode installations and inspections, or to repair facilities due to public damage or accident.

SECTION 806.10 DILIGENCE IN PERFORMING WORK; DELAY PENALTY:

Work shall progress in an expeditious manner as permitted by weather conditions until completion in order to avoid unnecessary inconvenience. In the event that the work is not performed in accordance with applicable regulations, excavations and utility connections, or the work is not done in an expeditious manner, or is abandoned without due cause, the City may, after seventy-two (72) hours' notice to the permit holder, correct and fill the excavation or repair the street. The entire cost of such work shall be paid by the permit holder upon demand made by the City. In accordance with Minnesota Rule 7819.1000, Subpart 3, 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 City council resolution. A delay penalty will not be imposed for delays due to force majeure, including inclement weather, civil strife, acts of God, or other circumstances beyond the control of the applicant.

SECTION 806.11 WORK STANDARDS:

The permit holder shall comply with the following standards when engaging in the work:

- A. Observe and comply with all laws, Rules and regulations of the state.
- B. Conduct the operation and perform the work in a manner as to ensure the least obstruction and interference to traffic.
- C. Take adequate precautions to ensure the safety of the general public and those who require access to abutting property.

- D. If required by the Engineer, notify adjoining property owners prior to the commencement of work which may disrupt the use of and access to such adjoining properties.
- E. In all cases where construction work interferes with the normal use of the construction area, provide for closing the construction area to traffic or to afford restricted use of the area and comply with MUTCD traffic safety signing requirements.
- F. Exercise precaution at all times for the protection of persons, including employees and property.
- G. Protect and identify excavations and work operations with barricade flags and, if required, by flagmen in the daytime and by warning lights at night.
- H. Provide proper trench protection as required by OSHA when necessary and, depending upon the type of soil, in order to prevent cave-ins endangering life or tending to enlarge the excavation.
- I. Protect the root growth of trees and shrubbery.
- J. Installation of pipe (utility conductors) under concrete or bituminous pavements shall be done by jacking, auguring or tunneling as directed by the Engineer unless otherwise authorized.
- K. All backfilling must be placed in six inch (6") layers at optimum moisture and compacted with the objective of attaining one hundred percent (100%) of standard proctor density. Compaction shall be accomplished with hand, pneumatic or vibrating compacters, as appropriate.
- L. No metal tracked or other lugged equipment is allowed to be driven on the public right of way.

SECTION 806.12 INSPECTIONS:

- A. Site Inspection: Permittee shall make the work site available to the City and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.
- B. Authority of Engineer:
 - 1. At the time of inspection, the Engineer may order the immediate cessation of any work which poses a serious threat to the life, health, safety or wellbeing of the public.

2. The Engineer may issue an order to the permittee to correct any work that does not conform to the terms of the permit or other applicable standards, conditions, or code. If the work failure is a "substantial breach", within the meaning of Minnesota Statutes Section 237.163, subdivision 4(c), the order shall state that failure to correct the violation will be cause for revocation of the permit after a specified period determined by the Engineer. The permittee shall present proof to the Engineer that the violation has been corrected within the time period set forth by the Engineer in the order. Such proof shall be provided no later than the next business day following the day of completion. If such proof has not been presented within the required time, the Engineer may revoke the permit pursuant to Section 806.07, Subd. 10 of this Chapter.

SECTION 806.13 WORK WITHOUT PERMIT:

A. Emergency Situations:

1. Each registrant shall immediately notify the Engineer of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to state gopher one call regarding an emergency situation does not fulfill this requirement. Within two (2) business days after the occurrence of the emergency, the registrant 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.
2. If the City becomes aware of an emergency regarding a registrant's facilities, the City will attempt to contact the local representative of each registrant 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 registrant 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 said 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.

SECTION 806.14 INSTALLATION REQUIREMENTS:

The excavation, backfilling, patching and restoration, and all other work performed in the right of way shall be done in conformance with Minnesota Rules 7819.1100 and 7819.5000 and other applicable local requirements, insofar as they are not inconsistent

with the Minnesota Statutes Sections 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minnesota Rules Chapter 7560 and this Section. Service lateral installation is further subject to those requirements and conditions set forth by the City in the applicable permits and/or agreements referenced in Section 806.16(B) of this Chapter.

SECTION 806.15 PATCHING AND RESTORATION OF RIGHT OF WAY:

- A. Timing: The work to be done under the utility 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 Section 806.08(B) of this Chapter or if the permittee is granted a new permit.
- B. Performing Work: Permittee must patch its own work. The City may choose either to have the permittee restore the surface and sub-grading portions of right of way or to restore the surface portion of right of way itself.
 - 1. Permittee Restoration: If the permittee restores the right of way itself, it shall, at the time of application for a utility permit, post a construction performance bond in accordance with the provisions of Section 806.07, Subd. 4 of this Chapter, and Minnesota Rules 7819.3000.
 - 2. City Restoration: If the City restores the surface portion of right of way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles or otherwise fails for reasons not caused by the City's failure to properly restore, the permittee shall pay to the City, within thirty (30) days of billing, all costs associated with correcting the defective work.
 - 3. 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. However, the right of way user shall remain responsible for replacing and compacting the subgrade and aggregate based material in the excavation, and the degradation fee shall not include the cost to accomplish these responsibilities.
- 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 Minnesota Rules 7819.1100. In exercising authority over restoration, the Engineer shall be guided by the following standards and considerations:
 - 1. The number, size, depth and duration of the excavations, disruptions or damage to the right of way;

2. The traffic volume carried by the right of way and the character of the neighborhood surrounding the right of way;
 3. The pre-excavation condition of the right of way and the remaining life expectancy of the right of way affected by the excavation;
 4. Whether the relative cost of the method of restoration to the permit holder is in reasonable balance with the prevention of an accelerated depreciation of the right of way that would otherwise result from the excavation, disturbance or damage to the right of way; and
 5. The likelihood that the particular method of restoration would be effective in slowing the depreciation of the right of way that would otherwise take place.
- D. Duty to Correct Defects: The permittee shall correct defects in patching or restoration performed by permittee or its agents. Upon notification from the City, permittee shall correct all restoration work to the extent necessary, using the method required by the City. Unless otherwise agreed to by the Engineer, said work shall be commenced within two (2) days of receipt of the notice from the City and shall be completed within fourteen (14) days of commencement of work, 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 Section 806.08(B) of this Chapter.
- E. Failure to Restore: If the permittee fails to restore the right of way in the manner and to the condition required by the City, or fails to satisfactorily and timely complete all restoration required by the City, the City shall notify the permittee in writing of the specific alleged failure or failures and shall allow the permittee five (5) days from receipt of said written notice to cure said failure or failures, unless otherwise extended by the Engineer. In the event the permittee fails to cure, the City may, at its option, perform the necessary work, and the permittee shall pay to the City, within thirty (30) days of billing, the cost of restoring the right of way. If the permittee fails to pay as required, the City, in addition to other remedies provided by law, may exercise its rights under the construction performance bond.

SECTION 806.16 MAPPING DATA:

- A. Information Required: Each registrant and permittee shall provide mapping information required by the City in accordance with Minnesota Rules 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the Engineer accurate maps and drawings certifying the as built location of all equipment installed, owned, and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the City's electronic mapping system, when practical or as a condition imposed by the

Engineer. Failure to provide maps and drawings pursuant to this Section shall be grounds for revoking the permit holder's registration.

- B. Service Laterals: All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rules 7560.0150, Subpart 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the Engineer reasonably requires it. Permittees or their subcontractors shall submit to the Engineer evidence satisfactory to the Engineer of the installed service lateral locations. Compliance with this Subsection and with applicable state gopher one call law and Minnesota Rules governing service laterals installed after December 31, 2007, shall be a condition of any City approval necessary for: 1) payments to contractors working on a public improvement project including those under Minnesota Statutes Chapter 429; and 2) City approval of performance under development agreements or other subdivision or site plan approval under Minnesota Statutes Chapter 462. The Engineer shall reasonably determine the appropriate method of providing such information to the City. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

SECTION 806.17 UNDERGROUNDING:

- A. Purpose: The purpose of this Section is to promote the health, safety and general welfare of the public and is intended to foster: 1) safe travel over the right of way; 2) non-travel related safety around homes and buildings where overhead feeds are connected; and 3) orderly development in the City. Location and relocation, installation and reinstallation of facilities in the right of way or in or on other public ground must be made in accordance with this Section and is intended to be enforced consistently with state and federal law regulating right of way users, specifically including, but not limited to, Minnesota Statutes Sections 161.45, 237.162, 237.163, 301B.01, 222.37, 238.084 and 216B.36 and the telecommunications act of 1996, title 47, USC Section 253.
- B. New Facilities: Facilities newly installed, constructed or otherwise placed in the public right of way or in other public property held in common for public use must be located and maintained underground pursuant to the terms and conditions of this Section and in accordance with applicable construction standards, subject to the exceptions below. Aboveground installation, construction, modification, or replacement of meters, gauges, transformers, street lighting, pad mount switches, capacitor banks, re-closers and service connection pedestals shall be allowed. These requirements shall apply equally outside of the corporate limits of the City coincident with City jurisdiction of platting, subdivision regulation or comprehensive planning as may now or in the future be allowed by law.

- C. Permanent Replacement, Relocated or Reconstructed Facilities: If the City finds that one or more of the purposes set forth in Subsection A of this Section would be promoted, the City may require a permanent replacement, relocation or reconstruction of a facility to be located and maintained underground, with due regard for seasonal working conditions. For purposes of this Subsection, "reconstruction" means any substantial repair of or any improvement to existing facilities. Undergrounding may be required whether a replacement, relocation or reconstruction is initiated by the right of way user owning or operating the facilities, or by the City in connection with: 1) the present or future use by the City or other local governmental unit of the right of way or other public ground for a public project; 2) the public health or safety; or 3) the safety and convenience of travel over the right of way. Subject to Subsection D of this Section, all relocations from previously placed underground facilities shall be to another underground location.
- D. Exceptions: The following exceptions to the strict application of this Section shall be allowed upon the conditions stated:
1. Technical/Economic Feasibility; Promotion of Policy: Aboveground installation, construction, or placement of facilities shall be allowed in residential, commercial and industrial areas where the council, following consideration and recommendation by the planning commission, finds that:
 - a. Underground placement would place an undue financial burden upon the landowner, rate payer, or right of way user, or would deprive the landowner of the preservation and enjoyment of substantial property rights; or
 - b. Underground placement is impractical or not technically feasible due to topographical, subsoil or other existing conditions which adversely affect underground facilities placement; or
 - c. Failure to promote the purposes of undergrounding. The right of way user clearly and convincingly demonstrates that none of the purposes under Subsection A of this Section would be advanced by underground placement of facilities on the project in question, or the City determines on its own review that undergrounding is not warranted based on the circumstances of the proposed undergrounding.
 2. Temporary Service: Aboveground installation, construction, or placement of temporary service lines shall only be allowed:
 - a. During new construction of any project for a period not to exceed three (3) months.
 - b. During an emergency in order to safeguard lives or property within the City.

- c. For a period of not more than seven (7) months when soil conditions make excavation impractical.
- E. Developer Responsibility: All owners, platters, or developers are responsible for complying with the requirements of this Section and, prior to final approval of any plat or development plan, shall submit to the Engineer written instruments from the appropriate right of way users showing that all necessary arrangements with said users for installation of such facilities have been made.

SECTION 806.18 LOCATION AND RELOCATION OF FACILITIES:

- A. Compliance with State Regulations: Placement, location and relocation of facilities must comply with the act, with other applicable rights of the City under its police power, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the Rules do not limit authority otherwise available to cities.
- B. Relocation Notification Procedure: The Engineer shall notify the utility owner at least three (3) months in advance of the need to relocate existing facilities so the owner can determine if relocation or replacement is required and plan any required work. The City should provide one notification, provide the date work will start on the City's project and, if different, provide the date by which the relocation must be completed. To the extent technically feasible and limited by seasonal constraints, all utilities shall be relocated within one month or in a time frame determined by the Engineer. The Engineer may allow a different schedule if it does not interfere with the City's project. The utility owner shall diligently work to relocate the facilities within the above schedule.
- C. Delay to City Project: If the owner fails to meet the relocation schedule due to circumstances within the utility's control, the City may charge the utility owner for all costs incurred by the City because the relocation is not completed in the scheduled time frame.
- D. Joint Trenching: All facilities shall be placed in appropriate portions of right of way so as to cause minimum conflict with other underground facilities. When technically appropriate and no safety hazards are created, all utilities shall be installed, constructed or placed within the same trench. Notwithstanding the foregoing, gas and electric lines shall be placed in conformance with Minnesota Rules Part 7819.5100, Subpart 2, governing safety standards.
- E. Corridors:
 - 1. The City may assign a specific area within the right of way, or any particular segment thereof as may be necessary, for each type of facility that is or, pursuant to current technology, the City expects will be located within the right

of way. All utility, 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. A typical cross Section of the location for utilities may be on file at the Engineer's office. This Section is not intended to establish "high density corridors".

2. Any registrant who has facilities in the right of way in a position at variance with the corridors established by the City may remain at that location until the City requires facilities relocation to the corridor pursuant to relocation authority granted under Minnesota Rules 7819.3100 or other applicable law.

- F. Limitation of Space: To protect the public health, safety, and welfare, or when necessary to protect the right of way and its current use, the City shall have the power to prohibit or limit the placement of new or additional facilities within the right of way. In making such decisions, the City 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 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.

SECTION 806.19 PRE-EXCAVATION FACILITIES LOCATIONS:

In addition to complying with the requirements of Minnesota Statutes Sections 216D.01 to 216D.09 (one call excavation notice system) before the start date of any right of way excavation, each registrant who has facilities or equipment in the area to be excavated shall be responsible to mark the horizontal placement of all said facilities, to the extent technically feasible. To the extent its records contain such information, each registrant shall provide information regarding the approximate vertical location of its facilities, at the time of installation, to excavators upon request. Nothing in this Section is meant to limit the rights, duties and obligations of the facility owners or excavators as set forth in Minnesota Statutes Sections 216D.01 to 216D.09.

SECTION 806.20 INTERFERENCE BY OTHER FACILITIES:

When the City does work in the right of way, in its governmental right of way management function, and finds it necessary to maintain, support, or move a registrant's facilities to carry out the work without damaging the registrant's facilities, the City shall notify the local representative as early as is reasonably possible. The City costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right of way which it or its facilities damage.

SECTION 806.21 VACATION OF RIGHT OF WAY:

- A. Reservation of Right: If the City vacates a right of way which contains the equipment of a registrant, and if the vacation does not require the relocation of registrant facilities and equipment, the City shall reserve, to and for itself and all registrants having facilities and equipment in the vacated right of way, the right to install, maintain and operate any facilities and equipment in the vacated right of way and to enter upon such right of way at any time for the purpose of reconstruction, inspecting, maintaining or repairing the same.
- B. Relocation of Equipment: If the vacation requires the relocation of registrant facilities and equipment, and: 1) if the vacation proceedings are initiated by the registrant, the registrant must pay the relocation costs; or 2) if the vacation proceedings are initiated by the City, the registrant must pay the relocation costs unless otherwise agreed to by the City and the registrant; or 3) if the vacation proceedings are initiated by a person or persons other than the registrant or permit holder, such other person or persons must pay the relocation costs.

SECTION 806.22 INDEMNIFICATION AND LIABILITY:

By registering with the City, or by accepting a permit under this Chapter, a registrant or permittee agrees to defend and indemnify the City in accordance with the provisions of Minnesota Rules 7819.1250.

SECTION 806.23 ABANDONED FACILITIES:

- A. Discontinued Operations: A registrant who has decided to discontinue all or a portion of its operations in the City must provide information satisfactory to the City that the registrant's obligations for its facilities in the right of way under this Chapter have been lawfully assumed by another registrant.
- B. Removal: Any registrant who has abandoned facilities in any right of way shall remove them from that right of way pursuant to Minnesota Rules 7819.3300, unless the requirement is waived by the Engineer. A facility is not abandoned unless declared so by the operator.

SECTION 806.24 APPEALS:

A right of way user that: a) has been denied registration; b) has been denied a permit; c) has had a permit revoked; d) believes that the fees imposed are not in conformity with Minnesota Statutes Section 237.163, subdivision 6; or e) disputes a determination of the Engineer regarding Section 806.16(B) of this Chapter may have the denial, revocation, fee imposition, or decision 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 imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

SECTION 806.25 RESERVATION OF REGULATORY AND POLICE POWERS:

A permittee's or registrant's 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.

SECTION 806.26 SEVERABILITY:

If any Section, Subsection, sentence, clause, phrase, or portion of this Chapter is, for any reason, held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof. If a regulatory body or a court of competent jurisdiction should determine, by a final, non-appealable order, that any permit, right or registration issued under this Chapter or any portions of this Chapter is illegal or unenforceable, then any such permit, right or registration granted or deemed to exist hereunder shall be considered as a revocable permit with a mutual right in either party to terminate without cause upon giving sixty (60) days' written notice to the other. The requirements and conditions of such a revocable permit shall be the same requirements and conditions as set forth in the permit, right or registration, respectively, except for conditions relating to the term of the permit and the right of termination. Nothing in this Chapter precludes the City from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

ARTICLE IX
BUSINESS REGULATIONS

CHAPTER 901

EXCAVATION OF SAND AND GRAVEL

[Repealed]

(Ord. 1995-3, 07/11/95)

CHAPTER 902

HOURS OF OPERATION

SECTION 902.01 GENERAL PROHIBITION:

No construction, repair work, maintenance, or any other labor of any kind pursuant to any building permit which produces sound that is audible at the property line of any adjoining parcel of property shall be conducted:

- A. before 7:00 am. on Monday through Saturday;
- B. before 9:00 a.m. on Sunday;
- C. after 8:00 p.m. on Monday through Saturday; or
- D. after 5:00 p.m. on Sunday.

SECTION 902.02 PENALTY:

Violation of this ordinance shall be punishable as a misdemeanor, subject to a fine, or imprisonment, or both, but in any case including the costs of prosecution thereof. Each separate violation and each day a violation persists shall constitute a separate offense.

ARTICLE X
BUILDING CODE AND PERMITS

CHAPTER 1001

BUILDING CODE

SECTION 1001.01 STATE BUILDING CODE ADOPTED:

The mandatory provisions of the Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes Sections 326B.101 through 326B.16, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Units, are hereby adopted by reference. The Minnesota State Building Code is hereby incorporated in this ordinance as if fully set out herein.

SECTION 1001.02 OPTIONAL ENFORCEMENT PROVISIONS:

A. The following optional provisions are hereby adopted and incorporated without change as part of the building code for the City.

1. Grading, IBC appendix chapter J, 2006 International Building Code.

SECTION 1001.03 ADMINISTRATION, LICENSES, PERMITS, FEES AND SURCHARGES:

A. Application, Administration and Enforcement: The application, administration, and enforcement of the Minnesota State Building Code shall be in accordance with Minnesota Rule Chapter 1300. The Minnesota State Building Code shall be enforced within the incorporated limits of the City and within the extraterritorial limits permitted by Minnesota Statutes §16B.62. The City Council shall appoint a Building Official who shall attend to all aspects of Minnesota State Building Code administration. A copy of the State Building Code shall be kept available for public use in the office of the Building Inspector.

B. Licensed Activities: Except as otherwise provided in this Code, it is unlawful for any person to perform any work subject to the provisions of the Building Code unless he is currently licensed to do so under the applicable provisions of the Minnesota State Building Code or other State Law.

SECTION 1001.04 BUILDING PERMITS REQUIRED:

A. A building permit shall be required for construction, alteration, moving, demolition, repair or use of any building or structure within the City if the Minnesota State Building Code applies to such construction, alteration, moving, demolition, repair or use.

B. All building permits shall include a certified survey showing the location and dimensions of existing and proposed buildings, locations of easements, encroachments and other information deemed necessary by the Building Official. All permits for exterior building construction, including new building additions, shall include a complete landscape plan.

C. Escrow and Performance Security.

1. Upon submission of a building permit application and payment of the appropriate application fees, the applicant shall also be required to pay all cash escrows, including a Temporary Certificate of Occupancy escrow if relevant, in the amounts stated in the City's fee schedule, unless a lesser amount is approved by the City Planner. Said escrows shall cover review of the City Planner, City Engineer and Building Official or other City Staff or consultants, as may be applicable and any remediation by the City that might be required throughout the permit process as well as the costs of any action necessary to ensure completion of unfinished issues for a Temporary Certificate of Occupancy. Upon approval or denial of the building permit, any balance of the escrow shall be returned to the applicant, with the exception of the Temporary Certificate of Occupancy escrow, which shall be held until a permanent Certificate of Occupancy is issued. If the escrows are insufficient to cover the relevant costs, the City will cease work on the permit until additional escrow is submitted. The applicant is responsible for all City Staff and Consultant costs associated with the building permit process.
2. In addition to other penalties that may be imposed, failure to comply with the conditions of the building permit or the ordinances of the City shall result in forfeiture of the security.
3. Failure to pay the applicable fees may result in the City assessing any unpaid costs against the real property pursuant to Minn. Stat. §429.101.

SECTION 1001.05 ADMINISTRATION INSPECTION AND CERTIFICATE OF OCCUPANCY:

- A. Inspection and Project Compliance. Following the approval of a request processed pursuant to this Ordinance, the City Building Official shall monitor the project, review all permits issued and construction undertaken, and compare the actual development to the approved plans and time limits established by the City Council. If the City Building Officials finds that the project is not proceeding in accordance with specified time limits, or that it substantially deviates or fails to comply with the approved project plans, the City Council and the landowner shall be notified immediately in writing. Within thirty (30) days of such written notice, the City Council shall either by ordinance or resolution, as may be applicable, revoke the project approval, take such steps as deemed necessary to compel compliance with

the approved plan, or require the landowner or applicant to seek an amendment to the approved plan.

- B. Permanent Certificate of Occupancy Required. No building or structure hereafter erected or moved, or that portion of an existing structure or building erected or moved shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy shall have been issued by the Building Official stating that the building, structure, and/or site improvement complies with all of the provisions within this Ordinance and applicable state building code sections. No certificate of occupancy shall be issued until all outstanding bills owed to the City which were generated through application review, approval, and inspection of the project by City Consultants have been paid in full.
- C. Temporary Certificate. In those cases deemed appropriate and acceptable to the City Building Official, a temporary certificate of occupancy permit may be issued. No temporary certificate of occupancy shall be issued until all outstanding bills owed to the City have been paid in full.
- D. Expiration of Building Permit. Every permit issued by the Building Official under the provisions of this code shall expire by limitation and become null and void, if the building work authorized by such permit is not commenced within one hundred and eighty (180) days from the date of issuance of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred eighty (180) days' time. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one-half the original fee which was charged before commencement of any portion of the work.

SECTION 1001.06 BUILDING RELOCATION:

- A. Review Process. The relocation of any building or structure on a lot or onto another lot within the City shall be subject to review and approval by the City Council after a public hearing.
- B. Performance Standards.
 - 1. Upon relocation, the building shall comply with the applicable requirements of the State Uniform Building Code.
 - 2. The proposed relocated building shall comply with the character of the neighborhood in which it is being relocated as determined by the City Planner.
 - 3. If the relocated structure is a principal structure, the relocated structure must be similar to the market valuation of adjacent principal structures as determined by the County Assessor.

- C. Occupancy. The relocated structure shall be ready for occupancy within eight (8) months from the date of location on the site.
- D. Security Deposit. A security deposit shall be provided to the city as specified in the City's fee schedule.

SECTION 1001.07 TEMPORARY STRUCTURES:

Temporary accessory structures including tents that consist of metal or fiberglass poles, metal hoops and PVC, cotton or nylon fabric covering materials are prohibited except as permitted in conjunction with a special event. No tent, trailer, camper, motor home, storage container or accessory building shall at any time be used as a habitable building.

SECTION 1001.08 PENALTY:

Any violation of this ordinance shall be a misdemeanor and, upon conviction, shall be punished by a fine, or imprisonment, or both, but in each case including the costs of prosecution thereof.

(Ord. 1992-0, 04/08/92; Ord. 1995-04, 10/03/95; Ord. 1999-01, 02/02/99; Ord. 2011-01, 03/01/11; Ord. 25-8, 12/09/25)

CHAPTER 1002

ELECTRICAL PERMITS

SECTION 1002.01 PURPOSE AND INTENT:

Under Minn. Stat. §326B.36, the Commissioner of the Minnesota Department of Labor and Industry has the power and authority to inspect all electrical installations and to enforce and administer the Minnesota Electrical Act, unless the City by ordinance makes an election to provide for electrical inspections similar to that provided in Minn. Stat. §326B.36, provided that the ordinance enacted by the City must be similar to the provisions and requirements contained in the State requirements pertaining to the Minnesota Electrical Act. It is the intent of this ordinance to adopt the regulations governing the inspections that would be in place if the State were an administrator, inspector, and enforcer of the Minnesota Electrical Act.

SECTION 1002.02 AUTHORITY TO INSPECT:

The City of Sunfish Lake hereby undertakes to provide the inspection of all electrical installations pursuant to Minn. Stat. §326B.36, subd. 6. For purposes of this ordinance, the City adopts the Minnesota Electrical Act, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes Chapter 326B, Sections 326B.31 to 326B.399. The Minnesota Electrical Act is hereby incorporated into this ordinance as if fully set out herein.

SECTION 1002.03 COMPLIANCE:

All electrical installations shall comply with the requirements of the Minnesota Electrical Act.

SECTION 1002.04 CONTRACTUAL UNDERTAKING:

The City of Sunfish Lake shall contract with the City of West St. Paul to have the City of West St. Paul, through its qualified licensed inspectors, undertake the inspection, administration, and enforcement of the Minnesota Electrical Act in the City of Sunfish Lake.

