



WOODLAND CITY COUNCIL

MEETING DATE: October 14, 2013
FROM: Shelley Souers, City Clerk
SUBJECT: Public Hearing Regarding the Certification of Delinquent Water & Sewer Utilities

OVERVIEW

Each Year the Council reviews delinquent water and sewer utility balances and approves additional penalties to be applied to delinquent utility statements. The City Council approves and certifies to the County all annual delinquent utilities to the property taxes for collection through bi-annual property tax payments.

In addition to the outstanding amount delinquent, the ordinance dictates a penalty of \$20 per item (sewer and water), a total of \$40 in additional penalties may be applied to each outstanding utility account. Also eight percent (8%) interest is added to all accounts once certified, accruing from December 1, 2013.

State Statutes require that the City hold a public hearing regarding the assessment of these fees prior to certifying the assessment roll to the County. All persons with delinquent utility accounts have been sent two written notices of the public hearing, their account balance and information regarding the deadline to settle the account prior to penalties and certification to the property tax roles.

Persons are given until Thursday, November 21 to pay delinquent charges, including the additional penalties applied by Council action, to avoid placement on the tax rolls. Unpaid delinquent utilities will be assessed to the 2014 property taxes and subject to 8% interest.

ACTION: Motion to adopt Resolution No. 29-2013, assessing penalties to delinquent utilities and directing delinquent water and sewer charges to be placed on the 2014 property tax rolls.

ATTACHMENTS

- Resolution providing for the collection of delinquent sewer and water fees
- Utility assessment roll

City of Woodland
RESOLUTION NO. 29-2013
A RESOLUTION DIRECTING DELINQUENT WATER AND SEWER CHARGES
TO BE PLACED ON THE 2014 PROPERTY TAX ROLLS

WHEREAS, Woodland City Code provides for the City to place delinquent water and sewer charges on the succeeding year property tax rolls for the specified properties; and

WHEREAS, the City Council of the City of Woodland has caused a notice to be published fixing the time and place of the meeting to pass upon the proposed assessment roll for delinquent sewer and water charges as described in the Notice of Hearing published September 26, 2013 in the Minnesota Sun Publications and the notice of such assessment has been mailed to the affected property owners; and

WHEREAS, all persons have had an opportunity to be heard in connection with said assessment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WOODLAND:

1. That the assessment roll, as prepared by the City Clerk is properly assessed and hereby approved and the assessments are determined to be assessments for the services therein included against the specified properties set forth in Exhibit A (list of delinquent accounts).

2. That the Hennepin County Special Assessment Division is hereby authorized to place the delinquent water and sewer charges on the property tax rolls, payable in 2014 and that each unpaid assessment shall bear interest at the rate of eight percent (8%) per annum accruing on the full amount from December 1, 2013, together with a service charge of \$2.50 on each assessment, against the specified properties set forth in Exhibit A.

Levy No. 18619 Delinquent Water Utility Charges
Levy No. 18620 Delinquent Sewer Utility Charges

3. That each unpaid assessment shall bear a penalty of \$20.00 per item per Ordinance No. 1200.06, Subd. 6 and 1205.04 (total of \$40.00).

4. Prior to certification of the assessment to the County Auditor, the owner of any lot, piece or parcel of land assessed hereby may at any time pay the whole of such assessment, inclusive of the penalties, to the City Clerk, but no interest shall be charged if such payment is made prior to certification to the County.

5. The City Clerk is hereby directed to certify such assessments to the County Auditor for collection and remittance to the City in the same manner as assessments for local improvements.

Adopted this 14th of day of October, 2013 by the City Council of the City of Woodland.

Chris Rich, Mayor Pro Tem

ATTEST:

Shelley Souers, City Clerk
water & sewer assessment file/ Delinquent Utility Resolution

6A

WOODLAND CITY COUNCIL



MEETING DATE: October 14, 2013

FROM: Shelley Souers, City Clerk

SUBJECT: Review draft ordinance amendments regarding the animal definition and Backyard Chickens; adding a new section to Chapter 4 of the code

Review draft ordinance amendments regarding the controlled harvest of deer and other animals, Section 425 weapons

Review draft ordinance amendments regarding noise levels and generators; Section 455.01

AGENDA ITEM – NEW BUSINESS

First reading of draft ordinance amendments to the City Code regarding animal keeping, harvesting of deer and other animals, noise levels and portable generators

OVERVIEW

In May 2013, a resident asked the City Council to consider allowing backyard chickens. The Council began discussions and considering amendments to the city code pertaining to permitting chickens.

The hobby of keeping of urban backyard chickens has become of interest recently and many cities are considering and have adopted ordinances to permit limited numbers of chickens in urban areas.

Woodland’s Ordinance language presently prohibits the keeping of chickens in the city.

The City Council and staff in conjunction with suggestions from residents have prepared draft language to the City Code that would allow a limited number of chicken to be kept under certain conditions. Several municipal ordinances were reviewed and consideration was given to the rural nature of Woodland, lot size and density and the potential impacts on the environment.

In addition to the new language regarding chickens, staff made several updates to the animal ordinance and broadened the definition of animals. These changes, as well as the changes to the ordinance regarding chicken keeping, can be viewed in the attached documents.

Other amendments have been made to Chapter 4 of the City Code that includes:

- New language added to Section 425 Weapons, regulating the controlled harvest of deer and other animals.
- New language added to Section 455.01; General Noise Standards, regarding noise levels and the use of portable generators during emergencies.

ATTACHMENTS

The ordinance language consist of technical corrections and substantive amendments involving definitions and the addition of a new section 407 permitting backyard chickens along with amendments to other sections in Chapter 4, Public Health and Safety.

- Section 405, amendment to the Definition of Animals
- New Section 407, Backyard Chickens
- Section 425 regarding weapons, adding new language regulating harvest of deer and other animals.
- Section 455.01; General Noise Standards; amending subd. 3 regarding noise levels and adding a new subsection 455.06 regarding generators

RECOMMENDED COUNCIL ACTION

Review the Chapter 4 proposed ordinance amendments. Direct staff to modify the ordinance language and proposed amendments following the Council discussion and to prepare a summary of the lengthy ordinances, where appropriate, to be considered at the November 12th Council meeting.

City Council will meet on **Tuesday, November 12** (due to the Veterans Day Holiday on Monday, November 11th)

**CITY OF WOODLAND
HENNEPIN COUNTY, MINNESOTA
ORDINANCE NO. 04-15**

**AN ORDINANCE AMENDING THE CITY OF WOODLAND CITY CODE CHAPTER 4
SECTION 405 REGARDING ANIMAL CONTROL**

The City Council of the City of Woodland ordains:

Section 1. Section 405 of the Code of the City of Woodland pertaining to definitions regarding animal control is hereby amended as follows:

405.01 Definitions. For the purpose of this Section, the following words have the meanings given them in this Subsection:

Subd.1. Animal: Includes cattle, horse, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens, feathered birds or fowl, dogs, cats, rodents (guinea pigs, gerbils, hamsters) rabbits, ferrets, reptiles, amphibians, snakes invertebrates, fish, and caged household birds.

~~405.09~~ 405.02 Keeping Prohibited

Subd.1. Limitation. Except as provided in Subd. 2 of this Subsection, no person, family, or group of persons maintaining a common household, may own, keep or harbor within the City.

(a) Any hog, pig, cattle, horse, mule, sheep, goat or any chicken or turkey cattle, horse, mule, sheep, goat, hog, pig, swine, pony, duck, geese, turkey, guinea hens, rodents, rabbits and roosters.

Subd. 2 Exempted Animals.

(a) small rodents under (15 pounds) housed indoors

Section 2. Section 405 existing subdivision numbers will be renumbered to reflect the amendment.

Section 3. Effective Date. This Ordinance shall become effective upon publication.

Adopted by the City Council of Woodland on _____, 2013 and published in the paper of the Minnesota Sun Publications, _____, 2013.

James S. Doak, Mayor

ATTEST:

Shelley Souers, City Clerk

**CITY OF WOODLAND
HENNEPIN COUNTY, MINNESOTA
ORDINANCE NO. 04-16**

**AN ORDINANCE AMENDING THE CITY OF WOODLAND CITY CODE CHAPTER 4
PUBLIC HEALTH AND SAFETY ADDING A NEW SECTION 407 REGARDING
BACKYARD CHICKENS**

The City Council of the City of Woodland ordains:

Section 1. Chapter 4 of the City Code is hereby amended to add a new Section 407 pertaining to backyard chickens as follows:

407.01 Animals and Fowl-Keeping, Treatment and Housing

Subd. 1 Definitions. For the purpose of this Section, the following words have the meanings given them in this Subsection:

(a) Chicken a domestic fowl, *Gallus domesticus*, descended from various jungle fowl of southeastern Asia and developed in a number of breeds for its flesh, eggs, and feathers.

(b) Coop means the structure for the keeping or housing of chickens permitted by the ordinance

(c) Hen means female chicken

(d) Rooster means a male chicken

(e) Run means a fully enclosed area attached to a coop where the chickens can roam

Subd 2. Keeping of Chickens. No person shall own, harbor, or keep within the City a hen chicken unless a valid permit for such chicken has been obtained pursuant to the provisions stated herein.

(a) Upon payment of the fee set forth in Section 305.02, permits will be issued on an annual basis, expiring December 31 following the date issued.

(b) There must be compliance with all other provisions of this Section.

(c) The permit may impose any restrictions or conditions deemed necessary to protect neighboring property from unreasonable noise, unsanitary conditions, a public health risk or other annoyance.

(d) An initial inspection of the property, coop, and run is required prior to issuance of a permit. A similar inspection is also required for permit renewals.

(e) The City may inspect the property at any time to ensure compliance with the provisions of this Section or for any other reason.

(f) A permit issued by the City shall not be transferable.

(g) The permit is subject to revocation by the Council if found to present noxious odors, excessive noise levels, poorly maintained coop, unsanitary or inhumane conditions, failure to restrain chickens to their run, a public health risk and failure to comply with any provision of this Section.

Subd. 3 General

(a) The keeping of roosters is prohibited.

(b) No more than five (5) chickens shall be kept on any one (1) premise.

(c) Chickens must be confined on the permitted premise at all times, in a chicken coop or chicken run, and may not be kept in any part of a principal dwelling or the garage.

(d) All chicken grains and feed must be stored in a rodent proof container.

(e) The use of chickens for cockfighting is prohibited.

(f) The City will accept no responsibility for the loss of chickens to predators.

Subd. 4. Coop and Run

(a) All chickens shall be provided access to both a coop and a run.

(b) All fencing and electrical work associated with the chicken coop or run shall be consistent with the building and zoning codes and all appropriate permits and licenses shall be obtained therefore.

(c) Any chicken coop or run shall be set back at least twelve (12) feet from the principal dwelling, fifty (50) feet from a well head, fifty (50) feet from principal dwellings on adjacent lots, and thirty (30) feet from the property line.

(d) Any coop or run shall be set back at least twenty-five (25) feet from the following features:

a. A delineated wetland edge;

b. The top of a bank of a pond, filtration basin.