SECTION 1002.05 PERMITS AND FEES:

On behalf of the City of Sunfish Lake, the City of West St. Paul shall issue permits and collect fees relating to the issuance of permits. The fees shall be in the same amounts as West St. Paul would charge in West St. Paul for the type of permit being issued. Inspection or handling fees will also be payable to the City of West St. Paul in the amount that would otherwise be payable to the City of West St. Paul if the work had been performed in West St. Paul. The permit fees and the inspection fees shall be allocated between the contracting inspector and the City of West St. Paul.

SECTION 1002.06 NOTICE AND APPEAL:

All notices of violations and orders issued under this ordinance shall be in conformance with Minn. Stat. §326B.36, subd. 4.

SECTION 1002.07 VIOLATIONS AND PENALTIES:

A violation of the Minnesota Electrical Act is a misdemeanor. (Minn. Stat. §326B.082, subd. 16).

(Ord. 24-1, 01/02/24)

CHAPTER 1003

PLUMBING, PLANS AND SPECIFICATIONS, AND INSPECTIONS

SECTION 1003.01 PLUMBING, PLANS AND SPECIFICATIONS, AND INSPECTONS:

- A. Compliance required. All plumbing on private property within the City must comply with the provisions of the Minnesota State Plumbing Code (MSPC), latest revision, pursuant to Minn. Rules Ch. 4714. The MSPC is hereby fully incorporated in this section. All plumbing on private property within the City must comply with the provisions of the state building code and this section.
- B. Plans and specifications. Prior to the installation of a system of plumbing other than for a single-family dwelling, complete plans and specifications, together with any additional information that the building official may require, must be submitted in duplicate and approved by the Building Official appointed by the City Council. Construction cannot proceed except in accordance with approved plans and specifications. Any alteration, extension, or repair of an existing system is subject to these same requirements, unless waived by the building official in accordance with Minn. Rules, part 1300.0215.
- C. Exceptions. Pursuant to Minn. Stat. § 326B.43, subd. 2(n), plumbing plans and specifications for the following projects must be submitted to the Minnesota Department of Labor and Industry for a full plan review:
 - 1. State-licensed facilities as defined in Minn. Stat. § 326B.103, subd. 13;
 - 2. Public buildings as defined in Minn. Stat. § 326B.103, subd. 11; and
 - 3. Projects of a special nature for which department review is requested by either the municipality or the state.
- D. Inspections. New plumbing systems or parts of existing plumbing systems that have been altered, extended, or repaired shall be inspected, tested, and approved by the Building Official in accordance with Minn. Rules, part 1300.0215 before the plumbing system is put into use. The Building Official shall perform the final inspection and witness the test. The building official shall approve the plumbing system if the system complies with the requirements of this City Code, any permit requirements, and the requirements of any approved plans and specification. Plumbing system tests shall comply with Minn. Rules, Chapter 4714.
- E. Covering of work. No building drainage or plumbing system or part thereof shall be covered until it has been inspected, tested, and approved as herein prescribed.

(Ord. 25-8, 12/09/25)

CHAPTER 1004

RESERVED

CHAPTER 1005

SIGNS

1005.01 GENERAL PROVISIONS:

A. Findings. The City Council hereby finds as follows:

1. Exterior signs have a substantial impact on the character and quality of the environment.
2. Signs provide an important medium through which individuals may convey a variety of messages.
3. Signs can create public safety hazards, aesthetic concerns and detriments to property values, that threaten the public health, safety, or welfare.
4. The regulation of signs within the City has had a positive impact on traffic safety and the appearance of the community.
5. The City Code includes the regulation of signs in an effort to provide an adequate means of expression and to promote the economic viability of the business community, while protecting the City and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. The regulations of the physical characteristics of signs within the City have had a positive impact on traffic safety and the appearance of the community.

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

1. Regulate the number, location, size, type, illumination and other physical characteristics of signs within the City in order to promote the public health, safety and welfare.
2. Maintain, enhance and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community.
3. Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.

- C. **Substitution.** The owner of any sign that is otherwise allowed by this Section may substitute noncommercial speech in lieu of any other commercial speech or noncommercial speech. This substitution of copy may be made without any additional approval or permitting. The purpose of this "substitution" provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech or favoring of any particular noncommercial speech over any other noncommercial speech. This provision prevails over any more specific provision to the contrary.

1005.02 DEFINITIONS:

The following words, terms, and phrases wherever they occur in this Ordinance, shall be interpreted as herein defined, except where the context clearly indicates a different meaning.

- A. **Abandoned Sign:** A sign located on a property which is vacant and/or unoccupied for a period of ninety (90) days; or a sign which is damaged, in disrepair, or vandalized and not repaired within ninety (90) days.
- B. **Billboard:** Any structure or portion thereof on which lettered, figured, or pictorial matter is displayed that has an area of one hundred (100) square feet or more.
- C. **Changeable Reader Board, manual:** A sign or portion thereof with characters, letters or illustrations that are changed or rearranged manually without altering the face or the surface of the sign.
- D. **Changeable Reader Board, electronic:** A sign or portion thereof with characters, letters or illustrations that are changed or rearranged electronically. An electronic reader board is not a dynamic display sign.
- E. **Commercial Speech:** Speech advertising a business, profession, commodity, service or entertainment and that promotes at least some type of commerce.
- F. **Directional Sign:** A sign which is erected for the purpose of guiding vehicles and pedestrian traffic in finding locations on the property where the sign is located.
- G. **Dynamic Display Sign:** Any characteristic of a Sign that appears to have movement or that appears to change, caused by any method other than manually removing and replacing the Sign or its components, whether the apparent movement or change is in the display, the Sign structure itself, or any other component of the Sign. This includes a display that incorporates a technology or method allowing the Sign face to change the image without having to physically or mechanically replace the Sign face or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display or structural element and any display that incorporates rotating panels, LED lights manipulated through digital

input, “digital ink” or any other method of technology that allows the Sign face to present a series of images or displays. This type of sign includes electronic changeable copy signs and electronic graphic display signs.

- H. Enforcement Official: The City Administrator/City Clerk or their designee.
- I. Illuminated Sign: A sign which is illuminated by an artificial light source.
- J. Monument Sign: A freestanding sign that contains a solid or enclosed base and where the sign support post(s) are not visible. Base shall be constructed of materials that are consistent with and complementary to the building. Width of base to be minimum of two-thirds (2/3) the width of the sign face. These signs usually have two faces back-to-back, which shall be considered one sign.
- K. Monument Sign, V-Shaped: A monument sign which would typically be a two-faced monument sign but instead, is shaped in the form of a V, with only two (2) sign faces. The maximum sign area for V-Shaped Monument Sign shall be calculated using a single face of the V-Shaped Monument Sign.
- L. Noncommercial Speech: Speech that is not commercial speech as defined herein.
- M. Off-premises Sign: A commercial speech sign which directs the attention of the public to a business that is not on the same premises where such business sign is located.
- N. Portable Sign: A sign so designed as to be movable from one location to another and which is not permanently attached to the ground or any structure, including those on wheels.
- O. Projecting Sign: A sign in which all or any part of it extends perpendicular to and projects from a building face, wall or structure and which its primary purpose is other than the support of the sign.
- P. Pylon Sign: A sign erected on a post or posts, or freestanding shafts, walls or piers which is solidly affixed to the ground and not attached to a building.
- Q. Roof Sign: A sign erected upon the roof of a structure to which it is affixed or a sign painted on the roof of a structure.
- R. Sign: Any letter, word, symbol, device, poster, picture, statuary, reading matter, or representation in the nature of an advertisement, announcement, message, or visual communication, whether painted, posted, printed, affixed, or constructed which is displayed outdoors for informational or communicative purposes.

- S. Sign Area: That area within the marginal lines of the sign surface which bears the announcement, name, advertisement or other message, or, in the case of letters, figures, or symbols attached directly to any part of a building or wall, that area which is included in the smallest rectangle which can be made to circumscribe all letters, the figures, or symbols displayed thereon. The maximum Sign Area for a free-standing sign refers to a single surface.
- T. Temporary Sign: A sign which is erected or displayed for a limited period of time, is not illuminated and not of a permanent nature including banners, pennants, stringers, balloons or portable signs.
- U. Wall Sign: A sign affixed to the exterior wall, awning or canopy of a building or structure with the exposed face of the sign in a plane approximately parallel to the face of said wall, not to project more than twelve (12) inches from the surface to which it is attached.
- V. Window Sign: A sign that is affixed to and not painted on the interior or exterior of a window or glass door or inside a building within three feet (3') back from the building's window or glass door with its message intended to be visible to and readable by the public.

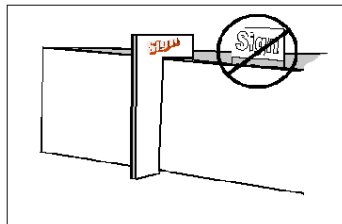
1005.03 PROHIBITED SIGNS:

- A. The following signs shall be prohibited in all zoning districts:
 - 1. Any sign, signal, marking or device which purports to be, is an imitation of, or resembles any official traffic control device, railroad sign or signal, emergency vehicle signs, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal shall be prohibited.
 - 2. Signs within a public right-of-way, except for signs installed by authorized governmental agencies.
 - 3. Signs within the site distance triangle on corner lots.
 - 4. Signs within an easement, except for signs installed by authorized governmental agencies or approved by the owner of the easement.
 - 5. Signs that resemble any official marker erected by a governmental agency or that displays such words as "Stop" or "Danger," which are not erected by legal authority.
 - 6. Sign or sign structures that obstruct any window, door, fire escape, stairway or opening intended to provide ingress or egress for any building structure.

7. Sign posters, that are tacked, painted, posted or affixed to trees, rocks, fences, bridges, towers, similar public structures, utility posts, or other such supports.
8. Signs with rotating or moving parts.
9. Signs which have become rotted, unsafe or unsightly, torn, or are not properly maintained.
10. Abandoned signs.
11. Billboards.
12. Content classified as “obscene” as defined by Minn. Stats. § 617.241.
13. Inflatable signs.
14. Neon signs.
15. Off premises signs.
16. Projecting signs.
17. Pylon signs.



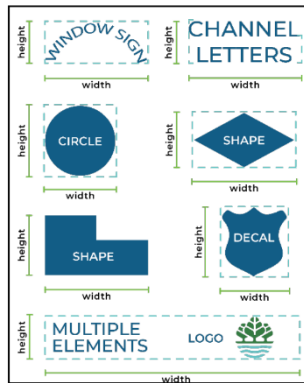
18. Roof signs.



19. Searchlights or beacons.
20. All other signs not expressly permitted by this Ordinance.

1005.04 GENERAL REQUIREMENTS:

- A. No part of any sign shall be closer than ten feet (10') from any lot line, or from the public right-of-way.
- B. Electrical service to any sign shall be buried.
- C. Signs and sign structures shall be properly maintained and kept in a safe condition. Sign or sign structures which are rotted, unsafe, deteriorated, or defaced shall be reprinted, repaired, or replaced by the owner or agent of the building upon which the sign stands. All signs which are unsafe, dangerous, and/or unsightly shall be repaired or removed. Every sign and the immediate surrounding premises shall be maintained by the owner or person in charge thereof in a clean, sanitary, and inoffensive condition and free and clear of all obnoxious substances, rubbish, and weeds.
- D. The construction of all signs that require a building permit shall be in conformance with the provisions of the Minnesota State Building Code.
- E. A sign and/or its structural components shall not move as a result of wind pressure.
- F. The design of wall and monument signs shall be compatible with the design of the building.
- G. The sign height shall be measured from the normal grade of the lot as approved by the Building Official.
- H. All temporary signs must be maintained and shall be removed if material shows signs of wear, including but not limited to fraying, fading, chipping, or physical damage to the sign structure.
- I. The area of a sign or area within a sign frame shall be used to calculate the square footage of the sign area. Should letters or graphics be mounted directly on a wall or fascia or in such a way as to be without a frame, the dimensions for calculating the square footage shall be as in the definition of sign area, as found in Section 1005.02. Any symbols, flags, pictures, working figures or other forms of graphics printed on or attached to windows, walks, awnings, freestanding structures, suspended by balloons or kites or on persons, animals or vehicles shall be considered as a sign.



1005.05 SIGNS ALLOWED IN THE R-1 ZONING DISTRICT:

- A. Personal identification signs for single-family dwellings, provided that such signs are less than two (2) square feet in area. This does not include fire address identification signs.
- B. Traffic control signs, non-commercial governmental signs, government notices, and temporary non-advertising safety or emergency signs.
- C. Official Flags or insignia of any government or governmental agency and noncommercial flags and commercial flags are allowed, subject to the following regulations:
 1. Flagpoles shall be no taller than ten feet (10') above the highest point of the tallest building on the lot or site;
 2. Flagpoles must maintain a side and rear yard setback not less than the height of the flagpole;
 3. Flagpoles must be set back a minimum of fifteen feet (15') from any public right-of-way;
 4. Maximum of three (3) flags per property.
- D. Home Occupation Signs:
 1. Maximum of one (1) wall sign which must be located on the principal residential structure.
 2. Maximum size is two and a half (2 ½) square feet.
 3. Must comply with Section 1207.08.

E. Noncommercial Yard Signs, except during an election season pursuant to Section 1005.07.B.:

1. Maximum of two (2) signs per property.
2. Each sign shall be no larger than six (6) square feet.
3. Signs shall not be located in the right-of-way.

1005.06 SIGNS ALLOWED IN THE INS DISTRICT:

A. Wall Signs subject to the following requirements:

1. Maximum of one (1) wall sign for each principal building (except for a building on a corner lot, then up to two (2) signs, with one (1) sign per side of building).
2. Maximum size is eighty (80) square feet.
3. No signs are allowed on accessory buildings.
4. Building permit is required.

B. Monument Signs, subject to the following requirements:

1. Maximum of one (1) monument sign per property.
2. Maximum size is one hundred (100) square feet.
3. Maximum height of sign and base is twelve feet (12').
4. Sign cannot be located within ten feet (10') of the lot lines and cannot block the clear view triangle at an intersection.
5. Building permit is required.

C. Dynamic Display Signs or Electronic Reader Board Signs subject to the following requirements:

1. A dynamic display or electronic reader board sign shall be incorporated into a wall sign or monument sign and must comply with the appropriate regulations in Section 1005.06.A or 1005.06.B.
2. Maximum of one (1) dynamic display sign or one (1) electronic reader board sign per property.

3. The sign shall be located at least 60 feet from an R-1 Zoning District, as measured in a straight line from the base of the sign to the nearest lot line of the R-1 Zoning District.
 4. No part of a display shall change more than once every eight seconds.
 5. Display transitions shall be limited to one second. Transitions such as slideshow and fade/dissolve may be used.
 6. The difference between the off and solid-message measurements using the electronic sign measurement criteria shall not exceed 0.3 footcandles above ambient levels. Measurement should be taken according to the procedures outlined by the International Sign Association.
 7. All signs shall be equipped with a sensor or other device that automatically determines the ambient illumination and shall be programmed to automatically dim adjusting to ambient light conditions, or that can be adjusted to comply with the 0.3 footcandle measurements. These signs must also be equipped with a means to immediately turn off the display or lighting if it malfunctions, and the sign owner or operator must immediately turn off the sign or sign lighting when notified by the City that the sign is not complying with the standards in this section.
- D. Pedestrian, vehicular-traffic, and parking directional signs in parking lots, provided such signs are less than eight (8) square feet in area and less than five feet (5') in height, unless located on the building, provided such sign does not constitute a traffic hazard.
- E. Traffic control signs, non-commercial governmental signs, government notices, and temporary non-advertising safety or emergency signs.
- F. Official Flags or insignia of any government or governmental agency and noncommercial flags and commercial flags, subject to the following regulations:
5. Flagpoles shall be no taller than ten feet (10') above the highest point of the tallest building on the lot or site;
 6. Flagpoles must maintain a side and rear yard setback not less than the height of the flagpole;
 7. Flagpoles must be set back a minimum of fifteen feet (15') from any public right-of-way;
 8. Maximum of three (3) flags per property.

G. Noncommercial Yard Signs that are not governed by temporary events or elections:

1. Maximum of two (2) signs per property.
2. Each sign shall be no larger than six (6) square feet in area and three feet (3') in height.
3. Signs shall not be located in the right-of-way.

1005.07 TEMPORARY SIGNS:

In the R-1 and INS Zoning Districts, the following temporary signs are allowed without a building permit:

A. On construction sites, temporary signs are permitted in accordance with the following regulations:

1. Maximum of four (4) non illuminated signs are allowed per property.
2. Each sign shall not exceed ten (10) square feet in area or six feet (6') in height. All signs shall not exceed an aggregate of thirty-two (32) square feet in area.
3. Signs shall be set back at least ten feet (10') from the property lines.
4. Signs must be removed within one (1) year of the date of issuance of a building permit or when the project is completed, whichever occurs first.

B. Noncommercial Signs during Election Season:

1. In a state general election year, all noncommercial signs of any size may be posted in any number within or outside the public right-of-way on private property from forty-six (46) days before the state primary in a state general election year until ten (10) days following the state general election. Noncommercial signs may be placed in a City right-of-way on private property only if they are located more than ten feet (10') from the back of the curb or more than two feet (2') from the edge of a sidewalk or trail, whichever is farthest from the street curb.
2. If there is a primary for any office in a year that is not a state general election year, noncommercial signs may be posted within or outside the public right-of-way on private property twenty-one (21) days before the primary election. When there is no primary, noncommercial signs may be posted twenty-one (21) days before the general election.

3. All noncommercial signs except those otherwise permitted by this Chapter must be removed within ten (10) days following the general election.
 4. The City shall not be responsible for damage to any signs placed in the right-of-way.
- C. Noncommercial Event Signs such as garage/yard sales, community events, graduations, youth sports registration, and similar type signs.
1. The maximum size of signs shall be six (6) square feet in area and no more than three feet (3') in height.
 2. The sign shall only be displayed no more than ten (10) days prior to the event and must be removed within twenty-four (24) hours after the event is completed.
 3. Signs shall not be located in the right-of-way.
 4. The person responsible for the sign's placement must have the permission of the property owner where the sign is erected.
 5. Any temporary noncommercial event sign counts towards the allotted number of permitted yard signs identified in Section 1005.05.E.
- D. On properties that are for sale or lease, "for-sale" or "for-lease" signs, subject to the following regulations:
1. Signs must be less than twelve (12) square feet in the R-1 Zoning District and thirty-two (32) square feet in the INS Zoning District.
 2. Signs shall have a maximum height of ten feet (10'), unless located on the building.
 3. Maximum of one (1) sign per property.
 4. Signs must be removed within seven (7) days following the lease or sale.
- E. Temporary portable signs, subject to the following regulations:
1. Maximum one (1) sign per property.
 2. Each sign may be no larger than six (6) square feet.

3. Signs shall not be located in the right-of-way.
 4. Signs shall be displayed no more than ten (10) days per calendar year.
- F. Banners, pennants, ballons, or stringers which may be displayed no more than ten (10) total days per calendar year.

1005.08 PERMIT REQUIREMENTS:

- A. For all signs where a building permit is required, no sign shall be erected, re-erected or altered, unless a permit for each sign has been obtained, unless no permit is required pursuant to Section 1001.03. Application for a sign permit shall be made in writing on forms furnished by the Building Official. Such application shall contain the location by street and number of the proposed sign structure, the erector, a scale drawing of the sign indicating material copy, and color location. Routine maintenance of signs without changing the size, building materials composition or minor nonstructural repairs, (except electrical repairs) shall not require a permit.
1. Sign Permit Fees. Permit fees shall be in accordance with a fee schedule.
 2. Revocation of Permit. The Building Official is authorized to revoke a sign permit upon failure of the holder thereof to comply with any provision of this Section.

1005.09 REPAIR OR REMOVAL OF SIGNS:

- A. The Enforcement Official shall remove any sign immediately and without notice if it reasonably appears that the condition of the sign is such as to present an immediate threat to the safety of the public.
- B. If the sign is not an immediate threat to the safety of the public, but is in violation of this Section, then the Enforcement Official shall provide notice and thirty (30) days to remove or correct a sign. Failure to correct the violations may result in the removal of the sign by the City.
- C. Any cost of removal incurred by the City shall be assessed to the owner of the property on which such sign is located or may be collected in appropriate legal proceedings.
- D. Signs in violation of this Ordinance placed on public property or in the public right-of-way are subject to immediate removal.

1005.10 ENFORCEMENT:

- A. It shall be the responsibility of the Enforcement Official to administer and enforce the provisions of this Section.

- B. It shall be unlawful for any person, firm, or corporation, to erect, alter, repair, move, equip, or maintain any sign or sign structure or cause or permit the same to be done in violation of any of the provisions of this Ordinance.

(Ord. 25-4, 12/09/25)

ARTICLE XI
PROTECTION OF THE ENVIRONMENT

CHAPTER 1101

SHORELAND MANAGEMENT

[Repealed]

(Ord. 1995-2, 04/10/95; Ord. 1995-3, 07/11/95)

CHAPTER 1102

ENVIRONMENTAL POLICY

SECTION 1102.01 PURPOSE:

The purpose of the Environmental Policy Ordinance of the City of Sunfish Lake Minnesota is:

- A. To declare a City policy that will encourage productive and enjoyable harmony between man and his environment.
- B. To promote efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man.
- C. To enrich the understanding of the ecological systems and natural resources important to the City of Sunfish Lake, to the State of Minnesota, and to the United States of America.
- D. To develop policies inductive to orderly, progressive and profitable development taking into consideration the ecological factors affecting the City of Sunfish Lake.
- E. To preserve the semi-rural low density residential character of the City by application of environmental policies.

SECTION 1102.02 DETAILED STATEMENT REQUIRED:

Where there is potential for significant environmental affects or where deemed necessary by the City Council resulting from any governmental action or from any private action, such action shall be preceded by a detailed statement submitted to the City Council and prepared by the responsible person, covering but not limited to the environmental impact of the proposed action, including any pollution, impairment or destruction of the air, water, land or other natural resources located within the City.

CHAPTER 1103

RESERVED

CHAPTER 1104
AIR AND NOISE POLLUTION

[Repealed]

(Ord. 1995-3, 07/11/95)

CHAPTER 1105
SOLID AND HAZARDOUS WASTE

[Repealed]

(Ord. 1995-3, 07/11/95)

CHAPTER 1106

DAMAGE OR DESTRUCTION OF TREES AND SHRUBS ON CITY PROPERTY

SECTION 1106.01 GENERAL PROHIBITION:

It shall be unlawful for any person to intentionally damage, cut, carve, or otherwise alter any tree or shrub; to transplant, or remove any tree or shrub; attach any rope, wire, nails, advertising poster, or other contrivance to any tree or shrub; allow any gaseous, liquid, or solid substance which is harmful to such trees or shrubs to come in contact with them or their root systems; or set fire or permit any fire to burn when such fire or heat thereof will injure any portion of any tree or shrub on any property owned or controlled by the City of Sunfish Lake or to direct or authorize such activity or circumstance, without prior written authorization from the City Forester (as defined in Section 1103.03 of the City Code) or the City Council.

SECTION 1106.02 PENALTY:

- A. Violation: Violation of this ordinance shall be a misdemeanor, and any person convicted of a violation shall be punished by a fine, or imprisonment, or both, but in either case including the costs of prosecution thereof.
- B. Payment of Costs: In addition, any person who violates this ordinance shall be required to pay all costs of replacing the trees or shrubs so affected (refer to Section 1106.01), including but not limited to, all labor and equipment costs and the cost of replacement trees or shrubs, on an inch per basal or stump diameter inch basis, of species and quality such as determined by the City Forester or City Council.

1106.03 LAND ALTERATION PERMITS:

- A. Purpose. Based upon the established Comprehensive Plan, it is the policy of the City of Sunfish Lake to preserve and promote an attractive, stable residential environment for its citizens which is in keeping with the open, natural character of the community. As a means to maintain and achieve this objective every property owner shall, before the alteration of land, make application for a land alteration permit pursuant to this section.
- B. Types of Permits.
 - 1. Site Grading Permit.
 - a. Except as provided below, a grading permit shall be required for all earth disturbing activities and shall be issued by the City Building Official, who may confer with other City Staff and consultants regarding acceptability of the proposed grading or excavation activity.

- b. Except as provided in the Shoreland Overlay District, the grading, excavation, removal and/or filling of less than fifty (50) cubic yards of dirt, sand, gravel/rock, mulch, or other natural material provided site drainage is not altered, including such activities commonly associated with gardening (e.g., soil amendments, tree/shrub planting, reseeding and rototilling) and grading associated with the resurfacing or top dressing of existing driveways, shall not require a permit.
- c. When associated with building additions/alterations or other construction activities requiring a building permit, a separate grading permit shall not be required.

2. Hard Surfacing Permit.

- a. Except as provided below, the hard surfacing of an area requires a building permit from the City Building Official.
- b. The hard surfacing of an area one thousand (1,000) square feet or less, or the hard surfacing of an existing driveway or a new driveway provided that, in any such case, the site drainage is unaltered and equal to that before construction does not require a permit, unless required by the Building Official.
- c. The hard surfacing of an area not exceeding two hundred (200) square feet within any consecutive three (3) year period provided that the site drainage is unaltered does not require a permit, unless required by the Building Official.

C. Procedures for all permits.

- 1. Permit requests shall be filed on an official application form. Such application shall be accompanied by a fee as provided for by the City's fee schedule.
- 2. The City staff shall prepare technical reports when deemed necessary and shall conduct a technical review and be responsible for the processing and approval or denial of the permit.
- 3. The City staff shall have the authority to request additional information from the applicant concerning project details or operational factors, or to retain expert testimony with the consent, and at the expense of the applicant, concerning operational factors. Said information is to be declared necessary to evaluate the request and/or establish performance conditions in relation to processing the permit application. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.

4. The City staff shall approve or deny the permit and may impose such conditions or requirements as may be deemed necessary to carry out the intent and purpose of this section.
- D. Evaluation Criteria. The City staff shall evaluate the effects of the proposed alterations and tree removal. This review shall include, but not be limited to, the following:
1. Whether the proposed alterations are compatible and in harmony with the surrounding community.
 2. Whether the proposed alterations preserve the character and nature of the surrounding community, including the natural landscape and woodland characteristics of the community.
 3. Whether the proposed alterations will not materially adversely affect any natural resources in the community, except when there is no feasible and prudent alternative to the proposed location of the alterations. For purposes of this clause, "natural resources" shall include, but not be limited to, all mineral, animal, botanical, air, water, land, timber, soil, quietude, recreational, historical, scenic and aesthetic resources.
 4. Whether the proposed alterations shall have an appearance that will not have an adverse effect upon adjacent residential properties.
 5. Whether the proposed alterations comply with drainage requirements in City Code.
- E. Information Requirement. The information required for all permit applications generally consists of the following items and shall be submitted when requested by the City.
1. Existing Information.
 - a. Names, addresses, and phone numbers of property owner(s), applicant, surveyor, architect, engineer, or other persons associated with the project.
 - b. Proof of title and the legal description of the property.
 - c. Property boundary lines in relation to a known section, quarter section, or quarter-quarter section line(s) comprising a legal description of the property and including bearings, distances, curve data, and total acreage of parcel.
 - d. Lot dimensions, including width as measured at the front building setback line.

- e. Building setbacks, existing and proposed.
 - f. North arrow and scale no smaller than 1 inch = 100 feet.
 - g. Existing land uses.
 - h. Layout of buildings, old foundations, septic systems, wells, and other site elements which currently exist on the property and those on adjacent properties to within three hundred fifty (350) feet.
 - i. Adjacent streets and/or rights-of-ways (public or private), curb cuts, driveways, etc.
 - j. Existing topography, unless waived by the City Planner.
 - k. Location, size, species, and present condition of all significant trees/vegetation on site.
 - l. Shoreline, water elevation, 100-Year Floodplain and Ordinary High Water Mark (if applicable).
 - m. Formal delineation of wetlands, lakes, streams, and other waters on or immediately adjacent to the site, certified by a registered engineer, in accordance with the 1991 Wetland Conservation Act.
 - n. Location, dimension and purpose of all easements.
 - o. Location, size, and elevations of any existing utilities, drainage control devices, or other underground facilities on or adjacent to the property.
 - p. Subsurface conditions on tracts for subdivisions utilizing individual water and sewage disposal systems; location and results of tests to ascertain subsurface soil, rock and ground water conditions and availability; location and results of soil percolation tests; and proof that no hydric soils exist in the area of development.
 - q. Location and dimensions of existing storm water drainage systems and natural overland drainage patterns, including a calculation (by a qualified engineer) of storm water runoff before alterations.
2. For grading permits, the following additional information is required:

- a. Grading plan with minimum two (2) foot contours which shall include the proposed grading and drainage of the site, including provisions for surface water ponding and drainage. Also to be stipulated are the garage floor, first floor, and basement elevations of all structures.
- b. A plan for soil erosion and sediment control both during construction (erosion control fencing, hay bale checks, etc.) and following final grading, after development has been completed. All soil erosion plans must comply with City Code Section 1208.01.
- c. A drainage plan of the developed site, prepared by a qualified engineer, delineating in which direction and at what rate storm water runoff will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect.
- d. Locations and dimensions of all temporary soil or dirt stockpiles.
- e. Proposed fill, levees, channel modifications, and other methods to overcome flood or erosion hazard areas in accordance with the Zoning Ordinance and applicable state statutes.
- f. A vegetation preservation and protection plan that shows those trees proposed to be removed, those to remain, the types and locations of trees and other vegetation that are to be planted may also be required.
- g. A landscape plan showing the proposed species, number and sizes of trees and shrubs utilized for screening of the structure from neighboring properties and buffering of garage areas, lighting, fencing, mechanical equipment, and other utilitarian type elements. The plan should also show the types and locations of ground covers used to permanently stabilize areas disturbed during construction.
- h. Applications, statements and supporting documentation and plans for rezoning, variances, conditional use permits or other requests being sought in association with the permit approval.
- i. Such other applicable information as may be required by the City.

(Ord. 1988-1, 01/09/89; Ord. 25-6, 12/09/25)

CHAPTER 1107

WATER USE PERMIT

SECTION 1107.01 PURPOSE AND INTENT:

This ordinance is adopted for the purpose of and with the intent to:

- A. Conserve and protect the natural resources of any lake, stream, wetland or pond;
- B. Regulate alteration of such natural resources so as to protect ecological balance;
- C. Control development in a manner that will be in harmony with the ecological systems.

SECTION 1107.02 WATER USE PERMIT REQUIRED:

Unless a water use permit is first obtained from the City Council, none of the following shall occur with respect to any lake, stream, wetland or natural or man-made pond:

- A. Dredging
- B. Filling
- C. Draining
- D. Alteration of shoreline, banks or stream channel
- E. Deposition of effluent of any kind or quality
- F. Pumping
- G. Extraction of water
- H. Direct discharge of storm water by man-made devices; alteration of the natural storm water drainage routes
- I. Alteration, diversion or accumulation of natural drainage
- J. Any action that may affect the level or quality of any lake, stream, wetland or natural or man-made pond
- K. Establishing or constructing any ponds.

No pumping devices of any kind, whether activated or inactive, shall be placed in or shall remain in any body of water unless a water use permit has been issued and is in effect.
(Ord. 25-5, 12/09/25)

ARTICLE XII
ZONING REGULATIONS

CHAPTER 1201

TITLE AND APPLICATION

1201.01 TITLE:

This Ordinance shall be known as the “Sunfish Lake Zoning Ordinance” except as referred to herein, where it shall be known as “this Ordinance.”

1201.02 PURPOSE:

This Ordinance is adopted for the following purposes:

- A. To promote and protect the health, safety, and general welfare of the inhabitants of the City of Sunfish Lake by regulating the location and size of buildings and other structures, the percentage of lots which may be occupied, the size of yards and other open spaces, and the density and distribution of population.
- B. To minimize congestion in the public rights-of-way, securing safety from fire, panic and other dangers, and provide for adequate light and air.
- C. To facilitate the adequate provisions for transportation, water, sewage, schools, parks, and other public requirements.
- D. To promote a more efficient and desirable utilization of land by recognizing special land features, such as slopes, topography, soils, vegetation, wetland areas, and wildlife.
- E. To conserve and develop natural resources and maintaining a high standard of environmental quality.
- F. To conserve the natural, scenic beauty, and attractiveness of Sunfish Lake.
- G. To preserve the capacity of floodplains to carry and discharge flood waters.
- H. To divide the City into zones or districts as to the compatible use of land and structures for residences and institutional purposes.
- I. To prohibit the use of buildings, structures, and lands that are incompatible with the intended use or development of lands within the specified zones.

- J. To provide for the compatible and appropriate use of land throughout the City of Sunfish Lake.
- K. To promote orderly development of residential and institutional areas.
- L. To minimize pollution of all types.
- M. To encourage energy conservation and the use of renewable energy resources.
- N. To provide for the administration of this Ordinance and amendments thereto.
- O. To define the powers and duties of the administrative officers and bodies.
- P. To describe penalties for the violation of provisions of this Ordinance or any amendment thereto.

1201.03 RELATION TO THE COMPREHENSIVE PLAN:

It is the policy of the City of Sunfish Lake that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the recommendations contained in the Comprehensive Plan as developed and amended from time to time by the City Council. The Council recognizes the Comprehensive Plan as the policy responsible for regulation of land use and development in accordance with the regulations of this Ordinance.

1201.04 APPLICATIONS OF THIS ORDINANCE:

- A. In their interpretation and application, the provisions of this Ordinance shall be minimum requirements for the promotion of public health, safety, morals, and welfare.
- B. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements shall prevail.

1201.05 PRIVATE AGREEMENTS:

This Ordinance does not abrogate any easement, covenant, or any other private agreement which are legally enforceable, provided that where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this Ordinance shall govern.

1201.06 BUILDING OCCUPANCY:

Except as herein provided, no building, structure, or premises shall hereafter be used or occupied, and no building permit shall be granted that does not conform to the requirements of this Ordinance.

1201.07 NONCONFORMING STRUCTURES, USES:

Any nonconformity, including the occupation or use of land existing at the time of adoption of a control under this Ordinance, may be continued, including through repair, replacement, restoration, maintenance or improvements, but not expansion, as provided below:

A. Nonconforming structures.

1. Expansion. Except as provided for architectural control in Section 1201.07.A.5, a nonconforming building or structure shall not be added to or enlarged unless such additions or enlargements are made so as to bring said building or structure into conformity with the regulations of this Ordinance. The enlargement of a structure is not considered an expansion of the nonconformity as long as it does not expand, increase, enlarge or make the extent of the nonconformity more severe.
2. Restoration. A nonconforming building or structure which is damaged by fire or other causes to the extent of more than fifty percent (50%) of its market value, unless a building permit has been applied for within one hundred eighty (180) days of when the property was damaged, shall not be restored except in conformity with the regulations of this Ordinance. If a building permit is applied for within the time frame required, the building or structure may be restored to its nonconforming condition prior to the damage or destruction.
3. Abandonment. A nonconforming building which has been abandoned for a period of more than one (1) year shall not be reoccupied. Any future occupancy shall require the building to be made in conformity with the regulations of this Ordinance.
4. Maintenance and Repair. Normal maintenance and repair of a building or other structure containing or related to a lawful nonconforming use is permitted.
5. Existing buildings not in conformance with architectural control standards in the applicable zoning district shall construct additions in conformance with the architectural control standards. Any addition greater than 50% of the square footage of the building shall require the entire building to meet architectural control standards.

B. Nonconforming use of building or land.

1. Extension. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was allowed at the time the use was established.
2. No such nonconforming use shall be moved to any other portion of the lot or parcel.
3. If any such nonconforming use of land or building ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

1201.08 USES NOT PROVIDED WITHIN ZONING DISTRICT; PROHIBITED USES:

- A. Whenever in any zoning district a use is neither specifically allowed nor denied, the use shall be considered prohibited.

B. Prohibited Uses.

1. Cannabis and Lower-Potency Hemp Edible Uses Prohibited.

- a. Authority to regulate Cannabis and Lower-Potency Hemp Edible Uses. The City of Sunfish Lake has the authority in Minn. Stat. § 462.357 to regulate by ordinance the zoning of the City to promote the public health, safety, morals, and general welfare of the City. In addition, Minn. Stat. Chapter 342 authorizes cities to protect the public health, safety, and welfare of residents by regulating cannabis and lower-potency hemp edible uses within its jurisdiction.
- b. Purpose and Intent of Sunfish Lake's Zoning Ordinance. The City has stated that the purpose and intent of the Sunfish Lake Zoning Ordinance is to preserve property values by providing for orderly and compatible development of the various land uses and to protect residential uses. The City has two Zoning Districts: Single-Family Residential and Institutional. The allowed uses in the Single-Family Residential Zoning District are single-family dwellings, public parks and playgrounds, residential care facilities serving six or fewer persons, and government and essential service buildings. The Institutional Zoning District allows religious institutions, government and essential service buildings, and publicly owned civic or cultural buildings. The City's Land Use Plan guides the City as single-family residential dwellings and institutional uses.

- c. Incompatibility of Cannabis and Lower-Potency Hemp Edible Businesses with Existing Land Use Designations. Cannabis and lower-potency hemp edible businesses include cultivation, manufacturing, retail and on-site consumption, all of which are either farming or commercial uses and none of which are allowed in the City's Zoning Districts or Land Use Plan. There is no Zoning District available for these uses to operate.
 - d. Findings. The City Council finds that due to the limited zoning districts of Residential and Institutional that do not provide for commercial uses, agricultural cultivation or business uses, due to the Comprehensive Plan which anticipates no plan or guide for commercial uses, agricultural cultivation or business uses, the fully developed community with uses that are comprised of nearly all single-family residential dwellings or religious institutions, therefore all cannabis uses and lower-potency hemp edible uses are hereby prohibited within the City of Sunfish Lake. The City Council further finds that these regulations are in the best interest of the City in order to protect the public health, safety, and general welfare, to provide for the orderly, economic and safe development of land.
- 2. Aircraft Landing Areas Prohibited. Aircraft Landing Areas are prohibited in all zoning districts. Except in cases of emergency, the taking off and landing of aircraft in the City of Sunfish Lake is prohibited.
 - 3. Mining Prohibited. Mining activities are prohibited in all zoning districts.

1201.09 SEPARABILITY:

It is hereby declared to be the intention that the provisions of this Ordinance are separable in accordance with the following:

- A. If any court of competent jurisdiction shall adjudge any provisions of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said statement.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect other property, buildings, or structures.

1201.10 AUTHORITY:

This Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Sections 462.351 to 462.365.

CHAPTER 1202

RULES AND DEFINITIONS

1202.01 RULES OF CONSTRUCTION:

- A. The language set forth in this Ordinance shall be interpreted in accordance with the following rules of construction:
 - 1. The present tense includes the future tense, the singular includes the plural, and the plural includes the singular.
 - 2. The word “shall” is mandatory and not discretionary; the word “may” is permissive.
 - 3. The phrase “used for” includes “arranged for,” “designed for,” “intended for,” “maintained for,” or “occupied for.”
- B. For terminology not defined in this Ordinance, the most current State Uniform Building Code or Merriam-Webster's dictionary shall be used to define such terms.

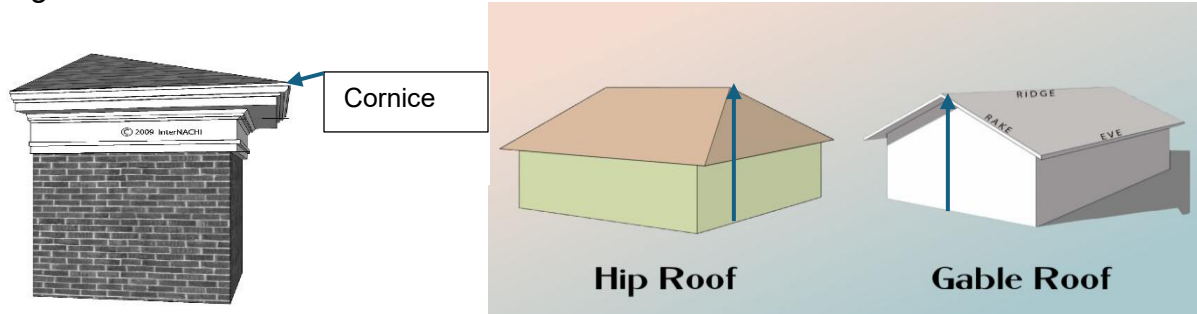
1202.02 DEFINITIONS:

The following words, terms and phrases wherever they occur in this Ordinance, shall be interpreted as herein defined, except where the context clearly indicates a different meaning:

- A. Abutting: Having a common border with or being separated from such a common border by a right-of-way, alley or easement.
- B. Accessory Building: An uninhabited subordinate building or structure that is detached from the principal structure located on the same lot, the use of which is subordinate to the principal building on the property.
- C. Accessory Dwelling Unit: A secondary dwelling unit located on the same lot as a single-family dwelling unit, either physically attached to, within, or detached from the single-family dwelling unit.
- D. Accessory Use: A use incidental and subordinate to the principal use or building and located on the same lot.
- E. Aircraft: Any contrivance now known or hereafter invented, used or designed for navigation of or manned flight in the air, including without limitation, airplanes, helicopters, and ultra lights.

- F. Aircraft Landing Area: Any area of land, water, or both, which is used or made available for the landing of and taking off of aircraft whether for public, private or personal purposes.
- G. Alternative Energy System: A ground source heat pump or solar energy system.
- H. Antenna: Any structure or device used for the purpose of collecting or radiating electromagnetic waves.
- I. Antenna, Radio and Television: A wire, set of wires, metal or carbon fiber element(s), other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the supporting structure thereof.
- J. Antenna, Free Standing Communication: Any pole, telescoping mast, tower, tripod, or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.
- K. Applicant: The owner, their agent or person having legal control, ownership and/or interest in land which the provisions of this Ordinance are being considered for or reviewed.
- L. Attached Accessory Dwelling Unit: An accessory dwelling unit that is attached to the single-family dwelling.
- M. Buildable Area: The space remaining on a lot after the minimum setback and open space requirements of this Ordinance have been met. See Figure 02-05.
- N. Building: Any structure having a roof that may provide shelter or enclosure of persons, animals, or chattels.
- O. Building Height: The vertical height of the building measured from the average elevation of the adjoining ground level after construction at any point from the perimeter of the building line (which is the edge of the building at the foundation) to the top of the cornice of a flat or mansard roof and to the highest point on a gable or hipped roof. See Figure 02-01.

Figure 02-01



- P. Building Setback: The minimum horizontal distance between the building and the lot line.
- Q. Cantilever: A rigid element fixed at one end and free at the other, extending horizontally and spanning over an unsupported space. Examples include balconies or decks that extend out without vertical support. See Figure 02-02.

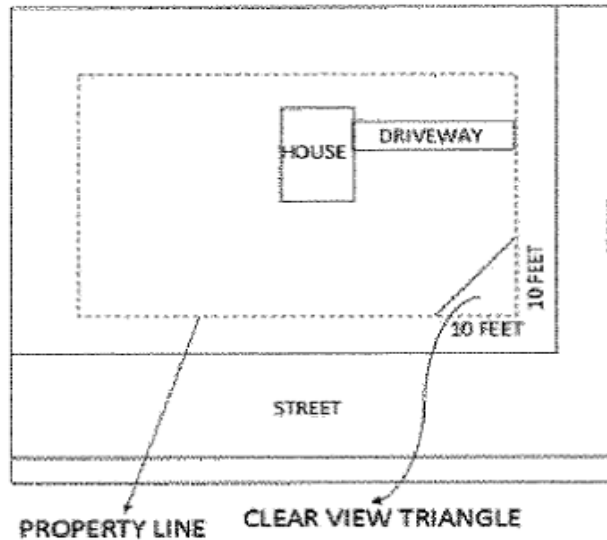
Figure 02-02



- R. City Administrator/City Clerk: The person designated by the City Council to be the City Administrator/City Clerk for the City.
- S. City Building Official: The person designated by the City Council to be the City Building Official for the City of Sunfish Lake.
- T. City Council: The City Council of the City of Sunfish Lake, Minnesota.
- U. City Engineer: The person designated by the City Council to be the City Engineer for the City.

- V. City Forester: The person designated by the City Council to be the City Forester for the City.
- W. City Planner: The person designated by the City Council to be the City Planner for the City.
- X. City Reforestation Fund: The fund established by the City Council for tree preservation fees.
- Y. Clear View Triangle: On corner lots, a clear view triangle is the area that begins at the intersection of the front property line and corner side property line and is measured back ten feet (10') along both property lines. Those points are then connected with a straight line. See Figure 02-03.

Figure 02-03

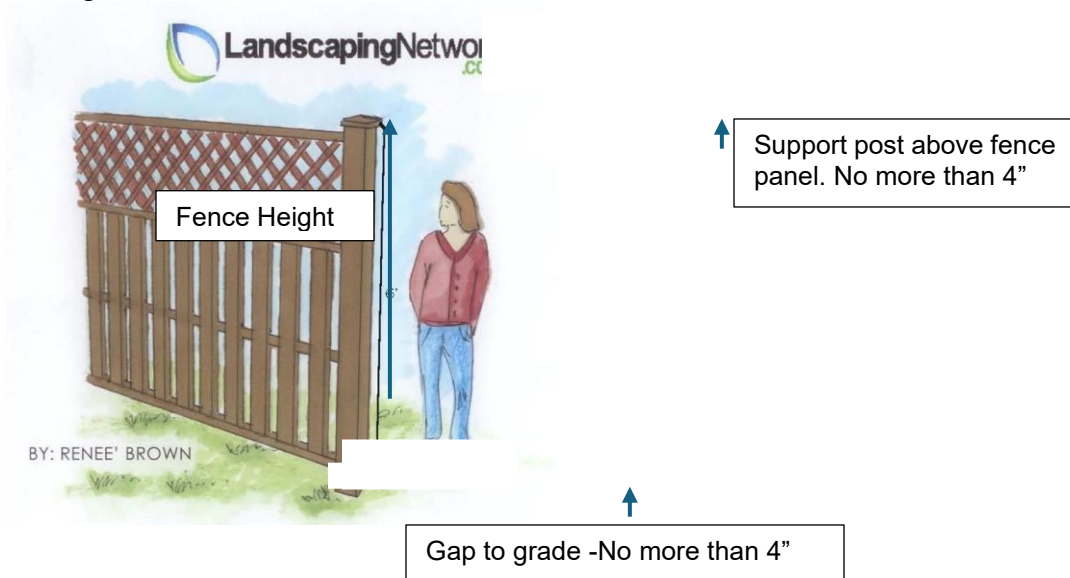


- Z. Comprehensive Plan: A comprehensive long-range plan prepared and approved by the City, including a compilation of policy statements, goals, standards, fiscal guidelines, and maps indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the City, including any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.
- AA. Conditional Use: A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions.

- BB. Conditional Use Permit: A permit issued by the City Council in accordance with procedures specified in this Ordinance.
- CC. Dwelling: A building or portion thereof, designated exclusively for residential occupancy, but not including hotels, motels, boarding houses, tents, cabins, or motor homes/travel trailers.
- DD. Dwelling Unit: A residential building or portion thereof intended for occupancy by one (1) family but not including hotels, motels, nursing homes, seasonal cabins, boarding or rooming houses, motor homes or travel trailers.
- EE. Easement: The right of a person, entity, government agency, or public utility company to use public or private land owned by another for a specific purpose.
- FF. Encroachment: An unauthorized intrusion onto a neighboring property through the creation or extension of a physical structure (including flora) above or below the surface of land.
- GG. Enforcement Official: The City Administrator/City Clerk or their designee.
- HH. Erosion: The wearing away of land surface by the action of natural elements.
- II. Essential Services: Telephone, gas, electrical, communication, water or sewer transmission, distribution, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants and other similar equipment and accessories in connection therewith for the furnishing of adequate service by such private or public utilities or municipal departments. Transmission/reception support structures and antennas shall not be considered an essential service.
- JJ. Essential Service Structures: Structures and buildings necessary for the operation of essential services, including but not limited to telephone buildings, gas regulator stations, substations, electrical stations, water tanks, lift stations.
- KK. Family: An individual, two (2) or more persons each related, or a group of not more than four (4) unrelated persons not maintaining a common household.
- LL. Fence: Any partition, structure, wall or gate erected as a dividing marker, barrier or enclosure and located along the boundary, or within the required yard.
- MM. Fence Height: The distance from the bottom of the fence panel (body of the fence) to the top of the fence panel. The gap to grade shall not exceed four inches (4"). Support posts shall not exceed four inches (4") above the top of the fence panel.

Neither the gap nor the support posts shall be included in the overall height of the fence. See Figure 02-04.

Figure 02-04



- NN. Foot-Candle: A unit of illumination that is the equivalent of one (1) lumen per square foot.
- OO. Floor Area: The sum of the gross horizontal areas of all floors of the building or portion thereof devoted to a particular use. However, the floor area shall not include basement or cellar floor area.
- PP. Free Standing Communication Antennae: Any free-standing antenna, the entire weight of which is supported by monopole affixed directly on or in the ground by a foundation without support cables.
- QQ. Garage: A detached building or portion of the principal building which is intended for and used to store the passenger vehicles and trucks not exceeding twelve thousand (12,000) pounds gross weight or other items owned or used by the occupants of the principal building.
- RR. Greenhouse: A building used for the cultivation or protection of plants, flowers, or vegetables for seasonable enjoyment.
- SS. Home Occupation: Any occupation or profession engaged in by the occupant of a private dwelling unit, which is clearly incidental and secondary to the residential use of the premises and does not change the character of the premises. This does not include a use for portion of the dwelling unit for an occupation that is general

office use, and it does not include regular entry by customers or clients at the home.

TT. Invasive Species: Invasive species shall include all plants listed in the Minnesota Department of Agriculture's "Noxious Plants of Minnesota" publication, as amended.

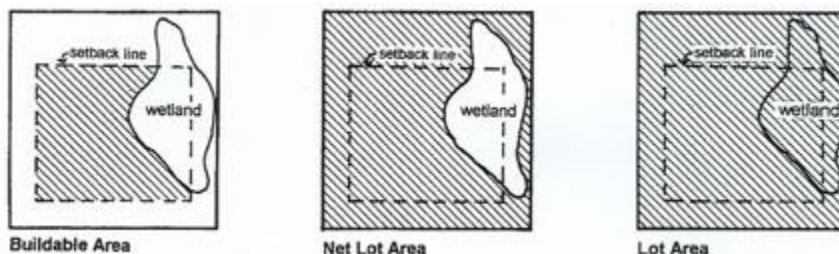
UU. Lot: A parcel or portion of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street or on an approved private road and may consist of:

1. A single lot of record.
2. A portion of a lot of record.
3. A combination of complete lots of record, complete lots of record and portions of lots of record, or of portions of lots of record.
4. A parcel of land described by metes and bounds; provided, that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.