(e) Chicken coops shall have a maximum footprint area of ten (10) square feet per chicken.

(f) Chicken runs shall have a maximum footprint area of twenty (20) square feet per chicken and a minimum footprint area of ten (10) square feet per chicken.

(g) The coop shall be elevated a minimum of twelve (12) inches above ground and no part of the coop may not exceed a height of ten (10) feet as measured from the ground.

(h) No coop or run shall be located in any form of easement or right-of-way.

(i) The coop and run shall be completely enclosed and rodent proof.

(j) The coop shall provide adequate ventilation and protection from the elements and be winterized.

(k) The coop shall be screened view by neighbors upon their request.

(l) The coop shall not be visible from Lake Minnetonka.

(m) the coop and run, whether portable or stationary shall not be placed in the front yard or minimum side yard setbacks, and

(n) the coop and the treatment of chickens shall meet the generally accepted standards for animal husbandry adopted by the commercial egg production industry, as revised from time to time by industry association(s).

(o) The coop and run must be removed from the property when chickens are no longer kept.

Subd. 5. Private Restrictions and Covenants on Property. Notwithstanding the issuance of a license by the City, private restrictions or covenants on the use of property shall remain enforceable. Private restrictions include but are not limited to deed restrictions, neighborhood association by-laws, and covenant declarations. A permit issued to a person whose premises are subject to private restrictions and/ or covenants that prohibit the keeping of chickens is void. The interpretation and enforcement of the private restrictions is the sole responsibility of the private parties involved.

Section 2. Effective Date. This Ordinance shall become effective upon publication.

Adopted by the City Council of Woodland on _____, 2013 and published in the paper of the Minnesota Sun Publications, _____, 2013.

James S. Doak, Mayor

ATTEST:

Shelley Souers, City Clerk

**CITY OF WOODLAND
HENNEPIN COUNTY, MINNESOTA
ORDINANCE NO. 04-17**

**AN ORDINANCE AMENDING THE CITY OF WOODLAND CITY CODE
CHAPTER 4 SECTION 425 REGARDING THE CONTROLLED HARVEST OF
DEER OR OTHER ANIMALS OR BIRDS BY THE CITY.**

The City Council of the City of Woodland ordains:

Section 1. Section 425 of the Code of the City of Woodland is hereby amended to read as follows:

425.06 Controlled Harvest of Deer or Other Animals or Birds By The City. The city of Woodland may, without violating the provisions of Section 425 of this chapter, authorize a controlled harvest of deer population, or any other animals or birds, and in so doing permit the discharge of such firearms, bow and arrows or use of traps as deemed appropriate during such harvest. Prior to any such controlled harvest by authorization of City, the Council shall request the Chief of Police, or his designated representative, a report on the population within the City of the type of animal or bird to be harvested.

A report recommending the removal of deer shall discuss the number of deer/auto accidents within the City, reports of loss of ornamental trees or shrubs, deer sightings or such other information as deemed necessary or an actual survey of the deer population.

In the event the City shall permit such controlled harvesting the same shall be conducted in the area of the city and pursuant to and only in accordance with the rules, regulations and in the manner promulgated by the City.

Section 2. Effective Date. This Ordinance shall become effective upon publication.

Adopted by the City Council of Woodland on _____, 2013 and published in the paper of the Minnesota Sun Publications, _____, 2013.

James S. Doak, Mayor

ATTEST:

Shelley Souers, City Clerk

**CITY OF WOODLAND
HENNEPIN COUNTY, MINNESOTA
ORDINANCE NO. 04-18**

**AN ORDINANCE AMENDING THE CITY OF WOODLAND CITY CODE
CHAPTER 4 SECTION 455 REGARDING NOISE CONTROL.**

The City Council of the City of Woodland ordains:

Section 1. Section 455 of the Code of the City of Woodland is hereby amended to read as follows:

455.01 GENERAL NOISE STANDARDS

Subd. 3. Maximum Noise Levels by Receiving Land Use Districts. No person shall operate or cause to be operated any source of noise in such a manner as to create a noise level outdoors, as measured from the property line, exceeding the dB(A) limits set forth in the following Table:

455.06 Portable and stationary power generators.

Subd. 1. Noise from public and private portable and stationary power generators and equipment used during power outages or other emergencies shall be exempt from the restrictions under this subsection.

Section 2. Section 455 existing subdivision numbers will be renumbered to reflect the amendment.

Section 3. Effective Date. This Ordinance shall become effective upon publication.

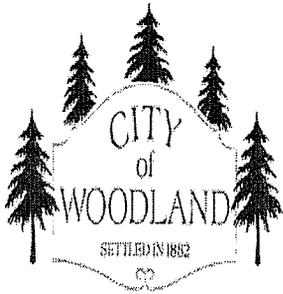
Adopted by the City Council of Woodland on _____, 2013 and published in the paper of the Minnesota Sun Publications, _____, 2013.

James S. Doak, Mayor

ATTEST:

Shelley Souers, City Clerk

WOODLAND CITY COUNCIL



MEETING DATE: October 14, 2013
FROM: Shelley Souers
SUBJECT: Chapter 3 Fee Schedule
Ordinance No. 03-20; amending the
fee schedule to include a permit fee
for keeping chickens

OVERVIEW

The Council has considered an ordinance permitting backyard chickens to be kept subject to certain restrictions and conditions. An annual permit would be established to allow residents to keep a limited number of backyard chickens. The permit will be subject to annual review and approval by the City Council. A permit fee of \$25 would be collected with the permit to keep chickens.

- A fee would be collected annually in conjunction with a permit to obtain chickens or renewal of an existing permit
- The fee would go toward the cost of the annual permit administration and staff review of the residential premises and structure where the chickens would be kept.