VV. Lot Area: The total land area of a horizontal plane within the lot lines. See Figure 02-05.

WW. Lot Area, Net: The area of a lot not including wetlands, land seasonally flooded on an annual basis, land containing drainage ways and/or surface water or land containing aquatic vegetation, or land in excess of twelve percent (12%) slope. See Figure 02-05.

Figure 02-05



XX. Lot, Corner: A lot situated at the intersection of two (2) public or private streets, the interior angle of such intersection not exceeding one hundred thirty-five (135) degrees.

- YY. Lot Line: A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.
- ZZ. Lot Line, Front: The front of a lot shall be considered to be that boundary abutting a public right-of-way or private access road, whichever lot line is shorter.
- AAA. Lot Line, Rear: That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.
- BBB. Lot Line, Side: Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
- CCC. Lot of Record: Any lot which is one unit of a plat previously approved and filed or one unit of an auditor's outlot or a registered land survey, or a parcel of land not so platted, subdivided or registered but for which a deed, auditor's subdivision or registered land survey has been recorded in the Office of the Register of Deeds or the Registrar of Titles for Dakota County, Minnesota.
- DDD. Lot, Through: A lot fronting on two parallel public or private streets.
- EEE. Lot, Width: The minimum required horizontal distance between the side lot lines measured at right angles to the lot depth, at the minimum building setback line.
- FFF. Metes and Bounds Description: A description of real property which is not described by reference to a lot or block shown on a map but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.
- GGG. Nonconforming Lot: A lot of record which was permitted and existing prior to the effective date of this Ordinance, which does not conform to the applicable regulations under the current provisions of this Ordinance.
- HHH. Nonconforming Structure: Any structure which was permitted and existing prior to the effective date of this Ordinance, which does not conform to the applicable regulations under the current provisions of this Ordinance.
- III. Nonconforming Use: Use of land, buildings or structures which was permitted and existing prior to the effective date of this Ordinance, which does not conform to the

applicable regulations under the current provisions of this Ordinance governing the zoning district in which such use is located.

JJJ. Non-Significant Trees: Trees that are not included in the definition of Significant Trees.

KKK. Occupancy: The purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

LLL. Open Space: Any open area not covered by structures, including but not limited to the following uses: required or established yard areas, parking areas, sidewalks, trails, recreation areas, water bodies, shorelands, watercourses, wetlands, groundwater recharge areas, floodplain, floodway, flood fringe, erodible slopes, woodland, and soils with severe limitation for development.

MMM. Outlot: A lot remnant or parcel of land left over after platting that can be used for various purposes, including open space, common facilities or future development. It may be retained by the developer, conveyed to a homeowners' association or dedicated to the public.

NNN. Owner: An individual, association, syndicate, partnership, corporation, trust or any other legal entity holding an equitable or legal ownership interest in land, buildings, structures, dwelling unit(s) or other property.

OOO. Parcel: An individual lot or tract of land.

PPP. Permitted Use: A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.

QQQ. Person: Any individual, partnership, corporation, or legal entity, which includes any trustee, receiver, assignee, or personal representative.

RRR. Places of Worship: A place of assembly where a non-profit religious body organized to sustain public worship owns or leases a building or portion thereof where people regularly assemble for religious worship. The service of food, meals and alcoholic beverages on such premises may be provided if secondary and incidental to the promotion of some other common objective of the organization and adequate dining room space and kitchen facilities for the purpose of serving food and meals are available.

SSS. Planning Commission: The Sunfish Lake Planning Commission.

- TTT. Principal Building: A building in which is conducted the principal use of the lot on which it is located.
- UUU. Principal Use: The main or primary use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted, conditional, or interim.
- VVV. Private Access Road or Private Street: A road, street or path that extends from a public street or right-of-way to a private lot that provides access to private property and is owned and maintained by the property owner or owners abutting the private access road. It is not open to the general public and is for the exclusive use of the property owner or owners and their guests, or invitees. Private access roads may be marked with signs located on private property indicating they are private.
- WWW. Private Recreational Facilities: A private recreational facility for use solely by the occupants of a lot, such as but not limited to tennis courts, pickleball courts, swimming pools, and sport activity areas.
- XXX. Recreational Vehicle: Manufactured homes less than thirty feet (30') in overall length, including those with telescope or fold down, chassis, mounter campers, house cars, motor homes, tent trailers, slip-in-campers (those mounted in a pickup truck or similar vehicle), converted buses, and converted vans used primarily for recreational purposes. Cars utilized for racing shall not be included in this definition.
- YYY. Roofline: The top of the coping; or, when the building has a pitched roof, at the intersection of the outside wall with the roof.
- ZZZ. Satellite Dish: A combination of: (1) an antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources; (2) a low-noise amplifier (LNA) which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals; and (3) a coaxial cable whose purpose is to carry the signals into the interior of the building.
- AAAA. Setback: The minimum horizontal distance between a structure and the property line nearest thereto. For purposes of earth shelter buildings only, above grade portions shall be used in determining setback requirements. Distances are to be measured from the most outwardly extended portion of the structure at ground level, except as provided herein after.
- BBBB. Setback, Front: The area extending along the full length of a front lot line between side lot lines and to the depth required in the yard regulations for the district in which it is located.

- CCCC. Setback, Rear: The area extending along the full length of a rear lot line between side lot lines and to the depth required in the yard regulations for the district in which it is located.
- DDDD. Setback, Side: The area between the principal building and the side line of the lot extending from the front yard to the rear yard.
- EEEE. Shrub: A woody plant that remains low and produces several erect, spreading, or prostrate stems from the base, and is not usually tree-like or single-stemmed.
- FFFF. Significant Tree: Any tree measuring six inches (6") or more diameter at breast height, measured at a point five feet (5') above the ground, and which is not diseased, dead, or dying.
- GGGG. Single-Family Detached Dwelling: A building consisting of no more than one (1) dwelling unit.
- HHHH. Site Plan: A map drawn to scale depicting the development of a tract of land, including, but not limited to, the location and relationship of structures, streets, driveways, recreation areas, parking areas, easements, utilities, landscaping, and walkways, as related to a proposed development.
- IIII. Solar Energy System, Ground-Mounted: A structure designed to collect solar energy that is mounted into the ground.
- JJJJ. Solar Energy System, Roof-Mounted: A structure designed to collect solar energy that is mounted to the roof of a building.
- KKKK. Street, Public: A public right-of-way for vehicular traffic, whether designated as a highway, thoroughfare, arterial, parkway, collector, through-way, road, avenue, boulevard, lane, place, drive, court or otherwise designated which affords principal means of access to abutting property.
- LLLL. Structure: Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character. Among other things, structures including but not limited to buildings, gazebos, decks, retaining walls, walls, fences, and swimming pools.
- MMMM. Surveyor: A land surveyor registered under Minnesota State laws.

- NNNN. Swimming Pool: A structure designed to be used for swimming which has a capacity of three thousand (3,000) gallons or more or which has a depth of over thirty-six inches (36").
- OOOO. Zoning Map: The map or maps incorporated into this Ordinance as part thereof, designating the zoning districts.

CHAPTER 1203

ADMINISTRATION AND ENFORCEMENT

1203.01 ENFORCEMENT:

Enforcement Official. This title shall be administered and enforced by the City Administrator/City Clerk or their designee.

1203.02 MINNESOTA STATUTES, SECTION 15.99:

Minnesota Statutes, Section 15.99 applies to all land use applications in this Chapter, unless a different timeline for approval is provided by state law or City ordinance.

- A. Within sixty (60) days after the date of receipt of the completed application, the City must approve or deny the application. Failure of the City to deny a request within sixty (60) days or any extension thereof as provided in this Section is deemed approval of the request.
- B. The time limit begins upon the receipt of a completed application. A completed application shall mean a written request containing all information required by law, or by a previously adopted rule, ordinance or policy of the City. If the City Administrator/City Clerk or their designee receives an application that does not contain all the required information, they shall send notice within fifteen (15) business days of the receipt of the request telling the applicant that the application is not accepted and indicating what information is missing. The sixty (60)-day time limit begins again after receipt of a completed application, as provided in this Section.
- C. The City may extend the time limit before the end of the initial sixty (60) day period by providing written notice of the extension to the applicant. The notice must contain the reasons for the extension and its anticipated length, which may not exceed sixty (60) days unless approved by the applicant.
- D. The applicant may waive the sixty (60) day or 120-day period by providing a written waiver.

1203.03 PUBLIC HEARINGS:

The City shall hold a public hearing on all variances, conditional use permits, site plan applications, text amendments, and map amendments. Notice of the public hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by publication in the designated legal newspaper of the City. The notice shall contain the date, time and place of the hearing and a description of the land and the proposed application. At least ten (10) days before the hearing, the City Clerk shall mail a notice to the owner and to each of the property owners within five hundred feet (500') of the property for which the approval is sought. Failure of the City Clerk to mail the notice or failure of the property owners to receive the notice shall not invalidate the proceedings.

1203.04 SITE PLAN REVIEW:

The purpose of this Section is to establish a formal site plan review procedure and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of this Section. The site plan review enables the City Council to ensure that the applicant has made adequate provisions for utilities, traffic, safety precautions, and amenities. A site and building plan review shall be required for all proposed new construction and substantive changes, as determined by the Enforcement Official, to approved site plans or existing developed sites in the Institutional (INS) zoning district.

A. Formal Application Site Plan Review Procedures. The procedure for site plan review is as follows:

1. The property owner or the owner's agent shall meet with the Enforcement Official to be advised of the procedures and obtain an application form.
2. The applicant shall file the completed application form together with the required exhibits and fees pursuant to Section 1203.013 with the Enforcement Official.
3. The Enforcement Official shall submit the application to the Planning Commission for its review, comment, and recommendation to the City Council.
4. The City shall hold a public hearing on the application pursuant to Section 1203.03.
5. The City Council shall, after receipt of the report of the Planning Commission, either approve or deny the application, within the timeframe established by Section 1203.02. Denial must comply with the requirements of Section 1203.08.
6. The City Council may impose such restrictions or conditions as may be necessary to comply with the standards established by this Section, or to reduce or minimize the impacts upon other properties in the neighborhood and to better carry out the intent of the Comprehensive Plan and the Zoning Code. Any condition must be directly related to and must bear a rough proportionality to the impact created by the application.

B. Exempt from site plan review. Except in those cases specifically cited within this Section, the following shall be exempted from the requirements of this Section and shall be processed through the building permit review process:

1. Single-family dwellings and accessory structures;
2. Recreational structures and buildings in public parks.

C. Required site plan application information and materials. The following information and materials shall be required for the application:

1. A complete application form signed by all property owners.
2. All required fees and escrows.
3. A statement identifying all property owners of all land included within the proposal and a list of property owners' names and addresses within five hundred feet (500') of the outer boundaries of the property obtained from Dakota County or a title or abstract company.
4. Accurate and to-scale development plans for the project area, the number of which to be provided as indicated on the application form, including the following minimum information:
 - a. North point and graphic engineering scale.
 - b. Location map showing relationship to street system and surrounding development.
 - c. Date of preparation and revision date(s).
 - d. Boundary line survey, including measured distances and angles which shall be tied to the nearest one-quarter ($\frac{1}{4}$) corner or section corner by traverse.
 - e. Existing and proposed right-of-way widths and names of proposed streets.
 - f. Site statistics including:
 - i. Gross site acreage/minimum lot size in the zoning district.
 - ii. Total stormwater management acreage.
 - iii. Any wetland impact area and wetland replacement area.
 - iv. Existing, proposed and required parking.
 - g. Locations of rights-of-way, driveways, parks and public lands, permanent buildings and structures, easements, section and corporate lines, water courses, marshes, wooded areas, rock outcrops, power transmission poles and lines and other significant features within the site and to a distance of two hundred feet (200') beyond the property boundary(ies).

- h. Locations and dimensions for existing and/or proposed buildings or other structure(s); setbacks; walkways and bikeways; off-street parking and driveways; refuse and service areas including screening materials; loading areas and docks; any fencing including material type; and any signs.
- i. Architectural renderings and specifications for exterior wall finishes and percentages proposed for all principal and accessory structures that comply with Section 1207.014.
- j. Colored site plan and elevations.
- k. A utility plan showing all existing and proposed water, sanitary sewer and stormwater management utilities needed up to two hundred feet (200') beyond the project area boundary.
- l. A grading plan with topographic data for two hundred feet (200') around the subject property or around major features with intervals not exceeding two feet (2') except where the horizontal contour interval is one hundred feet (100') or more in which case a one-foot vertical interval shall be shown. All proposed stormwater management facilities, roadway gradients and spot elevations on parking lots and curb lines must also be shown on the grading plan.
- m. Ingress and egress to property and proposed structures thereon and with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control and access.
- n. Screening and buffering with reference to type, dimensions and purpose that complies with Section 1207.06.
- o. Exterior lighting plans showing proposed exterior lighting and signs with reference to fixture types, height including base, glare, traffic safety, lumen levels at all property lines, and compatibility and harmony with properties in the district that comply with Section 1207.02.
- p. Landscape plan showing quantities, size, common and botanical names, mature heights and spreads, root type and locations of plants and areas of sod that complies with Section 1207.05.
- q. Stormwater management analysis, if required.
- r. A tree preservation plan that complies with Section 1207.07, if required.
- s. Locations of trash enclosures (Section 1206.02D.6.a.), outside mechanical equipment (Section 1206.02D.8.) and signage (Chapter 1005), if applicable.

- t. Such other information as required by the Enforcement Official.
- D. Administrative Approval. The site plans for certain projects, including but not limited to those types of projects listed below, may be reviewed and approved administratively by the Enforcement Official in coordination with the City's other departments and any relevant regulatory agencies, however, the Enforcement Official may, at their discretion, refer any site plan to the Planning Commission and City Council for review:
- 1. Proposed minor structural additions involving either up to ten percent (10%) or less of the total existing floor area or site expansions or modifications involving ten percent (10%) or less of the total existing site area which meet all ordinance requirements may be approved by the Enforcement Official prior to the building permit being issued, and shall not require Planning Commission or City Council review, subject to the following rules:
 - a. This Section shall apply to all nonresidential and institutional uses which are subject to the site plan approval requirements of the Zoning Code.
 - b. This Section shall apply in the cases of new developments which have received City Council plan approval, but for which building permits have yet to be taken; and this Section shall apply to existing developments for which there are on file City Council approved site plans.
 - c. Compliance with all ordinance requirements shall be construed to include all adopted policies and codes.
 - d. Unresolved disputes as to administrative application of ordinance requirements shall be referred to the Planning Commission and City Council following normal plan review and approval procedures.
 - e. Plans submitted for minor structural additions or minor site alterations under the terms of this Section shall be the same as those required by the ordinance for site plan approval.
- E. Lapse. Lapse of approval is governed by City Code Section 1203.09.

1203.05 VARIANCES:

- A. Purpose. The purpose of the variance is to allow variation from the strict application of the terms of this Ordinance where, by reason of the exceptional physical characteristics of the property, the literal enforcement of the requirements of this Ordinance would cause practical difficulties for the landowner.

B. General provisions. In no case may a variance be granted to permit a use other than a use permitted in the district.

C. Procedures. The procedure for variance review is as follows:

1. The property owner or the owner's agent shall meet with the Enforcement Official to be advised of the procedures and obtain an application form.
2. The applicant shall file the completed application form together with the required exhibits and fees pursuant to Section 1203.013 with the Enforcement Official.
3. The Enforcement Official shall submit the application to the Planning Commission for its review, comment and recommendation to the City Council.
4. The City shall hold a public hearing on the application pursuant to Section 1203.03.
5. The City Council shall, after receipt of the report of the Planning Commission, either approve or deny the application, within the timeframe established by Section 1203.02. Denial must comply with the requirements of Section 1203.08.
6. The City Council may impose such restrictions or conditions as may be necessary to comply with the standards established by this Ordinance, or to reduce or minimize the impacts upon other properties in the neighborhood and to better carry out the intent of the Comprehensive Plan and the Zoning Code. Any condition must be directly related to and must bear a rough proportionality to the impact created by the application.

D. Required variance information and materials. The following information and materials shall be required for the application:

1. A complete application form signed by all property owners.
2. All required fees and escrows.
3. A statement identifying all property owners of all land included within the proposal and a list of property owners' names and addresses within five hundred feet (500') of the outer boundaries of the property obtained from Dakota County or a title or abstract company.
4. Accurate and to-scale development plans for the project area, the number of which to be provided as indicated on the application form, including the following minimum information:

- a. North point and graphic engineering scale.
 - b. Locations and dimensions for existing and/or proposed buildings or other structure(s); setbacks; walkways and bikeways; off-street parking and driveways; refuse and service areas including screening materials; any fencing including material type; and any signs.
- 5. Such other information as required by the City.
- E. Findings. A variance may be granted only when all of the following conditions are found:
 - 1. The variance is in harmony with the general purposes and intent of this Ordinance.
 - 2. The variance is consistent with the Comprehensive Plan.
 - 3. The applicant for the variance establishes that there are practical difficulties in complying with this Ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that all of the following must be found to apply:
 - a. The property owner proposes to use the land in a reasonable manner for a use permitted in the zone where the land is located, but the proposal is not permitted by other official controls;
 - b. The plight of the landowner is due to circumstances unique to the property and that are not created by the landowner; and
 - c. The variance, if granted, will not alter the essential character of the neighborhood.
- F. Economic considerations alone do not constitute practical difficulties. Nonconforming uses, land, structures or buildings in the same district or other districts may not be the only consideration for issuance of a variance.
- G. Precedents. A previous variance must not be considered to have set a precedent for the granting of further variances. Each case must be considered on its merits.
- H. Lapse. Lapse of approval is governed by Section 1203.09.

1203.06 TEXT AND MAP AMENDMENTS:

The City Council may adopt amendments to this Ordinance and the zoning map in relation both to land uses within a particular district or to the location of the district line. Such amendments shall not be issued indiscriminately but shall only be used as a means to reflect

changes in the goals and policies of the City as reflected in the Comprehensive Plan. Amendments must be adopted by a majority vote of the City Council. The adoption or amendment of any portion of a Zoning Code which changes all or part of the existing classification of a zoning district from residential to either a commercial or an industrial district requires a two-thirds majority vote of the City Council.

A. There are the following kinds of amendments:

1. A change in a district's boundary (rezoning).
2. A change in a district's regulations.
3. A change in any other provision of this Ordinance.

B. Proceedings for amending this Ordinance shall be initiated by at least one (1) of the following methods:

1. By action of the Enforcement Official.
2. By petition of an owner of property which is proposed to be rezoned or for which district regulation changes are proposed.
3. By action of the City Council.

C. Amendments initiated by property owners. Procedures. The procedure for amendments is as follows:

1. The property owner or the owner's agent shall meet with the Enforcement Official to be advised of the procedures and obtain an application form.
2. The applicant shall file the completed application form together with the required exhibits and fees pursuant to Section 1203.013 with the Enforcement Official.
3. The Enforcement Official shall submit the application to the Planning Commission for its review, comment and recommendation to the City Council.
4. The City shall hold a public hearing on the application pursuant to Section 1203.03.
5. The City Council shall, after receipt of the report of the Planning Commission, either approve or deny the application, within the timeframe established by Section 1203.02. Denial must comply with the requirements of Section 1203.08.

6. The City Council may impose such restrictions or conditions as may be necessary to comply with the standards established by this Ordinance, or to reduce or minimize the impacts upon other properties in the neighborhood and to better carry out the intent of the Comprehensive Plan and the Zoning Code. Any condition must be directly related to and must bear a rough proportionality to the impact created by the application.
- D. Required application information and materials. The following information and materials shall be required for the application:
1. A complete application form signed by all property owners.
 2. All required fees and escrows.
 3. A statement identifying all property owners of all land included within the proposal and a list of property owners' names and addresses within five hundred feet (500') of the outer boundaries of the property obtained from Dakota County or a title or abstract company.
 4. A written statement that explains the request, including the section of the Zoning Code for which an amendment is requested as well as suggested language for the amendment. If applying for a rezoning, the request should describe the current and proposed zoning classification along with reasons supporting the proposed change. For the City Council to adopt a Zoning Code amendment or rezoning, it needs to be consistent with the City's Comprehensive Plan. The written statement should address the request's consistency with the Comprehensive Plan or a proposed amendment to the Comprehensive Plan.
 5. An accurate boundary survey and conceptual development plan for the area proposed to be rezoned.
 6. Any other information identified by the Enforcement Official as required by state statute or necessary to review the proposal for consistency with the City's Comprehensive Plan for, but not limited to, environmental review, traffic impact study, future roadway layout, stormwater analysis, utility and grading plans and/or concept platting.
- E. Amendments initiated by the Enforcement Official or City Council. The following is the procedure for initiating an amendment based upon a recommendation by the Enforcement Official or City Council:
1. The Enforcement Official may initiate a study on a proposed ordinance amendment and report its findings and recommendations to the City Council.

2. Amendments initiated by the Enforcement Official or City Council shall be referred to the Planning Commission for review and recommendation to the City Council.
3. The City shall hold a public hearing on the application pursuant to Section 1203.03.
4. The City Council shall, after receipt of the report of the Planning Commission, either approve or deny the proposed amendment or rezoning. Denial must comply with the requirements of Section 1203.08.

1203.07 CONDITIONAL USE PERMITS:

- A. Purpose. The purpose of a conditional use permit is to authorize and regulate uses which may be beneficial in a specific instance to the general welfare of the community yet ensure that such uses are not detrimental to surrounding property and are consistent with the stated purpose of the zoning district in which such uses are located regarding conditions of operation, location, arrangement, and construction.
- B. Procedures. The procedure for conditional use permits is as follows:
 1. The property owner or the owner's agent shall meet with the Enforcement Official to be advised of the procedures and obtain an application form.
 2. The applicant shall file the completed application form together with the required exhibits and fees pursuant to Section 1203.013 with the Enforcement Official.
 3. The Enforcement Official shall submit the application to the Planning Commission for its review, comment and recommendation to the City Council.
 4. The City shall hold a public hearing on the application pursuant to City Code Section 1203.03.
 5. The City Council shall, after receipt of the report of the Planning Commission, either approve or deny the application, within the timeframe established by Section 1203.02. Denial must comply with the requirements of Section 1203.08.
 6. The City Council may impose such restrictions or conditions as may be necessary to comply with the standards established by this Ordinance, or to reduce or minimize the impacts upon other properties in the neighborhood and to better carry out the intent of the Comprehensive Plan and the Zoning Code. Any condition must be directly related to and must bear a rough proportionality to the impact created by the application.
- C. Required application information and materials. The following information and materials shall be required for the application:

1. A complete application form signed by all property owners.
2. All required fees and escrows.
3. A statement identifying all property owners of all land included within the proposal and a list of property owners' names and addresses within five hundred feet (500') of the outer boundaries of the property obtained from Dakota County or a title or abstract company.
4. The application shall include a written description of the request including an explanation of compliance with the conditional use permit criteria set forth in this Chapter, together with detailed graphic materials, the number, size, and format as prescribed by the Enforcement Official, fully explaining the proposed change, development, or use.
5. A copy of any approved site plan for the property or an "as built" survey which accurately represents existing conditions on the site, including entrances and exits, bona fide parking and driving areas, and which accurately indicates any proposed temporary structures, including tents, stands, and signs.
6. An accurate floor plan, when in the judgment of the Enforcement Official, such plan is necessary.
7. Other information deemed necessary by the Enforcement Official during the review process.

D. Findings

1. The Planning Commission and City Council may consider the following factors when reviewing a conditional use permit application:
 - a. Compliance with and effect upon the Comprehensive Plan, including public facilities and capital improvement plans.
 - b. The establishment, maintenance or operation of the conditional use will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort.
 - c. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

- d. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
 - e. Adequate public facilities and services are available or can be reasonably provided to accommodate the use which is proposed.
 - f. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.
 - g. The conditional use complies with the general and specific performance standards as specified by the Zoning Code.
- E. City staff may request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant deemed necessary to establish performance conditions in relation to all pertinent sections of this Ordinance.
- F. General Performance Standards. As may be applicable, the evaluation of any proposed conditional use permit request shall be subject to and include, but not limited to, the following general performance standards and criteria:
- 1. Consistency with the Comprehensive Plan. The proposed use shall be consistent with the Comprehensive Plan.
 - 2. Health and Safety. The proposed use shall not negatively impact the health, safety and general welfare of occupants of surrounding lands.
 - 3. Public Infrastructure Services. Adequate public facilities and services shall be able to be provided to the site where the use is proposed, and/or existing infrastructure shall be able to absorb the additional demand for public services such as utilities, streets, parks, schools, etc.
 - 4. Screening and Landscaping. Incompatible impacts of the proposed use shall be screened and buffered from adjacent property and the surrounding neighborhood. The City Council may require additional landscaping or screening above that required in the Zoning Code.
 - 5. Architectural Standards. The site or building associated with the proposed use meets or exceeds the architectural design and landscaping standards for the district in which it is located. The City Council may require additional architectural standards above those required in the Zoning Code.

6. Zoning. The use is consistent with the purposes of the Zoning Code and the purposes of the zoning district in which the applicant intends to locate the proposed use.
7. Traffic. The generation and characteristics of the traffic associated with the use and its impact on traffic volumes and safety associated with driveway locations, existing and proposed capacity on adjacent roads, sidewalks and trail connections can be adequately mitigated.

G. Lapse. Lapse of approval is governed by City Code Section 1203.09.

1203.08 DENIAL:

The City Council may deny an application upon legally sufficient reasons with a factual basis, which must be stated on the record and written finding of which must be provided to the applicant. If a motion to approve fails, it is deemed denied and a subsequent motion to deny must be made. The written findings for denial may be adopted at the next subsequent meeting following the hearing and must be adopted pursuant to the timeframe required by Section 1203.02. No application which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of the order of denial, except on grounds of new evidence or proof of changes of conditions found to be valid by the Enforcement Official.

1203.09 LAPSE:

Approval of a site plan, variance, administrative permit, and conditional use permit shall lapse and become null and void one (1) year following the date on which the approval was granted, unless prior to the expiration of the one (1) year the work or improvement described in the approval is commenced and diligently pursued on the subject site. The City Council may grant an extension for good cause.

1203.10 APPEALS:

- A. City Council as Board of Appeals and Adjustments; Authority: The City Council shall act as the Board of Appeals and Adjustments and shall determine, in harmony with the general purpose of this title and the Comprehensive Plan, by resolution, all appeals from any order, requirement, permit or decision made by the Enforcement Official under this Ordinance, and from any interpretation of the text of this Ordinance, or any determination by the Enforcement Official as to the location of the boundary of a zoning district as shown on the zoning map.
- B. Filing of Appeal: Within ten (10) business days after a decision of the Enforcement Official under the provisions of this Ordinance, except in connection with prosecutions for violations thereof, the applicant or other person or officers of the City affected thereby may appeal by filing a written notice to the City Clerk, stating the specific grounds upon which the appeal is made.

- C. Board Hearing; Notice: The City Council, as the Board of Appeals and Adjustments, may conduct such hearings and shall afford the applicant an opportunity to present evidence, testimony and witnesses. The City Council shall render a decision to uphold or overturn the decision of the Enforcement Official. The decision of the City Council shall be final.

1203.11 REVOCATION:

The City Council may hold a hearing to consider the revocation of any site plan, conditional use permit, administrative permit approval, interim use permit or variance upon a determination and recommendation from the Enforcement Official that the authorized use is not in conformance with the conditions of approval or is in continued violation of City Codes or other applicable regulations. The Enforcement Official shall notify the responsible person to whom the permit was issued or to the current property owner that they have an opportunity to show cause, present evidence, testimony and witnesses before the City Council at a hearing as to why the permit, resolution or approval should not be revoked. The City Council will conduct a hearing and determine whether or not the permit, resolution or approval should be revoked. The decision of the City Council shall be final.

1203.12 AMENDMENT TO APPROVED APPLICATION:

Holders of any site plan, conditional use permit, administrative permit approval, interim use permit or variance may propose amendments to the permit at any time, following the procedures for a new application as set forth in this Chapter. No significant changes in the circumstances or scope of the use shall be undertaken without review by the Planning Commission and approval by the City Council. The Enforcement Official shall determine what constitutes a significant change and may administratively approve insignificant changes. Significant changes include, but are not limited to, hours of operation, number of employees, expansion of structures and/or premises, different and/or additional signage, and operational modifications resulting in increased external activities and traffic, and the like. The Planning Commission may recommend, and the City Council may approve significant changes and modifications to a site plan, conditional use permit, administrative permit, interim use permit or variance, including additional or revised conditions.

1203.13 ZONING APPLICATION FEES; DEPOSITS:

- A. Generally. The application fees and escrow fees to be paid for each zoning application shall be adopted by the City Council and are codified in City Code Section 202.03. All fees must be paid at the time applications are submitted to the Enforcement Official or the application will be deemed incomplete. Fees shall include application fees, filing fees, consultant, legal, planning and engineering fees and/or escrow fees.
1. The application fee is non-refundable unless the application is withdrawn prior to legal publication and notice. Upon legal publication of the notice, even if the application is subsequently withdrawn, the application fee is non-refundable.

2. There shall be no fee in the case of applications filed in the public interest by City Council or by the Planning Commission.
 3. Upon completion or withdrawal of any application, except for a withdrawal noted above, any unpaid balance due related to the application shall be considered delinquent and any building permits, certificates of occupancy or subsequent land use applications made by the same applicant or for the same property, may be withheld until the balance is paid.
- B. Escrow payment. Applicants shall be required to pay a cash escrow fee as required upon submission of the application. The escrow fee shall be used to pay any outside expenses and fees incurred by the City, including, but not limited to consultants, attorneys, planning and engineering fees or other expenses due to the application.
1. If, at any time, the balance in the cash escrow account is depleted to less than ten percent (10%) of the originally required cash escrow amount, the applicant shall deposit additional funds in the cash escrow account as determined by the Enforcement Official.
 2. All expenses and fees incurred by the City in excess of the escrow deposit, shall be paid by the applicant to the City within thirty (30) days of final action on the matter by the City. If not paid within thirty (30) days, the account shall be deemed delinquent.
 3. Any balance remaining in the cash escrow account upon completion of the process or if the application is withdrawn prior to completion, shall be returned to the applicant after all expenses and fees thereto have been deducted.

1203.14 PENALTIES AND ENFORCEMENT

- A. Penalty. Any person violating any provision of this Ordinance is guilty of a misdemeanor and shall, upon conviction, be subject to fine or imprisonment, or both plus, in either case, the cost of prosecution. Each day such violation continued or occurs constitutes a separate offense and may be prosecuted as such.
- B. Enforcement: Nothing herein contained shall prevent the City from taking any other appropriate actions or proceedings against a violator as provided by law or City Code to prevent or remedy the violation or penalize the violator.

CHAPTER 1204

GENERAL DISTRICT PROVISIONS

1204.01 ESTABLISHMENT OF DISTRICTS:

The zoning districts are designed to assist in carrying out the intent and purpose of the Comprehensive Plan and are based upon the Comprehensive Plan which has the purpose of protecting the public health, safety, convenience and general welfare. For the purposes of this Ordinance, the City of Sunfish Lake is hereby divided into the following zoning districts:

<i>Symbols</i>	<i>Names</i>
R-1	Single-Family
INS	Institutional
SOD	Shoreland Overlay District

1204.02 ZONING MAP:

- A. The location and boundaries of the districts established by this Ordinance are set forth on the official zoning map which is hereby incorporated as part of this Ordinance, and which is on file with the City Administrator/City Clerk.
- B. District boundary lines recorded on the City zoning map are intended to follow lot lines, the center lines of streets or alleys, the center lines of streets or alleys projected, or the corporate limit lines as they exist at the time of the enactment of this Ordinance.
- C. Whenever any street, alley, or other public way is vacated, the zoning district adjoining that of such vacated street, alley or public way, shall automatically be extended to the center of such vacated area and all area included therein shall be then and hence forth subject to all of the regulations of the extended district.
- D. All territory which may hereafter be annexed to the City shall be considered zoned in the same manner as contiguous territory inside the previous City limits unless otherwise classified.
- E. It shall be the responsibility of the City Planner to maintain and amend said zoning map. The City Planner shall make, or cause to have made, any corrections or amendments to said map after all of the procedures outlined in this Ordinance for the making of such revisions or amendments shall have been followed by the City Council.
- F. The copy of the official zoning map shall be kept on file at the City.

- G. Appeals concerning the exact location of a zoning district boundary line shall be heard by the City Council serving as the Board of Adjustment and Appeals.
- H. All areas within the corporation limits of the City which are under water and which are not shown as included within any zone shall be subject to all regulations of the zone which immediately adjoining such water area. If such water area adjoins two (2) or more zones, the boundaries of each zone shall be construed to be extended into the water area in a straight line until they meet the other district at the half-way point and/or to the corporation limits.

1204.03 EXEMPTIONS:

The following essential services are permitted in any district: the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies of systems, including gas, electrical, steam or water transmission or distribution systems; collection, communication systems, including communication equipment facilities, supply or disposal systems; elevated and underground water storage tanks; poles, wires, mains, drains, sewers, pipes, conduits, cables; fire alarm boxes, police call boxes; traffic signals, hydrants, and other similar equipment and accessories in connection therewith, including city parks; reasonably necessary for the furnishing of adequate service of such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

CHAPTER 1205

SINGLE-FAMILY RESIDENTIAL DISTRICT (R-1)

1205.01 INTENT:

A. Permitted Uses.

1. Single-family detached dwelling with attached garages.
2. State licensed residential facilities, including assisted living facilities under Minnesota Statute 144G, serving six (6) or fewer persons, a licensed day care facility serving twelve (12) or fewer persons and a group family day care facility under Minnesota Rules, Subp. 9502.0315 to 9502.0445 serving fourteen (14) or fewer children.
3. Attached Accessory Dwelling Units as regulated in Section 1207.012.
4. Garage sales or sales of household items subject to the following:
 - a. Sales shall last no longer than three (3) days and sales of individual household items shall last no longer than fifteen (15) days.
 - b. Sales are held no more than twice yearly.
 - c. Sales are conducted on the owner's property. Multiple family sales are permitted if they are held on the property of one (1) of the participants.
 - d. No goods purchased for resale may be offered for sale.
 - e. No consignment goods may be offered for sale.
 - f. All directional and advertising signs shall be free standing, no larger than two (2) feet by three (3) feet, must be placed on private property with the property owner's permission, and must be removed immediately after completion of the sale.

B. Accessory Uses.

1. Up to two (2) detached garages/accessory buildings.
2. Home occupations that comply with Performance Standards in Section 1207.08.

3. Private recreational facilities, including but not limited to tennis courts, swimming pools, and sport activity areas, as long as it is accessory to a principal permitted use on the same lot for the enjoyment and convenience of the residents of the principal use and their occasional guests, it complies with the lighting requirements in Section 1207.02, and it complies with Accessory Structures in Section 1207.014.
4. One (1) radio, television, communications, internet antenna and satellite dish, as long as it is one (1) meter or less in diameter and complies with Section 1207.011.
5. Roof-mounted solar systems as regulated in Section 1207.013.

C. Conditional Uses.

1. Home occupations that do not comply with Section 1207.08.
2. More than two (2) but no more than four (4) detached garages/accessory structures.
3. More than one (1) radio, television, communications, internet antenna or satellite dishes (or combination thereof), or antenna that are more than one (1) meter in diameter.
4. Ground-mounted solar energy systems as regulated in Section 1207.013.
5. Free standing communication towers, as regulated in Section 1207.011.

D. R-1 Performance Standards

1. Setbacks.

<i>Building Setback (Principal)</i>		<i>Building Setback (Garages/Accessory Structures)</i>
Front	100 feet	100 feet
Rear	50 feet	25 feet
Side	50 feet adjacent to side lot line and 100 feet for corner lot adjacent to public right-of-way or private shared access drive	25 feet adjacent to side lot line and 100 feet for corner lot adjacent to public right-of-way or private shared access driveway

- a. Garages/accessory structures less than two hundred (200) square feet are exempt from rear and side yard setback requirements.
- b. On a through lot, both street lines shall be front lot lines when applying the yard setback regulations of this chapter.

2. Lot Size.

Minimum Lot Area	2 ½ Acres of Net Area
Minimum Lot Width	200 feet as measured at the front yard setback line

3. Building Height. The maximum building height of any structure shall not exceed two and one-half (2 ½) stories or thirty (30) feet, whichever is less.

4. Garages and Accessory Structures.

- a. All single-family dwellings are required to have at least one (1) attached or detached garage of a minimum size of four hundred (400) square feet, with no dimension less than twenty feet (20').
- b. Garages and Accessory Structures must comply with Section 1207.014.

5. Single-family dwellings, principal structure.

- a. The minimum finished first floor area shall be as follows:
 - i. Without basement: 1,500 square feet.
 - ii. With basement: 1,000 square feet.
- b. Residential dwellings must be constructed upon a contiguous perimeter foundation that meets City Code and Uniform Building Code requirements.
- c. The lower floor elevation of any structure shall be no lower than the Regulatory Flood Protection elevation or four feet (4'), whichever is greater.

6. Driveways. (This Section does not apply to private roads or shared driveways that serve two (2) or more properties.)

- a. Driveways shall not be closer than twenty-five feet (25') from the side or rear property line, as measured from the edge of the driveway that is

nearest the relevant property line. All driveways and approaches shall be hard surfaced using concrete, blacktop, or an equivalent hard surface approved by the City Engineer.

7. Architecture.

- a. The following building materials are allowed as exterior wall finishes on all principal and accessory buildings:
 - i. Brick
 - ii. Natural or cultured stone
 - iii. Glass
 - iv. Masonry stucco or EIFS
 - v. Cementitious siding
 - vi. Architectural metal
 - vii. Wood
 - viii. Vinyl
 - ix. Other comparable or superior material as approved by the City Planner.
- b. The architectural style and color of all garages/accessory structures shall be complementary to the principal structure.

CHAPTER 1206

INSTITUTIONAL DISTRICT (INS)

1206.01 INTENT:

The INS District is intended to provide a district for facilities devoted to serving the public. The district is unique in that the primary objective of uses is the provision of services, frequently on a non-profit basis, rather than the sale of goods or services. It is intended that uses within such a district will be compatible with adjoining development, and they normally will be located on an arterial street or thoroughfare.

1206.02 USES:

A. Permitted Uses.

1. Places of worship.

B. Accessory Uses.

1. Off-street parking and loading areas.
2. One (1) radio, television, communications, internet antenna or satellite dish, as long as it is one (1) meter or less in diameter and complies with Section 1207.011.
3. Up to one (1) detached garage/accessory structure that complies with Accessory Structures, Section 1207.014.

C. Conditional Uses.

1. Free standing communication towers, as regulated in Section 1207.011.
2. Day care, social services, or other non-directly related worship type activities, which must be located inside the principal structure.
3. More than one (1) radio, television, communications, internet antenna or satellite dish, (or combination thereof), or antenna that are more than one (1) meter in diameter.
4. Ground-mounted solar energy systems as regulated in Section 1207.013.

D. Performance Standards.

1. Setbacks.

<i>Building Setback</i>		<i>Parking Setback</i>
Front	100 feet	50 feet
Rear	50 feet	25 feet
Side	50 feet adjacent to side lot line and 100 feet for corner lot adjacent to public right-of-way or private shared access drive	25 feet adjacent to side lot line and 50 feet for corner lot adjacent to public right-of-way or private shared access drive

2. Lot Size.

Minimum Lot Area	2 ½ Acres of Net Area
Lot Width	200 feet, as measured at the front yard setback line

3. Building Height. The building height of any structure shall not exceed two and one-half (2 ½) stories or thirty feet (30'), whichever is less.

4. Landscaping.

a. Landscaping must comply with Section 1207.05.

b. Underground irrigation shall be required for all yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved.

5. Screening. On a lot adjacent to a lot in a residential district, there all be an opaque screen made up of trees and/or berms and a six-foot-high solid fence which complies with Section 1207.06. All screening within thirty feet (30') of any driveway or street intersection shall not be over thirty-six inches (36") in height above the curb or center line of the street.

6. Storage.

a. Trash enclosures, except for individual containers for public use, shall be located in the side yards or rear yards when feasible. Trash enclosures may be located in the front yard subject to approval of the City Planner. Such facilities shall be constructed of masonry materials in colors complementary to the principal structure and have solid gates.

- b. No exterior storage of any materials is permitted. All personal property shall be enclosed in a building or structure.

7. Architecture.

- a. The following building materials are allowed as exterior wall finishes on all principal and accessory buildings.
 - i. Brick
 - ii. Natural or cultured stone
 - iii. Glas
 - iv. Masonry stucco or EIFS
 - v. Cementitious siding
 - vi. Architectural metal
 - vii. Wood
 - viii. Metal
 - ix. Vinyl
 - x. Other comparable or superior material as approved by the City Planner.
- b. Traffic Control. The traffic generated by any use shall be controlled in a manner that will avoid congestion on public streets, traffic hazards, and excessive traffic through residential areas, particularly truck traffic. The City may require a traffic study if deemed necessary by the City Engineer. Internal traffic shall be so regulated as to insure its safe and orderly flow. Traffic into and out of Institutional areas shall, to the extent possible, be forward moving with no backing into streets. On corner lots, no structure or other materials shall be placed within the intersection clear view triangle.
- c. Access Drives and Access.
 - i. A number and type of access drives onto arterial, collector, or local streets may be controlled and limited in the interest of public safety and efficient traffic flow.

- ii. Access drives onto county and state highways shall require a review by the county or state engineer who shall determine the appropriate location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.
- iii. Access drives to principal structures which traverse wooded, steep, or open fields, shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles.
- iv. All lots or parcels shall have an approved direct access for emergency service vehicles along the frontage of a lot or parcel from a publicly dedicated street.

8. Mechanical Equipment.

- a. All mechanical equipment, including rooftop equipment, shall be:
 - i. Screened from the eye level view of adjoining properties by use of fence or parapet wall(s);
 - ii. Painted to match or complement the building structure; or
 - iii. Incorporated into an architectural design, as approved by the City Planner.

CHAPTER 1207

PERFORMANCE STANDARDS

1207.01 INTENT:

These performance standards are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. These standards are also designed to preserve the quality of development and reduce negative impacts on surrounding properties. All future development in all districts shall be required to meet these standards. These standards shall also apply to existing developments where stated.

1207.02 LIGHTING:

- A. In the R-1 zoning district, all decorative or landscape lighting must be downcast style fixtures with a concealed or shielded light source to prevent glare or spill to adjacent right-of-way or properties.
- B. In the INS District, any lighting used to illuminate off-street parking and driving areas, signs, or structures, including lights on accessory structures, shall consist of downcast style fixtures with a concealed or shielded light source to prevent glare or spill to adjacent right-of-way or properties.
- C. Any pole-mounted lighting in all zoning districts shall not have pole heights exceeding twenty feet (20').
- D. No light or combination of lights that cast light upon a residential-zoned property shall exceed 0.4 foot-candle meter reading as measured at the residential property line. All measurements shall be made after dark at the property line or edge of roadway.
- E. Lights on private recreation facilities in the R-1 shall not be illuminated after 9 p.m. or before 8 a.m. Below ground pools may have in-pool lights for safety reasons.
- F. The City shall require a lighting plan to ensure compliance with the intent of this Section for all new construction, including single-family dwellings. Building permits shall not be approved until the lighting plan has been approved by the City Planner.

1207.03 LAND RECLAMATION/EARTH REMOVAL:

Earth removal, land reclamation, material storage or filling, shall be permitted in all zoning districts, on any lot or parcel except that it shall be unlawful for any person to remove, store, excavate, or place as fill any rock, sand, dirt, gravel, clay, or other like material within the City, in excess of one hundred (100) cubic yards without a grading permit from the City.

1207.04 LOT PROVISIONS:

- A. A legal non-conforming lot of record in the R-1 District, which does not meet the requirements of this chapter as to area or width may be utilized for single-family dwelling purposes.
- B. No more than one principal building shall be located on a lot.
- C. The required front yard of a corner lot shall not contain any wall, fence, or other structure, tree, shrub, or other growth, which may cause danger to traffic on a street or public road by obscuring the view. On corner lots, in any district, no structure or planting in excess of thirty inches (30") above the curb line shall be permitted within the clear view triangle. At driveway entrances, site obstructions will be reviewed for safety as part of the site plan review process.
- D. All setbacks shall be measured from the property line.

1207.05 LANDSCAPING:

- A. All permits for exterior building construction, including new building additions, shall include a complete landscape plan. The landscape plan should be submitted with the building permit or site plan.
- B. Detailed landscape plans shall include the following information:
 - 1. General. Name and address of developer/owner, name and address of architect/designer, date of plan preparation, date and description of all revisions, name of project or development, scale of plan, north point indication.
 - 2. Site analysis should include property lines with dimensions based upon certified survey, name and alignment of proposed and existing adjacent on-site streets, location of all proposed utility easements and right-of-way, location of existing and proposed buildings, topographic contours at two-foot contour intervals, location of parking areas, water bodies, proposed sidewalks, and percent of site not covered by structures.
 - 3. Landscape data. A planting schedule table shall contain the following information including symbols, quantities, common names, botanical names, size of plant materials, root specifications, and special planting instructions.
 - 4. Typical sections and details of fences, retaining walls, berms, and other landscape improvements.

5. Typical sections of landscape islands and planter beds with identification of materials used.
6. Details of planting beds and foundation plantings.
7. Delineation of both sodded and seeded areas indicated in square footage.
8. Where landscape or manmade materials are used to provide required screening from adjacent and neighboring properties, a cross section shall be provided at a legible scale illustrating the prospective of the site from the neighboring property and property line elevation.

C. Minimum number of plant materials required for new construction, including exterior additions in the Institutional (INS) District are as follows:

1. One (1) overstory deciduous shade tree for every two thousand (2,000) square feet of building footprint or one (1) tree for every one hundred feet (100') of site perimeter, whichever is greater.
2. One (1) coniferous tree for every two thousand (2,000) square feet of building footprint or one (1) coniferous tree for every two hundred feet (200') of site perimeter, whichever is greater.
3. One (1) understory shrub for every three hundred (300) square feet of building footprint or one (1) shrub for every thirty feet (30') of site perimeter, whichever is greater.
4. One (1) ornamental tree for every two thousand (2,000) square feet of building footprint or one (1) ornamental tree for every two hundred feet (200') of site perimeter, whichever is greater.
5. A variety of species shall be provided. Spacing and species of trees and shrubs are subject to approval of the City Forester.

D. Minimum size of plantings:

- | | |
|------------------------|------------------------------|
| 1. Overstory deciduous | Two-inch (2") caliper |
| 2. Coniferous | Six feet (6') in height |
| 3. Shrubs | Twenty-four-inch (24") (pot) |

4. Ornamental trees

Two-inch (2") caliper

In the event a site plan layout does not have adequate open space to accommodate plant quantities per Section 1207.05.C, such quantities per species can be combined into less quantities per species, provided total required height or caliper is maintained.

- E. Trees planted in accordance with a required landscape plan shall not be removed without the approval of the City Forester.
- F. Sodding and ground cover. All open areas of any site not occupied by building, parking, or storage, shall be sodded over four inches (4") of topsoil. Exceptions are as follows:
 - 1. Seeding over four inches (4") of topsoil of future expansion areas as shown on approved plans.
 - 2. Undisturbed areas containing existing natural vegetation which can be maintained free of foreign and noxious materials.
 - 3. Areas designated as open space for future expansion area properly planted and maintained with grass.
- G. Slopes and berms.
 - 1. Final slope grade steeper than the ratio of 3:1 will not be permitted without special approval or treatment, such as terracing or retaining walls.
 - 2. Berming used to provide required screening shall not have a slope to exceed 3:1.
- H. Tree Preservation and Credit Policy. It is the policy of the City with respect to specific site development to retain, as far as practical, existing trees which should be incorporated into the site. Credit for retention of existing trees which are of the acceptable minimum size, species, and location, may be given to satisfy the minimum number of requirements. Replacement trees required by a tree preservation plan will be credited to the landscape requirements.
- I. Use of Landscaping for Screening. Where natural materials such as trees are approved as required screening, density and species of planting shall be such to achieve opaqueness year-round and must be approved by the City Forester.

- J. Maintenance Policy. It is the responsibility of the property owner to ensure that the landscaping is maintained in an attractive condition. The owner shall replace any damaged or dead trees, shrubs, ground covers, and sodding.
- K. Erosion Control. All open disturbed areas of any site shall be seeded as an erosion control measure in accordance with the provisions of Section 1207.05.F.
- L. Preservation of Shoreland, Wetland, and Marsh Areas. A protective buffer strip of natural vegetation of at least fifteen feet (15'), with an average width of twenty-five feet (25'), shall surround all wetlands.

1207.06 FENCES, RETAINING WALLS, SCREENING AND SECURITY GATES:

A. General Requirements for All Types of Fences or Retaining Walls.

1. Fences are allowed in any zoning district, subject to the provisions of this Chapter and after obtaining a building permit.
2. All parts of a fence shall be on the property of the owner of the fence and shall be located a minimum of three feet (3') from the property line. The owner of a fence is responsible to verify the location of their property lines.
3. Every fence shall be constructed in a workmanlike manner and of substantial material reasonably suited to the purpose for which the fence is to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition which would constitute a public nuisance or a dangerous condition.
4. No fences or walls shall be placed on or extend into public rights-of-way.
5. The finished side of any fence or wall must face abutting property or street rights-of-way.
6. No fence or wall shall obstruct a motorist's or pedestrian's safe view from the driveway or street as determined by the City Engineer.
7. No fence or wall shall exceed six feet (6') in height along rear and side property lines or four feet (4') in the front yard.
8. Fences within fifteen feet (15') of the front property line must be less than thirty inches (30") above grade level.

B. Prohibited Fences in All Districts.

1. Fences using barbed and razor wire, board on board fences, chain link, fabric, tarp, sheet metal, rebar, cardboard, pallets, sticks, plywood, and similar temporary type materials as determined by the City Planner.
2. Fences located in the clear view triangle.

C. Retaining Walls.

1. Retaining wall materials shall be of industry accepted quality and standards so as to prevent unstable retaining walls.
2. Construction techniques shall be properly followed in order to prevent unstable retaining walls.
3. Retaining walls over four feet (4') in height must be designed by an engineer and be reviewed and approved by the Building Official.
4. Retaining walls over thirty inches (30") in height that are located in pedestrian traffic areas or within thirty-six inches (36") of a public sidewalk or trail shall be completely fenced along the top edge with a permanent fencing material.

D. Security gates and other gates which limit vehicular access to a property:

1. The gate can be no higher than six feet (6') and no wider than twenty-four feet (24') including all support structures or aesthetic features.
2. The gate design and materials must comply with Section 1207.06.A.3. and be reflective of the style/architectural integrity of the residence. Gates may not be constructed of more than fifty percent (50%) solid matter.
3. Provision for emergency vehicle access to the property shall be arranged with the police, fire, and ambulance providers.