RECOMMENDED COUNCIL ACTION:

Review Ordinance No. 03-20; amending the fee schedule to include a new permit fee to be collected annually in conjunction with an approved permit to keep backyard chickens.

City ordinance requires that every ordinance have two readings prior to adoption. The Council may elect to waive the second reading of the ordinance by majority vote of the Council. If the second reading is not waived the ordinance will be placed on the November Council agenda.

**CITY OF WOODLAND
HENNEPIN COUNTY, MINNESOTA
ORDINANCE NO. 03-20**

**AN ORDINANCE AMENDING CHAPTER 3 OF THE CITY OF WOODLAND CODE
AMENDING SECTION 305 AND ESTABLISHING CERTAIN FEES**

The City Council of the City of Woodland ordains:

Section 1. Establishment of a new fee to Section 305 of the City Code is hereby amended to read as follows:

305.02 Establishment of Fee Amounts. The dollar amounts of fees required by this Code as stated in the following table.

Animal Licenses & Fees				
Fee No.	Code No.	Purpose of Fee	Item	Amount
5	407.01	Backyard Chicken Permit	Annual permit 407.01, Subd. 2 (a)	\$ 25.00

Section 2. Section 305 existing fee numbers will be renumbered to reflect the amendment.

Section 3. Effective Date. This Ordinance shall become effective upon publication.

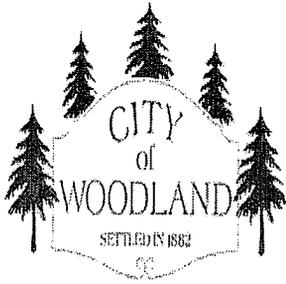
Adopted by the City Council of Woodland on _____, 2013 and published in the paper of the Minnesota Sun Publications _____, 2013.

James S. Doak, Mayor

ATTEST:

Shelley Souers, City Clerk

WOODLAND CITY COUNCIL



MEETING DATE: October 14, 2013

FROM: Shelley Souers

SUBJECT: Chapter 9 – **Draft** zoning language Updates:
Review draft amendments regarding technical corrections and clarification between main building and accessory structures, language regarding fences and tree removal permits

OVERVIEW

The draft ordinance language consists of technical corrections and amendments to definitions to clarify accessory structures and main buildings. Language regarding animal keeping in the section regarding prohibited uses has been removed. The draft includes additional language regulating fences to clarify the height permitted and adds a new restriction relating to the storage of any materials between a fence and the property line. Minor language has also been added to clarify when a tree removal permit is needed.

All zoning amendments require a public hearing.

RECOMMENDED COUNCIL ACTION:

Review draft language to the Zoning Code and direct staff to make modifications to the draft language following review for consideration at a formal public hearing.

If Council chooses to move forward with the proposed amendments, a Public Hearing can be scheduled for Tuesday, November 12 to consider and act on the amendments to the zoning language.

CHAPTER 9. ZONING

900.01 Purpose, Scope and Interpretation.

Subd.1. Purpose. This Chapter is adopted as the principal means of attaining the goals and standards set forth in Woodland's Comprehensive Plan, including preservation of open space, scenic views, natural topography and habitat, wetlands, lakes, indigenous vegetation and trees, and rehabilitation of existing housing units on their present location.

Subd. 2. Scope. The use of all land and every building and the erection of any structural alteration of any building or portion of a building in the City shall be in conformity with the provisions of this Chapter 9. Any structure or use lawfully existing on September 10, 2001 but not in conformity with this Chapter 9 as amended may be continued subject to the provisions of Section 900.05.

Subd. 3. Interpretation. The provisions of this Chapter shall be interpreted as the minimum requirements for the promotion of the public health, safety, morals, convenience and general welfare, and also shall be interpreted as provided in Section 105.12. Where the provisions of this Chapter impose greater restrictions than those of any statute, other City Ordinance or regulation, this Chapter shall apply. Where the provisions of any statute, other City Ordinance or regulation impose greater restrictions than this Chapter, the more restrictive provisions shall apply.

900.02 Definitions. For the purposes of this Chapter, the terms set forth in this Section have the meanings given them in this Section.

Subd. 1. Bluff means a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance of 50 feet or more, measured on the ground, shall not be considered part of the bluff):

- (a) Part or all of the feature is located within 1000 feet of any lake;
- (b) The slope rises at least 25 feet above the ordinary high water level of the lake;
- (c) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
- (d) The slope drains toward the lake.

Subd. 2. Bluff impact zone means a bluff and land located within 20 feet from the top of a bluff.

Subd. 3. Boat house means a structure designed and used solely for the storage of boats or boating equipment.

Subd. 4. Building means a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property. The term includes tents, trailers, and other

roofed structures on wheels or other supports. The term "roof" includes an awning or other similar covering, whether or not permanent in nature.

~~Subd. 5. Building, Accessory means a subordinate building, the use of which is incidental to that of the main building located on the same lot.~~

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~~Subd. 6.5. Building, Main means a building in which the principal use of the lot is conducted.~~

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~~Subd. 7.6. Building Line means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.~~

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~~Subd. 8.7. Building Site or Building Lot - See "Lot".~~

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~~Subd. 9.8. Commissioner means the commissioner of the Minnesota Department of Natural Resources.~~

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~~Subd. 10.9. Conditional Use A use that would not be appropriate generally but may be allowed with appropriate restrictions, upon a finding that certain conditions as detailed in the zoning ordinance exist, the use conforms to the Comprehensive Plan of the community, and the use is compatible with the existing neighborhood. The city may impose additional conditions in specific instances to protect the health, safety and welfare. Any use deemed a Conditional Use per the ordinance must obtain a Conditional Use Permit.~~

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~~Subd. 11.10. Construction activity shall include, but not be limited to:~~

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- a) Clearing, dredging, excavating, and grading of land.
- b) The use or movement of manual tools, or any kind of electric, diesel or gas powered equipment and construction materials or supplies commonly employed in building, excavation, or roadway construction.
- c) The delivery, organization, or distribution of building materials or equipment associated with building, and
- d) The congregating of workers outdoors at or near the construction site, except where workers remain in their vehicles.