1207.07 TREE PRESERVATION:

A. Standards of Preservation During Construction or Grading.

1. Intent. Developments, structures, utilities, and all other site activities must be designed, installed, and constructed so that the maximum number of trees are preserved on all lots or parcels.

2. Tree Preservation Plan Required. To minimize tree loss and to mitigate tree removal on wooded lots or parcels with trees, a tree preservation plan must be submitted for approval along with application for any excavation permit, grading permit, building permit, conditional use permit, site plan or plat approval. All site activity associated with the proposed permit or plat must comply with the approved tree preservation plan.
3. Replacement.
 - a. General. All significant trees removed or damaged through activities described in Section 1207.07.A. and B. must be replaced on-site with approval of the City Forester, or in the form of payment of a fee to the City reforestation fund in an amount established by the City Council.
 - b. In all zoning districts, it shall be required that significant trees removed shall be replaced on a 1:1 basis. The removal of trees on public right-of-way and conducted by or on behalf of a governmental agency in pursuance of its lawful activities or functions, will be exempt from this replacement.
4. The Tree Preservation Plan. The tree preservation plan must be prepared by a registered architect, landscape architect, forester or certified arborist. The plan must include a scaled drawing or survey including the following information:
 - a. A tree inventory indicating size, species, location and condition of all significant trees and clumps of non-significant trees within the limits of the proposed activity; the location of existing and proposed structures, improvements, utilities and existing and proposed contours.
 - b. Specific disease control, if applicable, and protection techniques that will be utilized to minimize disturbance to all trees remaining on site.
 - c. A reforestation plan indicating size, species, location, and planting specifications of all street and yard trees and all replacement trees.
 - i. The reforestation plan shall utilize a variety of tree species with emphasis on native species when possible.
 - ii. Replacement trees shall be a minimum two inches (2") in diameter if deciduous, or six feet (6') in height if coniferous.
 - d. Financial Guarantee. All installations of trees required by the tree preservation plan or as a penalty for failing to comply with the tree

preservation ordinance or plan must be completed at the time of request for a Certificate of Occupancy if issued between May 15th and October 15th, unless dates have been modified by the City Forester to accommodate unseasonable weather. A Certificate of Occupancy requested after October 15th and before May 15th may be issued with a cash deposit submitted by the builder in an amount required by the City Forester to guarantee installation of landscaping. Property owners/contractors/developers required to install replacement trees because of unauthorized removal or disturbance of existing trees on undeveloped parcels must submit a cash deposit in an amount required by the City Forester to guarantee installation of landscaping.

5. Tree preservation plans must be approved by the City Forester.
6. Inspection and Enforcement. Prior to commencement of site grading or excavation, the site shall be staked and fenced for tree protection per the approved tree preservation plan. Construction activities shall cease until compliance with the tree preservation plan has been achieved.

B. Tree Removal on Lots without Construction or Grading Permits.

1. The number of significant trees removed from privately owned land shall be limited to two (2) significant trees per year, unless an approved Tree Removal and Replacement Plan has been obtained. Trees removed because they are an obstruction to traffic or power lines, or trees removed because they pose a hazard to structures or septic systems, shall be excluded from these requirements.
2. Tree removals exempt from tree replacement requirements include:
 - a. Shrubs, brush, buckthorn, invasive species;
 - b. Trees seriously damaged by storms, other catastrophic events or disease;
 - c. Trees with potential to cause serious damage as determined by the City Forester;
 - d. Invasive species.
3. Tree Removal and Replacement Plan. An approved Tree Removal and Replacement Plan will be required if more than two (2) significant trees per year are removed. At a minimum, the plan must include the following information:

- a. A scaled map designating all forested areas and existing and proposed uses of such areas.
- b. Location of all existing structures, roads, utilities, and driveways on the site.
- c. A written narrative describing specific activities and reasons for developing the plan, and how these actions and activities will affect the forest. Specific examples include but are not limited to better forest management (thinning or removal of dead or diseased trees), improved wildlife habitat, recreational use, outdoor education, and trails.
- d. Tree Replacement may also be required as part of the Tree Removal and Replacement Plan. Tree replacement, as outlined in Section 1207.07, shall be required if trees are removed without obtaining approval for a Tree Removal and Replacement Plan.
- e. Tree Removal and Replacement Plans must be approved by the City Forester.

1207.08 HOME OCCUPATIONS:

- A. Intent. In order to provide peace, quiet, and domestic tranquility within all residential neighborhoods, and in order to guarantee to all residents' freedom from excessive noise, excessive traffic, nuisance, fire hazard and other possible effects of commercial uses being conducted in residential areas.
- B. All home occupations that conform to the following standards may be conducted without a conditional use permit under this Ordinance:
 - 1. Permitted home occupations shall not be conducted in any building on the premises other than the building which is used by the occupant as the private dwelling.
 - 2. Home occupation may have one (1) wall sign per dwelling which may not exceed two and one-half (2 ½) square feet.
 - 3. There shall be no exterior, garage or accessory building storage of any materials including business equipment, merchandise, inventory or heavy equipment. Motor vehicles used in the home occupation must be stored inside.
 - 4. The area set aside for home occupations shall not exceed twenty-five percent (25%) of the total floor area of such residence.
 - 5. Permitted home occupations shall not include the employment of any person who does not reside on the premises.

6. The use of exterior mechanical equipment other than for what is customary for purely domestic or hobby purposes is prohibited.
7. Merchandise shall not be regularly or openly displayed or offered for sale within the residence.
8. The operation of any wholesale or retail business must be conducted entirely by mail, online or by occasional home invitation.
9. Any home occupation or activity which produces noise or obnoxious odors, vibrations, glare, fumes, fire hazard, or electric interference detectable to normal sensory perception beyond the property line is prohibited.
10. No more than one (1) truck that is no greater than 16,000 pounds GVW may be stored, operated or maintained as part of the home occupation.
11. A home occupation must normally involve fewer than four (4) customers entering daily.
12. Home occupation may be served by delivery trucks no larger than 20,000 pounds GVW.

C. Conditional Use Permits. All home occupations that do not conform to all of the standards in Section 1207.08.B. shall require a conditional use permit.

1207.09 PERMITTED ENCROACHMENTS – YARDS:

For the purpose of this Ordinance, the following shall be considered permitted encroachments within the yards indicated.

- A. Decks thirty inches (30") or greater in height and/or attached to the home; balconies; open terraces; marques; flues; sills; lintels; pilasters; cornices; gutters; open canopies; open porches not enclosed by walls, screens, windows, or doors; and awnings; are permitted to encroach by up to twenty-five percent (25%) of the required setbacks in the front, side, and rear yard.
- B. Unenclosed gazebos, covered shelters, recreation equipment, picnic tables, arbors, trellises, pergolas, outdoor living rooms, outdoor eating facilities, patios, pool deck surrounds and aprons, detached decks less than thirty inches (30") in height and laundry drying equipment located in the rear yard are permitted with a minimum 25-foot setback from the side and rear lot lines.
- C. Chimneys, flag poles, sidewalks, fences, landscaping, posts and similar amenities are permitted encroachments in any location.

- D. Cantilevers and window wells may encroach by up to two feet (2') of the required setback in the front, rear, and side yards.
- E. Encroachments in any yard that abut a public or private road, shall be considered as permitted encroachments, as outlined above, except that no encroachment shall be permitted within present or proposed street right-of-way lines.
- F. On corner lots in any district, encroachments are not permitted in excess of thirty inches (30") above the curb line in the clear view triangle.

1207.10 PARKING:

- A. Any nonconforming off-street parking space in connection with existing buildings or structures shall not be removed, enlarged, or altered, except in conformance with the requirements of this Section.
- B. In connection with any building or structure which is to be erected or substantially altered and which required off-street parking spaces, off-street parking spaces shall be provided in accordance with the following regulations. No change in use is permitted until the required number of parking stalls are furnished.
- C. The following requirements are designed to provide adequate off-street parking space for passenger automobiles in the INS (Institutional) District.

1. Size.

- a. Stall and aisle dimensions shall be constructed to the following minimum specifications listed below.

Parking Angle	Stall Width Including Striping	Stall Length of Line	Aisle Width
90 degrees	9 feet	18 feet	24 feet
60 degrees	9 feet	23 feet	15 feet
45 degrees	9 feet	25 feet	12 feet

- b. Accessible parking spaces shall meet the dimensional requirements of the Minnesota Accessibility Code.
- c. All off-street parking areas shall be striped between stalls. Directional rows shall be used on one-way traffic lanes.
- d. Traffic safety islands may be required to maintain a safe and orderly flow of traffic within the parking lot and/or driveways.

2. Access.

- a. Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to parking spaces.
- b. All off-street parking facilities shall be provided with appropriate means of vehicular access to a street or a driveway, in a manner which will least interfere with traffic movements.
- c. All parking areas shall have vehicular access to it by a street or driveway, containing all-weather, hard-surfaced pavement. No driveway access across public property, or at the curb line of a private road, shall have a width exceeding thirty feet (30').
- d. No motor vehicle repair work of any kind shall be permitted in parking lots.
- e. Design, Maintenance, and Installation. All open off-street parking areas or areas traveled by vehicles shall be of hard surface.
- f. Yards. Off-street parking and driveways shall not be permitted within any front yard, corner side yard, side yard, or rear yard minimum setbacks established for parking and driveways.
- g. Computation of Parking Spaces. When determination of the number of parking spaces required by ordinance results in a requirement of a fractional space, any fraction of one-half ($\frac{1}{2}$) or less may be dropped, while a fraction in excess of one-half ($\frac{1}{2}$) shall be counted as one (1) parking space.

D. Required Parking Spaces. Off-street parking spaces accessory to designated uses shall be provided as follows:

- 1. Single-family dwellings: At least two (2) parking spaces for each dwelling, which must comply with the following:
 - a. Parking and storage shall be limited to vehicles registered and licensed to the occupants of the dwelling unit and their guests only.
 - b. Parking or storage of passenger vehicles shall be on paved surfaces only.
 - c. Recreational vehicles, boats, truck toppers, and trailers must be parked in the rear yard on a paved or class 5 surface and are subject to the driveway setbacks. Collector vehicles parked on paved or class 5 surface for a maximum of two (2) years bearing collector vehicles license plates. The

two-year time frame will commence as soon as a collector vehicle has been observed and documented.

- d. Temporary parking for events for up to twelve (12) consecutive hours are exempt from these provisions.
2. Places of Worship: At least one (1) parking space for each four (4) seats in accordance with design capacity of the main auditorium.

1207.11 RADIO, TELEVISION, COMMUNICATIONS, AND INTERNET ANTENNAS AND FREE-STANDING TOWERS:

A. Radio, television, communications and internet antennas and support systems are allowed either as a permitted use or by conditional use permit, provided that the following conditions and provisions are met.

1. No antenna shall be located within the front yard.
2. Antennas attached or mounted to buildings shall comply with the requirements of the International Building Code as adopted, wind design of the State Building Code, and such compliance and method of attachment shall be certified by a registered state structural engineer.
3. The total area of the antenna shall not encompass more than 120 square feet.
4. The antenna shall be located and designed so as to minimize impact at street level from surrounding properties and public streets.
5. Free standing antennas, including those attached to buildings for additional support, shall be setback from the side and rear lot lines a distance at least equal to their height.
6. No signs, pictures, or messages shall be painted on or attached to any antennas.

B. Free standing communication towers are only allowed by conditional use permit and are subject to the following standards:

1. The applicant must hold an FCC license to operate the proposed communication system.
2. The applicant shall submit a study which demonstrates that colocation with existing facilities is not technically feasible.
3. All structures must be monopole design and constructed for co-location.

4. The applicant must provide proof that the construction and operation of the facilities will not interfere with reception and transmission of radio, television or other communication services of neighboring residential and non-residential properties.
5. The structures shall have no lighting other than what is required by the FAA, FCC, or other governmental bodies.
6. The structures shall have no signage except as required by state and federal regulations.
7. The structures shall not be multi-colored, and the color be of minimal visibility.
8. The structures shall be located in the rear yard of any property.
9. The structure shall not be located within the following distance of any residential structures:
 - a. Three hundred and fifty feet (350') for towers one hundred feet (100') in height or greater.
 - b. Three hundred feet (300') for towers greater than eighty feet (80') and less than one hundred feet (100').
 - c. Two hundred and fifty feet (250') for towers eighty feet (80') in height or less.
10. The height of any structure shall not exceed one hundred fifty feet (150').
11. The structures must be placed with a minimum setback from all lot lines equal to the height of the proposed structure, unless a qualified structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances. Towers may not be located within the building setback areas of the underlying zoning district.
12. The structure must be removed within twelve (12) months after terminating transmission from the facility.

C. Height Limitations.

1. Communication antennae attached to or on top of existing buildings or structures may exceed the height limitations of the district when the following standards are met:

- a. The applicant must hold an FCC license to operate the proposed communication system;
- b. Building-mounted antennas shall not extend more than ten feet (10') above the roof and must be setback at least five feet (5') from the roof edge; and
- c. Wall- or façade-mounted antennae shall not extend more than five feet (5') above the roof.

2. Height limitations shall not apply to church spires and flag poles.

1207.12 ACCESSORY DWELLING UNITS (ADUs):

Standards for attached ADUs are as follows:

- A. Allowed as a permitted use in the R-1 district when accessory to a single-family home.
- B. Must meet living space setbacks.
- C. No more than one (1) door may be located on the front façade of the home unless designed in a manner to minimize the visibility from the street of the second door, subject to City approval.
- D. Maximum size of fifty percent (50%) of the finished square footage of the primary residence or one thousand two hundred (1,200) square feet, whichever is less.
- E. The home and ADU are considered a two-family home for the purpose of application of the Minnesota Residential Code unless the home and the ADU are connected by a passageway at least forty inches (40") in width without a door.

1207.13 SOLAR ENERGY SYSTEMS:

A. Zoning Districts:

- 1. Roof-mounted solar energy systems in accordance with the standards in this Section are allowed as an accessory use in all zoning districts.
 - a. Visibility. Roof-mounted solar energy systems shall be designed to blend into the architecture of the building and shall be screened from view to the extent possible without impacting their function.
 - b. Height. Roof-mounted solar energy systems shall comply with the maximum height requirements in the applicable zoning district.

- c. Setbacks. Roof-mounted systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
 - d. Mounting. Roof-mounted solar collectors may be flush-mounted or bracket-mounted. Bracket-mounted and ballast-mounted collectors shall be permitted only when a determination is made by the Building Official that the underlying roof structure will support apparatus, wind, and snow loads and all applicable building standards are satisfied.
 - i. Roof- or building-mounted solar energy systems shall allow for adequate roof access to the south-facing or flat roof upon which the panels are mounted.
 - ii. Ground material solar energy systems shall allow for adequate roof access to the south-facing or flat roof upon which the panels are mounted.
- 2. Approvals required. No solar energy system shall be erected, altered, improved, reconstructed, maintained, or moved without obtaining a building permit.
- B. General Provisions. All solar energy systems within the City shall be subject to the following general provisions:
 - 1. Exemptions.
 - a. Passive or building-integrated solar energy systems are exempt from the requirements of this Section and shall be regulated as any other building element.
 - b. Ground-mounted solar systems that cover less than seventeen (17) square feet do not require a conditional use permit.
 - 2. Aesthetics. All solar energy systems shall minimize glare towards vehicular traffic and adjacent properties.
 - 3. Feeder Lines. The electrical collection system shall be placed underground within the interior of each parcel.
 - 4. Safety.

- a. Standards. All active solar energy systems shall meet the approval of the Building Official consistent with the State of Minnesota Building Code. Solar thermal systems shall further comply with HVAC-related requirements of the Energy Code.
 - b. Certification. The City reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.
- 5. Utility Connection. All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect shall be provided if required by the utility.
- 6. Abandonment. If a solar energy system remains nonfunctional or nonoperative for a continuous period of one (1) year, the system shall be deemed to be abandoned and shall constitute a public nuisance. The property owner shall remove the abandoned system and restore vegetation upon the site at his/her expense after a demolition permit has been obtained. Removal includes the entire structure including distribution equipment. If the property owner does not remove the abandoned system within thirty (30) days after the system becomes abandoned, the City shall send a written notice to the owner and direct the owner to remove the abandoned system. If the owner does not remove the abandoned system within ninety (90) days after the date of the written notice, the City shall have the power to abate the public nuisance as authorized by law.
- 7. Easements. Solar energy systems shall not encroach on public drainage, utility roadway or trail easements.
- C. Ground-Mounted Systems. Ground-mounted solar energy systems may be approved by conditional use permit in accordance with the following standards:
 - 1. Visibility. Ground-mounted solar energy systems are required to adhere to accessory screening requirements from adjacent properties and public rights-of-way. The system may not negatively impact views of abutting properties or serve to distract from the open natural setting of the community.
 - 2. Height. Ground-mounted solar energy systems shall not exceed twelve feet (12') in height when oriented at maximum tilt in all zoning districts.
 - 3. Setbacks. Ground-mounted solar energy systems shall comply with accessory structure setbacks in the applicable zoning district and may not extend into setbacks when oriented at minimum design tilt.

4. Location. Ground-mounted solar energy systems are not permitted in front yards.
5. Maximum Coverage. The surface area of pole or ground-mounted systems shall not exceed half the building footprint of the principal structure.

1207.14 ACCESSORY STRUCTURES:

In all zoning districts, accessory structures shall be subject to the following performance standards.

- A. Number of Accessory Structures. No more than four (4) accessory structures are allowed per property.
- B. Construction.
 1. Accessory structures shall not be taller than the principal structure.
 2. Accessory structures shall not be located in the front yard setback.
 3. Building permits are required for all permanent accessory structures over two hundred (200) square feet.
 4. Temporary accessory structures including tents that consist of metal or fiberglass poles, metal hoops and PVC, cotton or nylon fabric covering materials are prohibited except in conjunction with a special event.
 5. The exterior finishes of accessory structures sized less than two hundred (200) square feet shall be constructed of quality weather resistant materials.
 6. For accessory structures over two hundred (200) square feet, architectural materials shall comply with Section 1205.02.D.7 for the R-1 District and Section 1206.02.D.7 for the INS District.
 7. No accessory structures, primary or accessory garages shall be constructed on any lot prior to the construction of the principal structure.
 8. No tent, trailer, camper, motor home, storage container or accessory building or structure shall be used as a habitable building.
 9. Private recreational facilities and private dog kennels shall meet the accessory structure setbacks for the appropriate zoning district.
 10. Lighting of private recreational facilities shall comply with Section 1207.02.

11. No accessory structure shall be located on, over, or within a drainage and utility easement.

CHAPTER 1208

ENVIRONMENTAL STANDARDS

1208.01 SOIL EROSION AND SEDIMENTATION CONTROL:

A. Findings of Fact. It is hereby determined that:

1. Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition;
2. This stormwater runoff contributes to increased quantities of water-borne pollutants; and
3. Stormwater runoff, soil erosion and non-point source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

Therefore, the City of Sunfish Lake establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety. All new development and redevelopment shall conform to engineering specifications for site work and the natural limitations as presented by the topography and soil to create the best potential for preventing soil erosion.

B. Purpose. The purpose of this Section is to control and eliminate, to the greatest extent possible, stormwater pollution and soil erosion and sedimentation in order to protect and safeguard the general health, safety, and welfare of the public. It establishes standards and specifications for development and conservation practices and planning activities designed to:

1. Minimize increases in stormwater runoff from any new development or redevelopment in order to reduce flooding, siltation, streambank erosion and maintain the integrity of stream and ditch channels;
2. Minimize increases in non-point source pollution caused by stormwater runoff from new development or redevelopment which would otherwise degrade local water quality;

3. Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.
 4. Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.
- C. Scope. All public and private development and redevelopment projects, alterations, or improvements shall meet the requirements of this Section, the NPDES Construction Stormwater Permit (if applicable) and the rules of whichever Water Management Organization has jurisdiction on the subject property. Except where a variance is granted or ordinance does not require, any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing a land disturbance activity within the City shall apply to the City for project approval which shall include the following:
1. Grading, Erosion, and Sediment Control Plan;
 2. Stormwater Pollution Prevention Plan (SWPPP); and
 3. Stormwater Management Plan.
- No land shall be disturbed until the project is approved by the City, has received a watershed district permit, any other applicable permits, and conforms to the standards set forth herein.
- D. Abrogation and Greater Restrictions. This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section imposes greater restrictions, the provisions of this Section shall prevail. All other ordinances inconsistent with this Section are hereby repealed to the extent of the inconsistency only.
- E. Definitions. Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the same meaning as they have in common usage and to give this Section its most reasonable application. For the purpose of this Section, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

As used in this Section, the following words and terms shall have the meanings ascribed to them in this Section:

1. Bench: A relatively level step excavated into earth material on which fill is to be placed.
2. Best Management Practices (BMP): Erosion control, sediment control and water quality management practices that are most effective and practicable for means of controlling, preventing and reducing the degradation of surface water as published by state or designated area-wide planning agencies.
3. Borrow: Soil or other earth materials acquired from an off-site location for use in grading or filling on a site.
4. Buffer: See Section 1209.02.D.6.
5. Channel: A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
6. Clearing and Grubbing: The cutting and removal of trees, shrubs, bushes, windfalls and other vegetation including removal of stumps, roots and other remains in the designated areas.
7. Common Plan of Development or Sale: A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, or on different schedules, but under one (1) proposed plan. This item is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.
8. Detention Facility: A temporary or permanent natural or manmade structure that provides for the temporary storage of stormwater runoff.
9. Discharge: The release, conveyance, channeling, runoff or drainage of stormwater, including snowmelt, from a construction or development site.
10. Disturbed Ground: Any clearing, grading, excavating or other activity that removes vegetation and/or exposes or loosens the soil making it susceptible to erosion by wind, water, vehicular traffic or manmade activity.
11. Erosion: Any process that wears away the surface of land by the action of wind, water, ice, gravity, nature or manmade activities.
12. Erosion Control: Methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

13. Exposed Soil Areas: Areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surfaces have been removed, thus rendering the soil more prone to erosion. This includes topsoil stockpile areas; borrow areas and disposal areas within the construction site. It does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete or bituminous, which have less stringent protection requirements. Once soil is exposed, it is considered “exposed soil”, until it meets the definition of “final stabilization.”
14. Fill: A deposit of soil or other earth materials placed by artificial means.
15. Filter Strip: A vegetated section of land designed to treat runoff as overland sheet flow. It may be designed in any natural vegetated form from a grassy meadow to a small forest. The dense vegetated cover facilitates pollutant removal, reduces erosion and promotes infiltration.
16. Floodplain: The channel or beds proper and the areas adjoining a wetland, lake or watercourse that have been or hereafter may be covered by the regional flood.
17. Final Stabilization: Requires that all soil disturbing activities at the site have been completed, and all soils must be stabilized by a uniform perennial vegetative cover with a minimum density of seventy percent (70%) over the entire pervious surface area, or other equivalent means necessary to prevent soil failure under erosive conditions.
18. High Water Level: The expected elevation the water in a stormwater pond will rise to a 100-year rain event as calculated by the pond design.
19. Hydric Soils: Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper soil horizon.
20. Hydrologic Soil Group (HSG): A Natural Resource Conservation Service classification system in which soils are categorized into four (4) runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.
21. Impaired Waters: Water bodies that do not meet water quality standards and designated uses because of pollutant(s), pollution, or unknown causes of impairment.
22. Impervious Surface: See Section 1209.02.D.11.

23. Land Disturbance Activity: Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within this government's jurisdiction, including but not limited to construction, clearing and grubbing, grading, excavating, transporting and filling of land. Within the context of this Section, land disturbance activity does not mean:
- a. Minor land disturbance activities including, but not limited to, underground utility repairs, home gardens, home landscaping, minor repairs and maintenance work which do not disturb more than two thousand (2,000) square feet of land or exceed one hundred (100) cubic yards of earthwork provided work does not obstruct or modify a watercourse or storm sewer system and is not located in a floodplain;
 - b. Installation and maintenance of fences, signs, posts, poles, electric, telephone, cable television, utility lines or individual service connections to these utilities;
 - c. General farming practices; or
 - d. Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the City's requirements as soon as possible.
24. Native Vegetation: The pre-settlement (already existing in Minnesota at the time of statehood in 1858) group of plant species native to the local region, that were not introduced as a result of European settlement or subsequent human introduction.
25. Normal Water Level: The permanent pool of water retained in a stormwater pond. By design, this is the water level below the invert elevation of the pond outlet with a depth not to exceed eight feet (8').
26. Ordinary High-Water Level or OHWL: The boundary of water basins, watercourses, public waters, and public waters wetlands, and:
- a. The ordinary high-water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;

- b. For watercourses, the ordinary high-water level is the elevation of the top of the bank of the channel; and
 - c. For reservoirs and flowages, the ordinary high-water level is the operating elevation of the normal summer pool.
27. Outfall: The point of discharge to any watercourse from a public or private stormwater drainage system.
28. Permanent Cover: Examples include grass, gravel, asphalt and concrete. See also the definition of Final Stabilization.
29. Public Waters: See Section 1209.02.D.17.
30. Retention Facility: A temporary or permanent natural or manmade structure that provides for the storage of stormwater runoff by means of a permanent pool of water.
31. Runoff: Rainfall, snowmelt, dewatering discharge, irrigation or any man-made sources of water flowing over the ground surface.
32. Sediment: The product of an erosion process; solid material both mineral and organic, which is in suspension, is being transported, or has been moved by water, wind, or ice and has come to rest on the earth's surface either above or below water level.
33. Slope: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.
34. Special Water: Surface water or receiving water that is of a high quality or is deemed worthy to receive extra protection.
35. Stormwater: Under Minnesota Rule, Section 7077.0105, Subpart 41(b), "stormwater" means precipitation runoff, stormwater runoff, snow melt runoff and any other surface runoff and drainage. According to the Code of Federal Regulations (CFR), under 40 CFR 122.26 [b][13], "Stormwater" means stormwater runoff, snow melt runoff and surface and drainage. Stormwater does not include construction site dewatering.
36. Storm Sewer System: Includes, but is not limited to, the combination of roadway gutters, roadway section ditches, culverts, storm sewer piping, overflow channels, infiltration trenches, detention and retention water quality treatment basins and other methods or devices used for capturing, conveying, controlling and treating stormwater and snow melt runoff.

37. Stormwater Pollution Prevention Plan or SWPPP: Joint stormwater, erosion prevention and sediment control plan that is a document containing the requirements of Section H. below. When implemented, the plan will define the methods to be used to reduce soil erosion on a parcel of land and off-site non-point pollution. The plan involves both temporary and permanent controls.
38. Stormwater Pond (also referred to as wet sedimentation basin, wet retention basin, or simply wet pond): A manmade or modified natural basin constructed to capture and retain stormwater runoff for the purpose of removing pollutants and mitigating downstream water quantity impacts.
39. Surface Waters: All streams, ponds, lakes, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems, whether natural or artificial, public or private.
40. Surveyor: A person duly registered or authorized to practice land surveying in the State of Minnesota.
41. Temporary Erosion Protection: Short-term methods installed to prevent erosion. Examples include silt fence, straw mulch, wood fiber blanket, wood chips and erosion netting.
42. Vegetated (Grassy) Swale: A vegetated earthen channel that conveys stormwater while treating the stormwater by biofiltration. Such swales aid in the removal of pollutants by both filtration and infiltration.
43. Waters of the State: As defined in Minnesota Statutes, Section 115.01, Subdivision 22, the term, "...waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof." Commentary: According to Minnesota Rules 7050.0130, Subp. 2, disposal systems or treatment works operated under either a Minnesota Pollution Control Agency (MPCA) permit or an agency certificate of compliance are not considered "waters of the state." Under Minnesota Rules 7050.0186, Subp. 1a(B), constructed wetlands designed for wastewater treatment are not "waters of the state." Also see the definition of "Wetlands."
44. Wetlands: 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 purposes of this definition, wetlands must have the following three (3) attributes:

- a. Have a predominance of hydric soils;
 - b. Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
 - c. Under normal circumstances support a prevalence of such vegetation. See Minnesota Statutes, Section 103G.005 subd. 19.
- F. General Criteria. The Grading, Erosion and Sediment Control plan shall be required for any land disturbance activity or project disturbing more than twenty thousand (20,000) square feet and shall minimize exposed soil and unstable soil conditions in area and duration, disturbance of natural soil cover and vegetation, work in and adjacent to water bodies and wetlands, off-site sediment transport by trucks and equipment, and disturbance to the surrounding soils, root systems and trunks of trees adjacent to site activity that are intended to be left standing. The Plan shall also protect receiving water bodies, wetlands, storm sewer inlets and adjacent properties from sediment deposition. It shall provide a plan for minimal compaction of site soils.
- G. Submittal Components. An acceptable application for construction will include the following requirements and contain the components detailed in the following sections.
- 1. Grading and Erosion and Sediment Control Plans. The Grading/Erosion Control Checklist and Approval Form should be used as a reference. These can be obtained from the City Engineer. All grading and erosion and sediment control plans shall include the following items:
 - a. Plans for Existing and Proposed Conditions. A complete site plan and specifications, signed by the person who designed the plan shall comply with the Ordinance, shall be clearly labeled with a north arrow and a date of preparation, and shall include, at a minimum, the following information:
 - i. Project map indicating site boundaries and existing elevations, property lines and lot dimensions in relation to surrounding roads, buildings and other structures, and other significant geographic features.
 - ii. Identification of all surface waters, on and adjacent to the site and within one-half (½) mile of project boundary, including, but not limited to lakes, ponds, streams (including intermittent streams), wetlands, natural or artificial water diversion or detention areas, public and private ditches, subsurface drainage facility (including drain tiles), stormwater

conveyance, and storm sewer catch basins. Show ordinary high-water marks of all navigable waters, 100-year flood elevations, normal and high-water elevations of ponds, and delineated wetland boundaries, if any. If not available, appropriate flood zone determination or wetland delineation, or both, may be required at the applicant's expense.

- iii. For projects that have a discharge point on the project that is within one (1) mile of, and flows to, an impaired water, the applicant must identify the impaired water(s) in the SWPPP, and whether there is a United States Environmental Protection Agency approved Total Maximum Daily Load (TMDL) for the pollutant(s) or stressor(s) identified in this part. Unless otherwise notified by the MPCA in writing, the applicant's identification of impaired waters must be based on the most recent USEPA approved section 303(d) Clean Water Act list of impaired waters and USEPA approved TMDLs at the time a complete permit application is submitted. The applicant's identification must include those TMDLs applicable to the project's stormwater discharge that were approved at any time prior to permit application submittal and are still in effect.
- iv. Map of watershed drainage areas showing direction of flow for pre and post construction drainage, soil types, infiltration rates, and depth to seasonal high-water table.
- v. Existing and proposed grades showing drainage on and adjacent to the site using two-foot contours or less.
- vi. Existing and proposed impervious surfaces.
- vii. Steep slopes of twelve percent (12%) or more existing over a distance for fifty feet (50') or more.
- viii. Location of all areas not to be disturbed during construction including trees, vegetation, and designated areas for infiltration.
- ix. Proposed grading or other land-disturbing activity; areas of soil or earth material storage; quantities of soil or earth material to be removed, placed, stored or otherwise moved on-site, and delineated limits of disturbance.
- x. Locations of proposed runoff control, temporary and permanent erosion and sediment control, and temporary and permanent soil stabilization measures.

- xi. If more than ten (10) acres are disturbed and drained to a single point of discharge temporary sediment basins must be installed, however, if the site has special waters as defined by the NPDES Construction Permit requirements, then temporary sediment basins must be installed where five (5) or more acres are disturbed. When site restrictions do not allow for a temporary sediment basin, equivalent measures as approved by the City may be used.
 - xii. Any mitigation measures required as a result of any review conducted for the project (e.g. wetland mitigation, etc.).
 2. A SWPPP specific to the conditions and requirements of the site. (See Section H below).
- H. SWPPP Design Components. All SWPPPs shall be reviewed by the City for effectiveness of erosion and sediment control measures in the context of the site topography and drainage, proposed design, suggested location and phased implementation of effective practicable stormwater pollution prevention measures.
 1. General Criteria. Design, engineering and implementation of these measures shall use the following performance standards, BMPs, and design criteria:
 - a. Project Compliance. Statement of how the project will comply with all requirements of the NPDES Phase II regulations.
 - b. Description. Explanation of the project and associated construction activity.
 - c. Contact information for the on-site individual responsible for implementation of the SWPPP; and for the project manager and contractor.
 - d. Training. The applicant must identify a person knowledgeable and experienced in the application of erosion prevention and sediment control BMPs who will oversee the implementation of the SWPPP, and the installation, inspection and maintenance of the erosion prevention and sediment control BMPs before and during construction.
 - e. Runoff Easements. If a stormwater management plan involves directing some or all runoff from the site, the applicant shall obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.
 - f. Scheduling Site Activities. The applicant shall schedule site activities to lessen their impact on erosion and sediment creation. A detailed schedule indicating dates and sequence of land alteration activities; implementation,

maintenance and removal of erosion and sedimentation control measures; and permanent site stabilization measures shall be provided.

2. **Best Management Practice Implementation.** All erosion and sediment control and water quality BMPs must be constructed and or installed prior to the commencement of land disturbing activities. These measures shall be coordinated with the different stages of development.
3. **Monitoring and Inspection.** The trained person identified in the SWPPP or their assigned designee must routinely inspect the entire construction site at least once every seven (7) days during active construction and within twenty-four (24) hours after a rainfall event greater than one-half inches ($\frac{1}{2}$ ") in twenty-four (24) hours. Following an inspection which occurs within twenty-four (24) hours after a rainfall event, the next inspection must be conducted within seven (7) days after that. All inspections and maintenance conducted during construction must be recorded in writing and these records must be retained with the SWPPP in accordance with the NPDES Construction Site Permit.
4. **Other Information.** The City will require additional or modified information as warranted, including, but not limited to:
 - a. The City may require soil borings or other site investigation to be conducted and may require submission of a soils engineering or geology report. The report shall include information as requested by the City.
 - b. The City may require a stormwater runoff volume and rate analysis report or other hydrologic, water quality and hydraulic computations to be submitted.
 - c. The SWPPP shall be modified when there is a change in design, operation, maintenance, weather or seasonal conditions that have a significant effect on discharge and/or inspections indicate that the plan is not effective and existing BMPs are not controlling pollutants and discharges from the site.
5. **Contractor/Owner Inspections and Maintenance.** The contractor or owner shall be responsible for inspections and maintenance on the site.
 - a. Inspections and maintenance must be documented and readily available for review on-site. Inspections are required as follows:
 - i. Once every seven (7) days on exposed soil areas.
 - ii. Within twenty-four (24) hours after a one-half-inch rain event over twenty-four (24) hours.

- iii. Once every thirty (30) days on stabilized areas.
- iv. As soon as runoff occurs or prior to resuming construction on frozen ground.

b. Maintenance is required as follows:

- i. When sediment reaches one-third ($1/3$) the height of the BMP on perimeter control devices, sediment must be removed within twenty-four (24) hours.
- ii. If the perimeter control device is not functional it must be repaired or replaced within twenty-four (24) hours.
- iii. Temporary sediment basins shall be maintained when sediment reaches one-half ($1/2$) the outlet height or one-half ($1/2$) the basin storage volume. Basin must be drained or sediment removed within seventy-two (72) hours.
- iv. Sediment tracked from construction site vehicle entrance and exit locations must be removed from paved surfaces within twenty-four (24) hours of discovery.
- v. Inlet protection devices must be cleaned weekly or more frequently as necessary. Sediment and other debris captured in these devices must be deposited in appropriate locations or containers.

I. SWPPP Implementation Components.

- 1. Minimize Exposed Soil. Land shall be developed in increments of workable size such that adequate erosion and sedimentation control can be provided as construction progresses. At no time shall more than twenty (20) acres be exposed. Special consideration shall be given to the stabilization of steep slopes. Development shall be carefully reviewed to ensure adequate measures have been taken to prevent erosion, sedimentation and structural damage.
- 2. Restabilization. The area exposed shall be covered by an approved ground cover within fourteen (14) days after work is completed. When construction work is completed, a minimum depth of four inches (4") of topsoil meeting current MnDOT specifications shall be spread over the developed area and turf establishment started.

3. **Reduce Compaction.** To reduce soil compaction and enhance vegetation establishment all compacted soil shall be tilled to a depth of at least six inches (6") before revegetation.
4. **Perimeter Sediment Controls.** Perimeter sediment control measures shall be properly installed before construction activity begins. These control measures shall be designed to contain sediment on-site and control the quality and quantity of stormwater leaving a site before, during, and after construction. Control measures may include silt fence, compost logs, berms, or other approved methods.
5. **Channel Protection.** Channels shall be diverted around disturbed areas if practical, or other channel protection measures will be required. The normal wetted perimeter of any temporary or permanent drainage channel must be stabilized within two hundred (200) lineal feet of the property edge, or from a point of discharge to any surface water. Stabilization must be completed within twenty-four (24) hours of connecting to surface water. Sediment control is required along channel edges to reduce sediment reaching the channel. Stabilization of all waterways and outlets shall conform with the stipulations of this Section.
6. **Outlet Protection.** Pipe outlets must have approved energy dissipation measures installed within twenty-four (24) hours of connection to a surface water.
7. **Slope Protection.** The following control measures shall be taken to control erosion during construction.
 - a. No exposed slopes shall be steeper in grade than four feet (4') horizontal to one foot (1') vertical.
 - b. Exposed slopes steeper than ten feet (10') horizontal to one foot (1') vertical (10:1) shall be stabilized to minimize erosion.
 - c. At the foot of exposed slopes or slopes with long runs a channel and berm may be required to be constructed to control erosion. The channeled water shall be diverted to the sedimentation basin (debris basin, sediment basin, or silt trap) before being allowed to enter the natural drainage system.
 - d. Along the top of exposed slopes or slopes with long runs a berm may be required to be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. These methods shall be approved by the

City Engineer. At the base of the slope, an energy dissipater shall be installed to prevent erosion.

- e. Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree of slope, soils materials, and expected length of exposure. Slope protection shall consist of mulch, burlap, jute netting, sod blankets, fast growing seeds or temporary plantings or annual grasses. A mulch shall consist of hay, straw, or other approved protective materials. Mulch must be anchored to the slopes by an approved method to provide additional slope stability.
- f. Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will effectively protect exposed slopes and are approved by the City Engineer.
- g. Wind Erosion. Snow fences or other wind reducing means shall be employed during construction on-site to reduce wind erosion of the soil. These measures shall be employed as soon as construction has started on-site and shall be extended as needed throughout the development.
- h. All exposed soil areas with a continuous positive slope that are within two hundred (200) lineal feet of any surface water, or any conveyance (curb, gutter, storm sewer inlet, drainage ditch, etc.) to a surface water, must have temporary or permanent cover year-round. The area shall be stabilized if it has not been worked for seven (7) days on slopes greater than three feet (3') horizontal to one foot (1') vertical (3:1), fourteen (14) days on slopes ranging from 3:1 to 10:1 and twenty-one (21) days for flatter slopes. On sensitive sites or sites with special waters, exposed soil areas with a greater than three feet (3') horizontal to one foot (1') vertical (3:1) must be stabilized within three (3) days and slopes flatter than 3:1 must be stabilized within seven (7) days. All exposed soil areas must have temporary erosion protection or permanent cover no later than November 1 regardless of the stabilization requirements listed above. All exposed soils from construction activities taking place after November 1 must provide temporary erosion protection or permanent cover by the end of the workday if conditions warrant.
- i. If more than ten (10) acres are disturbed and drained to a single point of discharge temporary sediment basins must be installed. When site restrictions do not allow for a temporary sediment basin, equivalent measures such as smaller basins, check dams, and vegetated buffer strips can be included.

- j. For disturbed areas less than ten (10) acres, temporary sedimentation basins are encouraged but not required. The applicant shall install erosion and sediment controls at locations that result in maximum protection and sediment capture. Minimum requirements include silt fences, rock check dams, or other equivalent control measures along slopes. Silt fences, rock check dams, etc. must be regularly inspected and maintained.
- 8. Silt Fence. Silt fence shall be properly installed by being trenched and buried at least six inches (6") into the soil. Generally, sufficient silt fence will be required to contain sheet flow runoff generated at an individual site. This method is used to prevent sediment damage to adjacent properties and sensitive environmental areas such as water bodies, plant communities, rare, threatened and/or endangered species habitat, wildlife corridors, greenways, wetlands, etc. Provide that all silt fences used for erosion and sedimentation control and all other temporary controls shall not be removed until the City and other permitting agencies have determined that the site has been permanently stabilized and shall be removed within thirty (30) days thereafter.
 - 9. Soil Stockpiling. Temporary stockpiling of one hundred (100) cubic yards or more of excess soil on any lot or other vacant area will not be allowed without issuance of a permit for the earth moving activity in question. Stockpiles of soil or other materials subject to erosion by wind or water shall be covered, vegetated, enclosed, fenced on the down gradient side or otherwise effectively protected from erosion in accordance with the amount of time the material will be on-site and the manner of its proposed use. No stockpiling is allowed in the street.
 - 10. Stockpile Protections. For soil stockpiles greater than ten (10) cubic yards the toe of the pile must be more than twenty-five feet (25') from a road, drainage channel or stormwater inlet. If left for more than seven (7) days, they must be stabilized with mulch, vegetation, tarps or other means. If left for less than seven (7) days, erosion from stockpiles must be controlled with perimeter control devices such as silt fence. If for any reason a soil stockpile is located closer than twenty-five feet (25') to a road, drainage channel or stormwater inlet, it must be covered with tarps or a more permanent protection and controlled with perimeter control devices immediately.
 - 11. Vehicle Exits/Entrances. Vehicle tracking of sediment from the construction site must be minimized by BMPs such as stone pads, concrete or steel wash racks, or equivalent systems. Street sweeping must be used if such BMPs are not adequate to prevent sediment from being tracked onto the street. The exit must be at least fifty feet (50') long (fifteen-foot minimum on single-family residential sites), and the exit must be graded so runoff does not enter the adjacent street. Place a geotextile fabric under a layer of aggregate at least six inches (6") thick.

The aggregate size must be a minimum of one inch (1") to three inches (3") or an approved equal. Direction should be given to use the designated construction exits.

12. Street Cleaning. Streets and outlying roads shall be cleaned and swept within twenty-four (24) hours whenever tracking of sediments occurs and before sites are left idle for weekends and holidays.
 13. Dewatering Treatment Required. Sediment laden water that is being removed from the site by pumping or trenching shall be treated to remove a minimum of eighty percent (80%) of suspended solids before discharge. Water may not be discharged in a manner that causes erosion to receiving channels or flooding of the discharge site.
 14. Storm Drain Protection. All storm drain inlets shall be protected during construction with control measures as approved by the City. These devices shall remain in place until final stabilization of the site. A regular inspection and maintenance plan shall be developed and implemented to assure these devices are operational at all times, providing protection of storm sewer infrastructure from sediment loading/plugging. Silt fence fabric under catch basin grates will not be considered appropriate protection. Protective devices shall be removed prior to freeze up and replaced when temperature permits.
 15. Waste Containment. Appropriate on-site containment must be provided for all trash, solid waste, construction debris, floating debris, and hazardous materials. Disposal of collected sediment shall be deposited only in approved locations.
 16. Special Precautions. Extra precautions must be taken to contain sediment when working in or crossing water bodies.
- J. Review. The City shall complete a review of the SWPPP concurrent with other submittals. City approval is contingent on issuance of all other permits required by other agencies having jurisdiction on the project. There shall be no work on the site until the requirements are met and approval has been granted.
1. Compliance. A SWPPP will be considered compliant when the City determines that the SWPPP meets the requirements of this Ordinance and all other requirements for project approval. Compliance assumes implementation and maintenance of the SWPPP components.
 2. Noncompliance. If the City determines that the SWPPP does not meet the requirements of this Ordinance the City shall not issue approval for the land

disturbance activity. The SWPPP must be resubmitted for approval before the land disturbance activity begins.

3. City Inspections and Enforcement. Inspections are required before any land disturbing activity begins, at the completion of the project and prior to the release of financial securities. The City shall also conduct inspections on a regular basis during the course of construction to ensure that erosion and sediment control measures are properly installed and maintained. In all cases the inspectors will attempt to work with the applicant to maintain proper erosion and sediment control at all sites. In cases where cooperation is withheld or applicant fails to achieve compliance, enforcement proceedings will be applied as outlined in Section 1208.01.N.4. below. An inspection must be conducted before any work is allowed to restart.
- K. Modification of Plan. The applicant must amend the SWPPP as necessary to include additional requirements such as additional or modified BMPs designed to correct problems identified or address situations whenever:
1. A change in design, construction, operation, maintenance, weather, or seasonal conditions that has a significant effect on the discharge of pollutants to surface waters or underground waters.
 2. Inspections indicate the SWPPP is not effective in eliminating or significantly minimizing the discharge of pollutants to surface waters or underground waters or that the discharges are causing water quality standard exceedances.
 3. The SWPPP is not achieving the general objectives of controlling pollutants and sediments or is not consistent with the terms and conditions of the approved project plans.
- L. Financial Securities. The applicant shall be subject to the financial security provisions as required by the City.
- M. Emergency Action. If circumstances exist such that non-compliance with this Ordinance poses an immediate danger to the public health, safety and welfare, as determined by the City, the City may take emergency preventative action. The City shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the City may be recovered from the applicant's financial security.
- N. Notification of Failure of the SWPPP. The City shall notify the project contact of the failure of the SWPPP's measures.

1. Initial Contact. The initial contact will be to the party or parties listed on the application and/or the SWPPP as contacts. Except during an emergency action, forty-eight (48) hours after notification by the City or seventy-two (72) hours after the failure of erosion control measures, whichever is less, the City at its discretion, may begin corrective work. Such notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical. If after making a good faith effort to notify the responsible party or parties, the City has been unable to establish contact, the City may proceed with corrective work. If there are conditions when time is of the essence in controlling erosion, the City may take immediate action and then notify the applicant as soon as possible. Any cost incurred by the City may be recovered from the applicant's financial security.
2. Erosion Off-Site. If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of entry from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the City, may more than seven (7) calendar days go by without corrective action being taken. If in the discretion of the City, the permit holder does not repair the damage caused by the erosion, the City may do the remedial work required. Any cost incurred by the City may be recovered from the applicant's financial security. When restoration to wetlands and other resources are required, the applicant will be required to work with the appropriate agency to ensure that the work is done properly.
3. Erosion into Streets, Wetlands, or Water Bodies. If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, cleanup and repair shall be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.
4. Failure to do Corrective Work. When an applicant fails to conform to any provision of this policy within the time stipulated, the City may take one (1) or more of the following actions:
 - a. Issue a stop work order, withhold the scheduling of inspections, and/or the issuance of a Certificate of Occupancy.
 - b. Correct the deficiency or hire a contractor to correct the deficiency. Project approval constitutes a right of entry for the City or its contractor to enter upon the construction site for the purpose of correcting deficiencies in erosion control.

- c. Require reimbursement to the City for all costs incurred in correcting stormwater pollution control deficiencies. If payment is not made within thirty (30) days after costs are incurred by the City, payment will be made from the applicant's financial securities.

5. Right of Entry and Inspection.

- a. Powers. The applicant shall allow the City and their authorized representatives, upon presentation of credentials, to:
 - i. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.
 - ii. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
 - iii. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.
 - iv. Inspect the stormwater pollution control measures.
 - v. Sample and monitor any items or activities pertaining to stormwater pollution control measures.

1208.02 PRESERVATION OF NATURAL DRAINAGE WAYS:

A. Waterways.

- 1. The natural drainage system shall be used as far as is feasible for storage and flow of runoff. Stormwater drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of stormwater to marshlands or swamps shall be considered for existing or planned surface drainage provided such diversion complies with state law and all necessary easements have been obtained. Marshlands and swamps used for stormwater shall provide for natural or artificial water level control. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flow, erosion damage, and construction cost. Pretreatment of runoff and dewatering operations must be provided before discharging to any surface water.
- 2. The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten-year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.

3. No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
4. The banks of the waterway shall be protected with a permanent vegetation.
5. The banks of the waterway should not exceed five feet (5') horizontal to one foot (1') (5:1) vertical in gradient.
6. The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
7. The bed of the waterway should be protected with turf, sod, or riprap. If turf or sod will not function properly, riprap shall be used. Rip-rap, in conformity with engineering specifications, shall consist of MnDOT 3601 material Class A with filter blanket Type 1.
8. If the flow velocity in the waterway is such that erosion of the turn side wall will occur and said velocity cannot be decreased by velocity control structures, then riprap shall replace turf on the side walls.

B. Sediment Control of Waterways.

1. To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment, control structures shall be incorporated throughout the contributing watershed.
2. Temporary pervious sediment traps shall be constructed according to standard details per plan requirements. Such structures would serve as temporary sediment control features during the construction stage of development. Development of housing and other structures shall be restricted from the area on either side of the waterway required to channel a 100-year storm.
3. Permanent impervious sediment control structures consist of sediment basins (debris basins, desilting basins, or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water or stream.

CHAPTER 1209

SHORELAND MANAGEMENT OVERLAY DISTRICT

1209.01 STATUTORY AUTHORIZATION AND POLICY:

- A. Statutory Authorization. This shoreland ordinance ("Shoreland Ordinance") is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules, Subp. 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.
- B. Policy. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by City of Sunfish Lake.

1209.02 GENERAL PROVISIONS AND DEFINITIONS:

- A. Jurisdiction. The provisions of this Shoreland Ordinance apply to the shorelands of the public water bodies as classified in Section 1209.04 of this Shoreland Ordinance, and to the shorelands of public water bodies greater than 10 acres in unincorporated areas in which the City has, by ordinance, extended the application of its zoning regulations as provided by Minnesota Statute, Section 462.357 Subd 1. Pursuant to Minnesota Rules, Subp. 6120.2500 - 6120.3900, no lake, pond, or flowage less than ten (10) acres in size in municipalities or twenty-five (25) acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this Shoreland Ordinance.
- B. Enforcement. The City of Sunfish Lake is responsible for the administration and enforcement of this Shoreland Ordinance. Any violation of the provisions of this Shoreland Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitutes a misdemeanor and is punishable as defined by law. Violations of this Shoreland Ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in Section 1209.03.
- B.
- C. Abrogation and Greater Restrictions. It is not intended by this Shoreland Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Shoreland Ordinance imposes greater restrictions, the provisions of this Shoreland Ordinance shall prevail. All other ordinances inconsistent with this Shoreland Ordinance are hereby repealed to the extent of the inconsistency only.

D. Definitions. Unless specifically defined below, words or phrases used in this Shoreland Ordinance shall be interpreted to give them the same meaning they have in common usage and to give this Shoreland Ordinance its most reasonable application. For the purpose of this Shoreland Ordinance, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.

1. **Bluff:** A topographic feature such as a hill, cliff, or embankment having the following characteristics:
 - a. Part or all of the feature is located in a shoreland area;
 - b. The slope must drain toward the waterbody;
 - c. The slope rises at least twenty-five feet (25') above the ordinary high-water level; and
 - d. The grade of the slope from the toe of the bluff to a point twenty-five feet (25') or more above the ordinary high-water level averages thirty percent (30%) or greater (See Figure 09-01) except that an area with an average slope of less than 18 percent over a distance of at least fifty feet (50') shall not be considered part of the bluff. See Figure 09-02.