~~Subd. 12.11. Commercial property maintenance activity shall include, but not be limited to:~~

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- a) The use of manual, power and maintenance equipment, lawn mowers, chain saws, leaf blowers, tractors, commercial vehicles, excavation equipment, generators, and compressors.

b) Deliveries of landscaping supplies and equipment, and

c) The gathering together of workers on site.

Subd. ~~13~~ 12. Deck means 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 3 feet above ground.

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Subd. ~~14~~ 13. Dwelling means a building having running water and cooking and toilet facilities and customarily occupied by only one family.

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Subd. ~~15~~ 14. Dump (or Junk Yard) means an area used for the outdoor storage, keeping or abandonment of junk or discarded materials, including rubbish, trash, cans, bottles, garbage, vehicles, machinery or mechanical parts.

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Subd. ~~16~~ 15. Essential Services means gas, electrical, steam, or water transmission or distribution systems and structures, or collection, communication, supply or disposal systems and structures, reasonably necessary to provide adequate service by a public utility, governmental entity or commission, or required to protect the public health, safety or general welfare. The term includes towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, and accessories but does not include buildings, microwave radio relay structures, or satellite dishes.

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Subd. ~~17~~ 16. Family means one person or two or more persons each related to the others by blood, marriage, adoption, or foster care, or a group of not more than three persons not so related occupying a residence, maintaining a common household and using common cooking and kitchen facilities.

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Subd. ~~18~~ 17. Guesthouse means a structure used as a dwelling for non-paying guests or persons employed on the premises.

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Subd. ~~19~~ 18. Hardship has the meaning given that term in Minnesota Statutes, Chapter 462.

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Subd. ~~20~~ 19. Height of Building means the vertical distance between the highest adjoining ground level at the building or 10 feet above the lowest adjoining ground level, whichever is lower, and the highest point of any roof. Each such ground level will be measured using the spot elevation existing on June 14, 2010 or the spot elevation as of the building permit application date, whichever is lower.

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Subd. ~~21~~ 20. Home Occupation means a use carried on for gain or as a hobby by an occupant of a dwelling entirely within a dwelling or within an accessory building, which use is incidental to the residential use and does not change the residential character of the property.

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Subd. ~~22~~ ~~21~~. Home Professional Office means an office or studio of a physician, attorney, clergyman, architect, artist, engineer or similar professional person, located in the professional's dwelling.

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Subd. ~~23~~ ~~22~~. Impervious Surface means a surface which will not permit the passage of rainwater through it, including such surfaces as roofs, awnings, concrete or bituminous driveways, walkways, tennis courts, swimming pools and patios and plastic landscaping sheets or barriers. In determining the impervious surface area of a house or other structure, the entire area of the roof will be considered impervious surface, together with any additional impervious surface areas. For purposes of this Code, slatted decking will be deemed to be 90% impervious.

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Subd. ~~24~~ ~~23~~. Intensive Vegetation Clearing means the complete removal of trees or shrubs in a contiguous patch, strip, row or block.

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Subd. ~~25~~ ~~24~~. Lake means any one of the following public waters located in whole or in part in the City, which are given the following classifications by the Minnesota Department of Natural Resources:

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		<u>P.W.I.D.#</u>	<u>Ord. High Water Level</u>
Lake Minnetonka	General	27-133	929.4 ft.
	Development		above sea level
Lake Marion	Recreational	27-87	930.9 ft.
	Development		above sea level
Shavers Lake	Recreational	27-86	930.4 ft.
	Development		above sea level

Subd. ~~26~~ ~~25~~. Lot means a contiguous parcel of land, which may consist of unplatted land and/or one or more platted parcels.

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Subd. ~~27~~ ~~26~~. Lot Line, Front means the lot line adjacent to an existing or proposed street. In the case of a corner lot, the front lot line means the lot line adjacent to the street which the main building faces.

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Subd. ~~28~~ ~~27~~. Lot Width means the shortest distance between lot lines measured at the midpoint of the building line.

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Subd. ~~29~~ ~~28~~. Non-conforming Use means a structure or use that does not conform to the requirements of this Code at the time of adoption of the Code or at the time of an amendment of the Code which causes the structure or use not to conform.

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Subd. ~~30~~ ~~29~~. On-Site Sewage Treatment System has the meaning assigned that term in Section 705.02 of this Code.

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Subd. ~~31~~ ~~30~~. Ordinary High Water Level, used to define the boundary of public waters means an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

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Subd. ~~32~~ ~~31~~. Public Waters means any waters defined in Minnesota Statutes § 103G.005. The designation of waters herein as “public waters” does not (1) grant the public additional or greater right of access to the waters, (2) diminish the right of ownership or usage of the beds underlying the designated public waters, or (3) affect state or local law forbidding trespass on private lands.

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Subd. ~~33~~ ~~32~~. Setback means the minimum horizontal distance between a structure or on-site sewage treatment system and an ordinary high water level, shoreline improvement, top of a bluff, road, highway, or property line.

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Subd. ~~34~~ ~~33~~. Shore Impact Zone means land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

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Subd. ~~35~~ ~~34~~. Significant Historic Site means 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, § 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.

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Subd. ~~36~~ ~~35~~. Steep Slope means lands, exclusive of bluffs, having average slopes exceeding 12 percent over distances of 50 feet or more, measured on the ground, or lands that are otherwise poorly suited for development without appropriate design and construction techniques because of slope steepness and soil characteristics.

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Subd. ~~37~~ ~~36~~. Street means a public roadway which affords the principal means of access to abutting property.

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Subd. ~~38~~ ~~37~~. Structure means anything constructed or erected on or under the ground or attached to something having location on or under the ground. The term “structure” includes, but is not limited to, buildings, air conditioning units, compressors, cooling structures, condensers, generators, pumps, swimming pools, spas, hot tubs, pump houses, antennas, satellite dishes, and similar fixtures and equipment.

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Subd. 38. Structure. Accessory means a subordinate building, the use of which is incidental to that of the main building located on the same lot.

Subd. 39. Structural Alteration means any change in or addition to the supporting members of a structure, including the enlargement or extension of outside building dimensions or building height or depth, and including conversion of a dwelling used for summer living only to a dwelling intended for use during all seasons.

Subd. 40. Toe of the Bluff means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.

Subd. 41. Top of the Bluff means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.

Subd. 42. Tree means a woody, perennial plant usually with one stem or trunk and with many branches which has a diameter greater than six inches when measured at a point four feet above the ground.

Subd. 43. Use means the purpose for which land or a building or structure is or is to be used, occupied or maintained.

Subd. 44. Use, Accessory means a subordinate use on the same lot with the principal use and incidental and accessory to the principal use.

Subd. 45. Variance has the meaning assigned that term in Minnesota Statutes, Chapter 462.

Subd. 46. Wetland means the areas crosshatched on the Wetland Maps dated March, 1988 on file with the City Clerk, and made a part of this Code by reference.

Subd. 47. Yard means the open space between a lot line and a structure on the lot.

Subd. 48. Yard, Front means a yard extending across the full width of a lot having a depth equal to the shortest distance between the front lot line and the nearest portion of a structure.

Subd. 49. Yard, Rear means the yard extending across the full width of a lot and having a depth equal to the shortest distance between the rear lot line and any portion of a structure. If the rear lot line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line 10 feet in length within the lot, parallel to, and at the maximum distance from, the front lot line.

Subd. 50. Yard, Side means a yard between the side lot line and a structure extending from the front yard to the rear yard and having a width equal to the shortest distance between the side lot line and any portion of the structure..

900.03 Residential Districts Established.

- (a) The entire incorporated territory of the City of Woodland is designated as a residential district.
- (b) The land in the City platted as the "Methodist Lakeside Assembly Grounds", according to the plat on file in the office of the Hennepin County Recorder, is designated as a separate residential district referred to in this Code as the "Assembly Grounds".

900.04 Uses in the Residential Districts.

Subd. 1. Structures. No structure may be erected, constructed, reconstructed, altered, enlarged, moved or used within the City except as permitted by this Chapter, and only after issuance of all necessary permits and surveys as required by Chapter 7 of this Code.

Subd. 2. Uses Permitted. The following uses are permitted within the City:

- (a) One-family dwellings.
- (b) Accessory ~~buildings~~ structures, ~~structures~~, uses and equipment necessary or incidental to a one-family dwelling, including public and private ways and easements, essential services, guesthouses complying with Section 900.12, Subd. 3, garages for use of the persons residing on the premises, pump houses, swimming pools, spas, hot tubs, recreational sports courts, and other structures for yard, garden and private recreational purposes or ornamentation subject to the following:
 - (1) An accessory use may not be dangerous, obnoxious or offensive to persons residing in the vicinity, or impair the use, enjoyment or value of any property.
 - (2) No accessory ~~structure~~ may be rented or leased for any purpose.
 - (3) No accessory ~~structure~~ may be constructed on a lot prior to construction of the main building on the lot.
 - (4) An accessory structure shall be considered as part of the ~~main building if~~ the connection between the accessory ~~structure~~ and ~~main building~~ is above grade, fully enclosed with a full frost footing and has a minimum width equal to twenty five percent of the longest dimension of the accessory structure to be attached. In no case shall the length of the connection

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exceed fifty percent of the longest dimension of the accessory structure to be attached.

- (5) No accessory structure shall be erected or located within any required setback or utility easement. All minimum setback requirements shall be the same for accessory structures as they are for principal buildings. All accessory structures shall be located on that side of the main building opposite the front lot line, except that in the case of a lakeshore lot, all accessory structures (except gazebos, hot tubs, pool houses, pump houses, spas and pools) shall be located on that side of the main building opposite the lakeshore. Deleted: buildings
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- (6) Accessory building height shall not exceed 14 feet as measured from the lowest point of grade surrounding the structure to the peak.
- (7) Accessory buildings shall occupy no more than 25 percent of the area of the yard in which they are located.
- (8) No building permit shall be issued for the construction of more than one detached garage and one detached storage building for each single family dwelling. No lot shall have more than three accessory buildings.
- (9) No accessory structure or combination of accessory structures shall exceed the lesser of 1,000 square feet of gross floor area, 1,000 square feet of footprint area or 30% of the area of the footprint of the principal structure on the lot.
- (10) No accessory building shall be located closer than 12 feet from the main building. Deleted: principal structure
- (11) Air conditioning units, compressors, cooling structures, condensers, generators, pumps, pump houses, swimming pools, spas, hot tubs, and other items which generate noise, may be located only in the rear yard or front yard, or in a side yard abutting a street, and in all cases the equipment must be fully screened from view.
- (12) Any accessory building, structure, use or equipment lawfully existing on September 10, 2001 may continue as a legally existing non-conforming use subject to the provisions of Section 900.05.
- (13) The same or similar quality exterior material shall be used for an accessory building and the main building. All accessory buildings shall also be compatible with the main building on the lot. "Compatible" means that the exterior appearance of the accessory building, including roof pitch and style, is not materially different from the main building from an aesthetic and architectural standpoint, so as to cause: Deleted: principal
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- a. A difference to a degree sufficient to cause incongruity.
 - b. A depreciation of neighborhood values or adjacent property values.
 - c. A nuisance, such as an unsightly building exterior.
- (14) All buildings having exterior trash receptacles shall provide an enclosed area in conformance with the following:
- a. Exterior wall treatment shall be similar to and/or complement the main building. Deleted: principal
 - b. The enclosed trash receptacle areas shall be located in the rear or side yard.
 - c. The trash enclosure must be in an accessible location for pick up hauling vehicles.
 - d. The trash receptacles must be fully screened from view of adjacent properties and the public right-of-way.
 - e. The design and construction of the trash enclosure shall be subject to the approval of the Zoning Administrator.
 - f. The trash receptacle must meet all required setbacks of the zoning district.
- (15) No accessory building may be used for manufacturing, home occupation or commercial purposes.