Figure 09-01

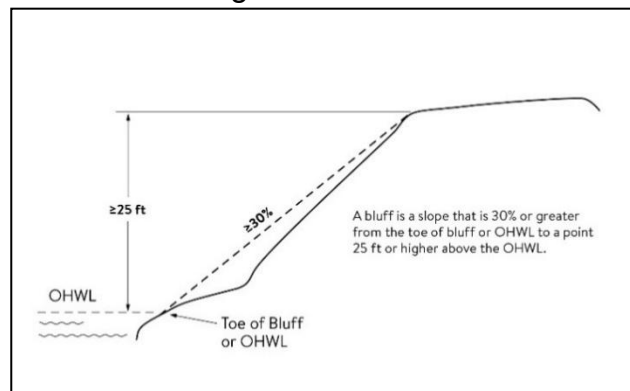
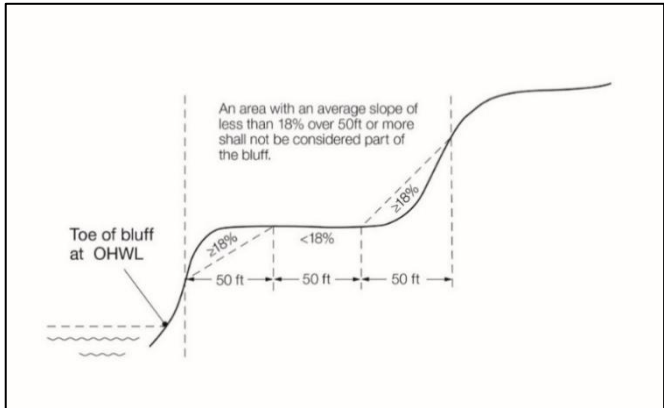
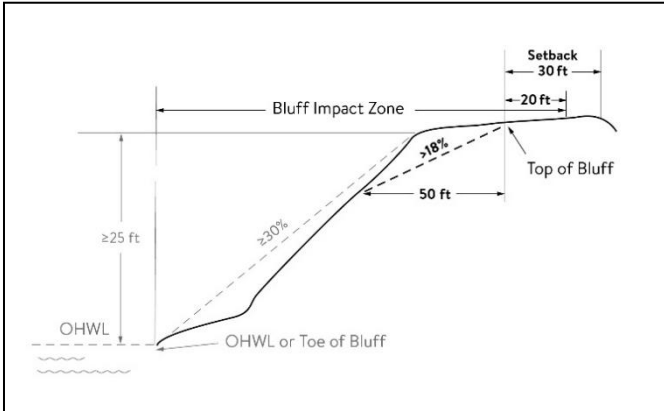


Figure 09-02



2. Bluff impact zone or BIZ: A bluff and land located within twenty feet (20') of the top of a bluff. See Figure 09-03.

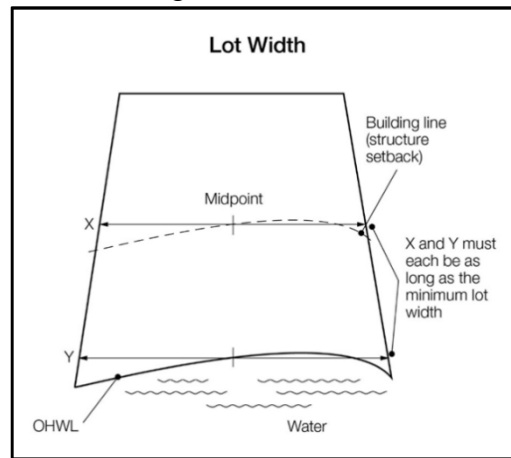
Figure 09-03



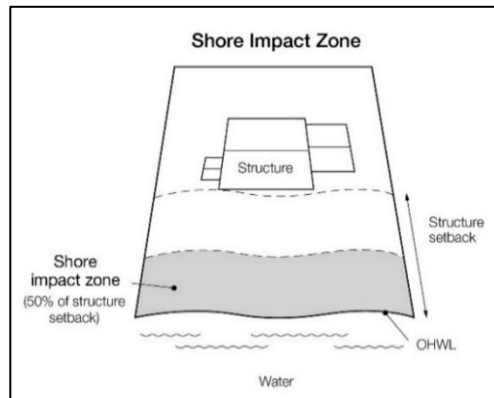
3. Bluff, Toe of: The lower point of a 50-foot segment with an average slope exceeding eighteen percent (18%) or the ordinary high-water level, whichever is higher.
4. Bluff, Top of: For the purposes of measuring setbacks, bluff impact zone, and administering vegetation management standards, the higher point of a 50-foot segment with an average slope exceeding eighteen percent (18%). See Figure 09-03.
5. Boathouse: A facility as defined by Minnesota Statutes, Section 103G.245.
6. Buffer: A vegetative feature as defined by Minnesota Statutes, Section 103F.48.

7. 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.
8. Commissioner: The commissioner of the Department of Natural Resources.
9. Deck: A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.
10. Expansion: Any increase in a dimension such as number of units or size, area, volume, or height of an existing structure or accessory structure or facility.
11. Impervious surface: A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, gravel driveways, or permeable pavers; and other similar surfaces.
12. Improvement: Making an existing structure or accessory structure or facility of better quality, more efficient, or more aesthetically pleasing, that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.
13. Intensive vegetation clearing: The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
14. Lot: For purposes of this Shoreland Management Overlay District, a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.
15. Lot width: For purposes of this Shoreland Management Overlay District, the minimum distance between:
 - a. Side lot lines measured at the midpoint of the building line; and
 - b. Side lot lines at the ordinary high-water level, if applicable. See Figure 09-04.

Figure 09-04



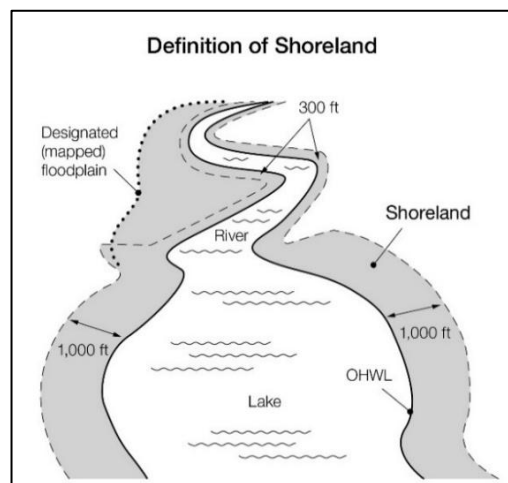
16. Ordinary high-water level or OHWL: See Section 1208.01.E.26.
17. Public waters: Any water as defined in Minnesota Statutes, Section 103G.005, Subd. 15, 15a.
18. Replacement and restoration: Reconstruction of part or all of an existing structure or accessory structure or facility that closely matches or replicates the preexisting structure or facility.
19. Semipublic use: The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
20. Setback: For purposes of this Shoreland Management Overlay District, the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high-water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.
21. Sewage treatment system: Sewage treatment system has the meaning given under Minnesota Rules, Subp. 7080.1100, Subp. 82.
22. Sewer system: Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
23. Shore impact zone or SIZ: Land located between the ordinary high-water level of a public water and a line parallel to it at a setback of fifty percent (50%) of the structure setback. See Figure 09-05.



24. Shoreland: Land located within the following distances from public waters:

- a. 1,000 feet from the ordinary high-water level of a lake, pond, or flowage; and
- a. 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. See Figure 09-06.

Figure 09-06



25. Shore recreation facilities: Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.

26. Significant historic site: Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be

an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

27. Steep slope: Lands having average slopes over twelve percent (12%), as measured over horizontal distances of fifty feet (50') or more, which are not bluffs.
28. Subdivision: Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.
29. Suitability analysis: An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.
30. Variance: Variance has the meaning given under Minnesota Statutes, Section 462.357, Subd. 6 (2).
31. 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 surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include, watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, patios, and detached decks. Boathouses and boat storage structures given the meaning under Minnesota Statutes, Section 103G.245 are not a water-oriented accessory structures.
32. Wetland: Wetland has the meaning given under Minnesota Rule, Subp. 8420.0111.

1209.03 ADMINISTRATION:

- A. Purpose. The purpose of this Section is to identify administrative provisions to ensure the Shoreland Ordinance is administered consistent with its purpose.
- B. Permits.

1. A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities.
 2. A certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700, Subp. 3, is required whenever a permit or variance of any type is required for any improvement on or use of the property. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high-water level.
- C. Application materials. Application for permits and other zoning applications such as variances shall be made to the City Administrator on the forms provided. The application shall include the necessary information so that the City Administrator can evaluate how the application complies with the provisions of this Shoreland Ordinance.
- D. Variances. Variances may only be granted in accordance with Minnesota Statutes, Section 462.357 and are subject to the following:
1. A variance may not circumvent the general purposes and intent of this Shoreland Ordinance; and
 2. For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required for variance approval. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high-water level.
- E. Conditional Uses. All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:
1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 2. The visibility of structures and other facilities as viewed from public waters is limited;
 3. There is adequate water supply and on-site sewage treatment; and
 4. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.

F. Mitigation.

1. In evaluating all variances, conditional uses, zoning and building permit applications, the City Council shall require the property owner to address the following conditions, when related to and proportional to the impact, to meet the purpose of this Shoreland Ordinance, to protect adjacent properties, and the public interest:
 - a. Advanced storm water runoff management treatment;
 - b. Reducing impervious surfaces;
 - c. Increasing setbacks from the ordinary high-water level;
 - d. Restoration of wetlands;
 - e. Limiting vegetation removal and/or riparian vegetation restoration;
 - f. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
 - g. Other conditions the City Council deems necessary.
2. In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.

G. Nonconformities.

1. All nonconformities with regard to the Shoreland Overlay District are governed by Section 1201.07.

H. Notifications to the Department of Natural Resources.

1. All amendments to this Shoreland Ordinance must be submitted to the Department of Natural Resources at least thirty (30) days before the public hearing for review and approval for compliance with the statewide shoreland management rules.

2. All notices of public hearings to consider variances, conditional uses or subdivisions/plats under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least ten (10) days before the public hearing. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
 3. All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
 4. Any request to change the shoreland management classification of public waters within the City of Sunfish Lake must be sent to the commissioner or the commissioner's designated representative for approval, and must include a resolution and supporting data as required by Minnesota Rules, Chapter 6120.3000, Subp. 4.
 5. Any request to reduce the boundaries of shorelands of public waters within the City of Sunfish Lake must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.
- I. EAW. An Environmental Assessment Worksheet consistent with Minnesota Rules, Chapter 4410 must be prepared for projects meeting the thresholds of Minnesota Rules, Chapter 4410.4300, Subp. 19a, 20a, 25, 27, 28, 29, and 36a.

1209.04 SHORELAND CLASSIFICATION SYSTEM AND LAND USES:

A. Shoreland Classification System.

1. Purpose. To ensure that shoreland development on the public waters of the City of Sunfish Lake is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, Subp. 6120.3300.
2. The shoreland area for the waterbodies listed in A.3 below are shown on the Official Zoning Map.
3. Lakes are classified as Recreational Development (RD):

Recreational Lake Name	Development	DNR Public Waters I.D. #
Sunfish Lake		19005000
Horseshoe Lake		19005100
Hornbeam Lake		19004700

B. Land Uses.

1. Purpose. To identify land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality.
2. Shoreland district land uses listed in 2.c.i. below are regulated as follows:
 - a. Permitted uses (P). These uses are allowed, provided all standards in this Shoreland Ordinance are followed;
 - b. Conditional uses (C). These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in Section 1209.03E. of this Shoreland Ordinance and any additional conditions listed in this Shoreland Ordinance; and
 - c. Not permitted uses (N). These uses are prohibited.
 - i. Land uses for lake classifications:

Land Uses	Recreational Development
Single family residential	P
Parks & historic sites	C

1209.05 DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS:

- A. Purpose. To establish dimensional and performance standards that protect shoreland resources from impacts of development.
- B. Lot Area and Width Standards. All lots must meet the minimum lot area and lot width requirements in below, subject to the following standards:
 1. Only lands above the OHWL and excluding right-of-way can be used to meet lot area and width standards;
 2. Lot width standards must be met at the building setback line in the front yard;

3. Lake Minimum Lot Area and Width Standards:

Lot Type	Riparian Lot Area	Riparian Lot Width	Nonriparian Lot Area	Nonriparian Lot Width
Single Family	2.5 net acres	150'	40,000 sf	150'

- a. Recreational Development lake – no sewer.

C. Special Residential Lot Provisions.

1. Access Easements. Easements providing access to boat docking and mooring facilities to non-riparian property owners are prohibited.

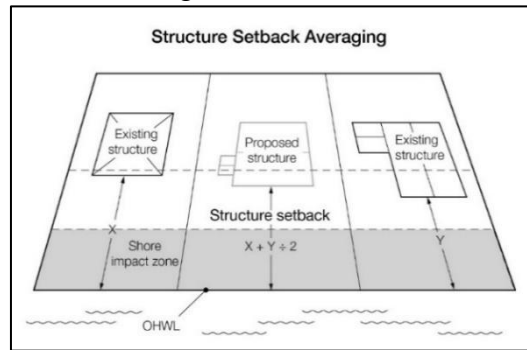
D. Placement and Design of Structures.

1. OHWL Setback for Structures and Sewage Treatment Systems. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks and comply with the following OHWL setback provisions.

Waterbody Classification	Structures with Sewer	No Sewage Treatment Systems
Sunfish Lake and Hornbeam Lake	200'	150'
Horseshoe Lake	100'	75'

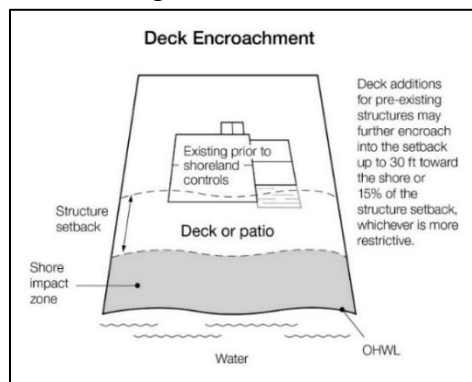
- a. OHWL Setbacks. Structures, impervious surfaces, and sewage treatment systems must meet setbacks from the ordinary high-water level, except that one water-oriented accessory structure or facility, designed in accordance with Section 1209.06.D, may be set back a minimum distance of ten feet (10') from the OHWL.
- b. Setback averaging. Where principal structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining principal structure setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone. See Figure 09-07.

Figure 09-07



- c. Setbacks of decks. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high-water level if all of the following criteria are met:
 - i. The structure existed on the date the structure setbacks were established;
 - ii. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high-water level setback of the structure;
 - iii. The deck encroachment toward the ordinary high-water level does not exceed fifteen percent (15%) of the existing setback of the structure from the ordinary high-water level or is no closer than thirty feet (30') from the OHWL, whichever is more restrictive; and
 - iv. The deck is constructed primarily of wood and is not roofed or screened. See Figure 09-08.

Figure 09-08



- d. Additional structure setbacks. Structures must also meet the following setbacks, regardless of the waterbody classification:

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

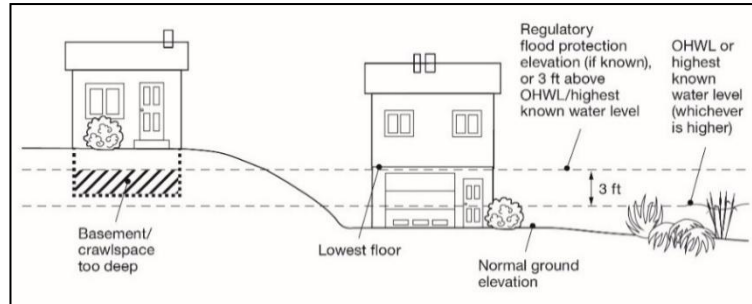
- e. Bluff Impact Zones. Structures, impervious surfaces, and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

2. Lowest Floor Elevation.

- a. Determining elevations. Structures must be placed at an elevation consistent with the applicable floodplain regulatory elevations. Where these elevations are not known, the lowest floor, including basement, must be placed or flood-proofed at an elevation determined using the following methodology:
- For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high-water level, whichever is higher. See Figure 09-09;
 - For rivers and streams, by placing the lowest floor at least three feet above the highest known flood elevation. If highest known flood elevation is not available, by placing the lowest floor at least three feet above the ordinary high-water level (see Figure 0909), or by conducting a technical evaluation to establish a flood protection elevation. Technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules, Chapters 6120.5000 - 6120.6200.
- b. Methods for placement.
- In addition to the lowest floor, all service utilities must be elevated or water-tight to the elevation determined in Section 1209.04.D.2.a.
 - If elevation methods involving fill would result in filling in the SIZ, then structures must instead be elevated through floodproofing methods in accordance with Section 1209.04.D.2.b.iii. below.
 - If the structure is floodproofed, then it must be built to resist hydrostatic pressure through elevation methods such as blocks, pilings, filled stem walls, elevated concrete pad, internally flooded enclosed areas, or

through other accepted engineering practices consistent with FEMA technical bulletins of Sections 1209.04.D.2.b.i.ii.iii above.

Figure 09-09



3. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

E. Water Supply and Sewage Treatment.

1. Water supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
2. Sewage treatment. Any premises used for human occupancy must be connected to a publicly-owned sewer system, where available or comply with Minnesota Rules, Chapters 7080 – 7081.

1209.06 PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES:

A. Placement and Design of Roads, Driveways, and Parking Areas. These facilities must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters. They must be constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil water and conservation district and comply with the following standards:

1. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts;
2. Private watercraft access ramps, approach roads, and access-related parking areas are prohibited.

3. For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

B. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways, lifts, and landings must meet the following design requirements:

1. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments;
2. Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public-space recreational uses, and planned unit developments;
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 landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
6. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas in order to provide a reasonable accommodation.

C. Docks.

1. Docks shall:
 - a. Not be greater than five feet (5') in width;
 - b. Not exceed two hundred (200) square feet in area if configured in a linear, T, L, U, Y, or similar shape;
 - c. Not extend more than fifty feet (50') from the lakeshore;

- d. Not be covered with a roof or awning, nor shall they be enclosed in any manner; and
 - e. Comply with DNR dock regulations or this subsection, whichever is more restrictive.
2. Each parcel of land containing a principal structure and having lakeshore fee ownership/frontage as part of that parcel shall have no more than one (1) dock.
 3. Docks may be constructed of wood, metal, fiberglass, or plastic, or any combination of thereof, provided they are visually unobtrusive and limited to color(s) which blend with the environment.
- D. Water-Oriented Accessory Structures or Facilities. Each residential lot may have one water-oriented accessory structure or facility if it complies with the following provisions:
1. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than two hundred fifty (250) square feet. The structure or facility may include detached decks not exceeding eight feet (8') above grade at any point or at-grade patios;
 2. The structure or facility is not in the BIZ;
 3. The setback of the structure or facility from the ordinary high-water level must be at least ten feet (10');
 4. The structure is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245;
 5. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
 6. The roof may be used as an open-air deck with safety rails, but must not be enclosed with a roof or sidewalls or used as a storage area;
 7. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;
 8. As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for storage of watercraft and boating-related equipment may occupy an area up to 400

square feet provided the maximum width of the structure is twenty feet (20') as measured parallel to the shoreline; and

9. Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 1209.05.D.2. if the structure is designed to accommodate internal flooding, constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

E. Fences. Fences within the Shoreland Overlay District are subject to the fence standards in Section 1207.06.

F. Lighting. Lighting within the Shoreland Overlay District is subject to the lighting requirements in Section 1207.02.

1209.07 VEGETATION AND LAND ALTERATIONS:

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

B. Vegetation Management.

1. A vegetation permit from the City is required prior to vegetative clearing in the SIZ and BIZ and on steep slopes. No clearing is allowed until a plan is submitted and approved consistent with these vegetation management provisions.
2. Removal or alteration of vegetation must comply with the provisions of this subsection except for:
 - a. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities;
 - b. The construction of public roads and parking areas if consistent with Section 1209.05.A.
3. Intensive vegetation clearing in the shore and bluff impact zones and on steep slopes is prohibited.
4. Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes, is allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and

landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

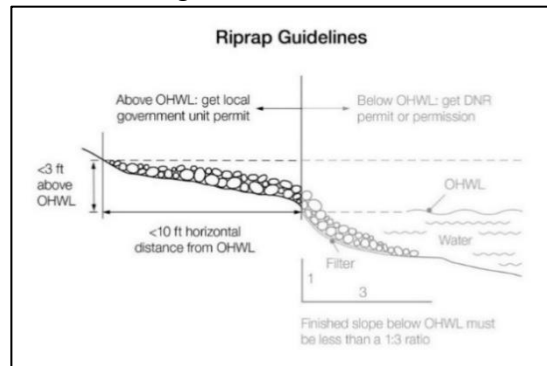
- a. Cutting debris or slash shall be scattered and not mounded on the ground;
 - b. Perennial ground cover is retained; and
 - c. Picnic areas, access paths, beaches and watercraft access areas are prohibited in bluff impact zones.
5. Removal of trees, limbs, or branches that are an invasive species, or are dead, diseased, dying, or pose safety hazards is allowed without a permit.
 6. Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.
 7. Violations of the vegetation standards shall be subject to a Restoration Order including vegetation restoration plan and a three-year maintenance plan prepared by the landowner and approved by the City Engineer. Near shore or highly erodible locations are to be restored with a mix of deep-rooted woody and herbaceous vegetation with high stem-density, suitable for the location.

C. Grading and Filling.

1. Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section 1209.05.A.
2. Permit Requirements.
 - a. Grading, filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways, if part of an approved permit, do not require a separate grading and filling permit.
 - b. For all other work, including driveways not part of another permit, a grading and filling permit is required for:
 - i. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - ii. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
 - iii. Placement of retaining walls, including boulder walls within the SIZ and BIZ provided that:

- (a) If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project.
 - (b) The structures are used only to correct a documented existing erosion problem and not for aesthetic reasons.
 - (c) The height and length are the minimum necessary to control the erosion problem and are not higher than four feet (4') or longer than ten feet (10'), unless the City Engineer determines that a larger wall is necessary to correct the erosion problem; and
 - (d) Walls are screened by vegetation to not be visible from the waterbody.
- iv. Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket is permitted if:
- (a) If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project;
 - (b) The finished slope does not exceed three feet (3') horizontal to one (1) foot vertical (3:1);
 - (c) The landward extent of the riprap is within ten feet (10') of the OHWL; and
 - (d) The height of the riprap above the OHWL does not exceed three feet (3'). See Figure 09-10.
 - (e) A vegetative buffer, consisting of deep rooted and woody vegetation, is to be established at a distance no less than ten feet (10') from the landward extent of the riprap.

Figure 09-10



3. Grading, filling and excavation activities must meet the following standards:

- a. Grading or filling of any wetland must meet or exceed the wetland protection standards under Minnesota Rules, Chapter 8420 and any other permits, reviews, or approvals by other local state, or federal agencies such as watershed districts, the DNR or US Army Corps of Engineers;
- b. Land alterations must be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:
 - i. Limiting the amount and time of bare ground exposure;
 - ii. Using temporary ground covers such as mulches or similar materials;
 - iii. Establishing permanent, deep-rooted and dense vegetation cover as soon as possible;
 - iv. Using sediment traps, vegetated buffer strips or other appropriate techniques;
 - v. Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;
 - vi. Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty percent (30%) or greater;
 - vii. Fill or excavated material must not be placed in bluff impact zones;

- viii. Any alterations below the ordinary high-water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G; and
 - ix. Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
4. Connections to public waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, Chapter 6115.

D. Stormwater Management.

1. General Standards:

- a. When possible, existing natural drainageways, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized as soon as possible and appropriate facilities or methods used to retain sediment on the site.
- c. When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

2. Specific Standards:

- a. Impervious surfaces of lots must not exceed twenty-five percent (25%) of the lot area.
- b. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.

- c. New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, Subp. 6115.0231.

1209.08 SUBDIVISION/PLATTING PROVISIONS:

- A. Purpose. To ensure that new development minimizes impacts to shoreland resources and is safe and functional.
- B. Land suitability. Each lot created through subdivision authorized under Article XIII of this Shoreland Ordinance, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
- C. Consistency with other controls. Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed later to use the lots for their intended purpose.
- D. Water and Sewer Design Standards.
 - 1. A potable water supply and a sewage treatment system consistent with Minnesota Rules, Chapters 7080 – 7081 must be provided for every lot.
 - 2. Each lot must include at least two soil treatment and dispersal areas that support systems described in Minnesota Rules, Subp. 7080.2200 to 7080.223 or site conditions described in Subp. 7081.0270, Subp. 3 to 7, as applicable.
 - 3. Lots that would require use of holding tanks are prohibited.
- E. Information requirements.
 - 1. Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;
 - 2. The surface water features required in Minnesota Statutes, Section 505.021, Subd. 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources;
 - 3. Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;

4. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
 5. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
 6. A line or contour representing the ordinary high-water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- F. Dedications. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- G. Platting. All subdivisions that cumulatively create five or more lots or parcels that are two and one-half (2 ½) acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Section 462.358 Subd. 3a and Ch. 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after the adoption of this Shoreland Ordinance unless the lot was previously approved as part of a formal subdivision.
- H. Controlled Access Lots. Controlled access lots within a subdivision must meet or exceed the lot size criteria in Section 1209.05.

(Ord. 25-12, 12/09/25)