Subd. 3. Uses Prohibited. The following uses are prohibited in the City:

- (a) A trailer or tent occupied as living quarters, or a cellar or basement of an uncompleted dwelling occupied as living quarters.
- ~~(b) Feed yards or the raising or keeping of horses, cattle, swine, sheep or goats.~~
- ~~(c) The keeping of any animal or fowl for commercial purposes.~~
- (d) Aircraft strips or ports or seaplane slips or anchorages.
- (e) Any use other than those specifically identified in Subdivisions 2 and 4 of this Section.

Subd. 4. Uses Permitted, with a Conditional Use Permit. The following uses may be permitted by conditional use permit approved by the City Council, subject to any conditions imposed in the granting of the permit:

- (a) Assembly hall, community center, park, playground, library or museum sponsored and maintained by a property-owners' association or group, or a similar community group.
- (b) Buildings for public and community uses.
- (c) Churches and parish houses.
- (d) Private school, nursery school, or child nursery, the permit for which is issued for not more than one year.
- (e) Building for essential services.

900.05 Non-conforming Uses. The lawful use or location of any structure existing at the time of enactment of this Code may be continued although the use or location does not conform to this Code, subject to Section 900.06, Section 900.09, Subd. 4(f), and the following conditions:

- (a) Interior Alterations and Ordinary Repairs. Interior alterations may be made to an existing structure which does not conform to current setbacks or other dimensional or design requirements of this Code without a variance. No variance will be required for ordinary repairs and maintenance done in accordance with applicable building codes and regulations notwithstanding the fact that the structure does not conform to the current dimensional or design requirements. Ordinary repairs and maintenance may include repair, replacement or addition of roofing, siding and windows so long as the same does not involve structural alteration.
- (b) Additions or New Structures. If an addition or new structure is added to an existing main building which is on a lot which has less than the area required under Section 900.07, or to a main building which does or does not meet current setback requirements, or if an existing main building is destroyed or demolished and a new main building is to be constructed, and the addition or new structure itself meets current setback requirements, a building permit for the addition or new structure may be issued without a variance or other Council approval if the proposal meets all other requirements of this Code.
- (c) Changes. No non-conforming structure or use may be changed to another non-conforming use.
- (d) Abandonment. A non-conforming use which has been abandoned or discontinued for a period of 12 consecutive months, or which has been superseded by a permitted use, may not be resumed.

900.06 Permit for Alteration of Non-Conforming Structure.

Subd. 1. Scope. This Section applies only to requests to alter an existing main building which does not conform to current setback requirements of this Code where the alteration(a) is not permitted under Section 900.05, (b) would not conform to current

setback requirements, (c) would not extend into the setbacks required under this Code by any distance greater than the existing main building, and (d) is not a physical alteration of a main building such that fifty (50) percent or more of the surface area of all exterior walls of such main building, in the aggregate are removed. If the alteration extends a greater distance into the required setback, it may be permitted only by variance.

Subd. 2. Procedures. The procedures relating to a permit for any such alteration will be as set forth for conditional use permits under Section 900.15, and the applicant will be required to pay the application fee set forth in Section 305.02. In addition, the application must include a survey or other drawing showing the location of the existing structure and the location of all proposed alterations. The drawing must also show the structures on the property adjoining the setback or setbacks in question. The permit application will be considered by the Council, and notice of the hearing will be given, all as provided in Section 900.15. After the hearing, the Council will grant or deny the permit, stating its reasons for doing so.

Subd. 3. Matters Considered. In granting or denying the permit, the Council may consider the following matters:

- (a) Whether the alteration maintains or enhances the general character and welfare of the community.
- (b) The magnitude and extent of the proposed alteration.
- (c) The resulting impact on the use and enjoyment of surrounding properties and other properties in the community.
- (d) The need for the proposed alteration in order to permit adequate use of the property.
- (e) The proximity of the proposed alteration to any structure on the adjoining property.
- (f) The effect of the proposed alteration on the light and visibility available to the adjoining property.
- (g) The extent of vegetation or other screening on the subject property and the adjoining property.
- (h) The effect on the property values of the subject property and the surrounding properties.
- (i) Matters of fire safety.
- (j) The ability to locate the proposed alteration elsewhere on the property.
- (k) Any unusual characteristics of the property related to the requested alteration.

- (l) The extent to which the existing structure is non-conforming.
- (m) Any other matters which may be relevant to the alterations being requested.

Subd. 4. Main Buildings Ineligible for Permit. Any main building which has been permitted to be reconstructed pursuant to Section 900.09, Subdivision 4(i), shall not be eligible for a permit under this Section for any alteration thereto until two years following the date of issuance of the certificate of occupancy with respect to the reconstructed main building.

Subd. 5. Effect of Permit. If an alteration for which a permit is granted under this Section is not commenced within a period of 12 months after the permit is issued, the permit will expire. If the permit provided for in this Section is granted, and the alteration is commenced within 12 months, the permit will run with the title to the property for which it was granted so long as the alteration for which it was granted continues to exist. If that alteration is destroyed or removed, the permit will automatically expire.

900.07 Required Lot Area. No main building shall be constructed, erected, established, or structurally altered, upon a lot containing an area of less than two acres except for the following:

- (a) A main building located or to be located on a lot in the Assembly Grounds of record as of September 10, 2001 and containing an area of at least 4,760 square feet.
- (b) Ordinary repairs and interior alterations permitted under Section 900.05(a).
- (c) Additions or structures permitted under Section 900.05(b).
- (d) Alterations of non-conforming structures permitted under Section 900.06.
- (e) Reconstruction permitted under Section 900.09, Subdivision 4(i).
- (f) A new main building to be constructed on land containing an area of at least one acre designated as one separate lot or parcel in a recorded plat or other subdivision approved by the Council, where (i) there is no adjoining land in common ownership and no adjoining land in common ownership on January 1, 1988 was conveyed in violation of Chapter 8 of this Code, or (ii) any adjoining land in common ownership qualifies as a separate parcel under Section 800.01(c).

For purposes of this Section, lot area measurements will not include land below the ordinary high water level, wetlands or easements for road or driveway purposes.

If a lot in an area other than the Assembly Grounds is divided by a street or privately owned driveway or road designed to serve three or more parcels of land in separate ownership, no part of the lot will be included unless at least one of the portions of the lot not itself so divided has an area of at least 72,000 square feet.

900.08 Required Lot Width. Except in the Assembly Grounds, and except for reconstruction permitted under Section 900.09, Subdivision 4(i), no main building may be constructed, erected or established upon a lot which is less than 100 feet in width. The lot width standards must be met at both the front building line and the ordinary high water level.

900.09 Location of Structures.

Subd. 1. General Requirements. Except for reconstruction permitted under Section 900.09, Subdivision 4(i), no structure may be erected, constructed, reconstructed, or moved onto a lot unless located within the minimum yards required under this Section. In no event may there be more than one main building on a lot.

Subd. 2. Reductions Below Required Minimums. No lot may be reduced or diminished in area, and no structure may be enlarged or moved, so as to reduce or diminish the yards, lot area or open spaces required by this Chapter. No yard or other open space required for any structure will be considered as providing yard or open space for any other structure, and no yard or open space on a lot or parcel will be considered as providing a yard or open space on an adjoining lot unless those lots have been combined by Council resolution to form a single lot for purposes of this Code.

Subd. 3. Required Yards – Certain Lots in the Assembly Grounds and Certain Lots Less Than 16,500 Square Feet. The following minimums are required for all yards for lots in the Assembly Grounds which contain an area of less than 16,500 square feet and for any other lots which contain an area of less than 16,500 square feet and are served by City sanitary sewer and City water:

- (a) The minimum side yard and rear yard in each case is 10 feet from the lot line or 20 feet from the nearest structure on an adjoining lot, whichever creates the larger yard. The minimum side yard on the street sides of a corner lot is 15 feet.
- (b) The minimum front yard is the yard created by a straight line drawn between the fronts of the dwellings on the adjoining lots, or the front yard of the adjoining dwelling if there is only one adjoining dwelling, or 15 feet if there are no adjoining dwellings.

Subd. 4. Required Yards - Other Lots. The following minimums are required for all yards in the City other than for lots in the Assembly Grounds which contain an area of less than 16,500 square feet and for any other lots which contain an area of less than 16,500 square feet and are served by City sanitary sewer and City water:

- (a) The minimum side yard is 30 feet, and the minimum side yard on the street sides of a corner lot is 40 feet.
- (b) The minimum rear yard is 40 feet.
- (c) The minimum front yard is 50 feet.

- (d) The minimum distance between any portion of a structure and the shore of Lake Minnetonka is the greater of:
 - a. 75 feet, measured from the Ordinary High Water Level.
 - b. 75 feet, measured from the elevation of 929.4 feet above sea level.
 - c. 70 feet, measured from any shoreline improvement, including but not limited to riprap, seawall, or retaining timber.The measurement will be based on survey(s) submitted to the City of Woodland or Minnehaha Creek Watershed District on or after August 10, 2009. If such surveys show different locations for the Ordinary High Water Mark, elevation of 929.4 feet above sea level, or shoreline improvement(s), the survey resulting in the greatest setback shall be used.
- (e) The minimum distance between any portion of a structure and the shore of Shaver's Lake or Lake Marion is 50 feet measured from the ordinary high water line.
- (f) The minimum distance between any portion of a structure and the top of a bluff is 30 feet.
- (g) The minimum distance between any portion of a structure and a wetland is 25 feet.
- (h) The minimum distance between any portion of a structure and an unplatted cemetery is 50 feet.
- (i) If an existing structure is destroyed, it may be rebuilt on the existing foundation if located wholly within the lot lines, or in a location which is no closer to any lot line than was the structure destroyed, so long as in either case there is no substantial increase in the height of the structure.

Subd. 5. Bluff Impact Zone. No structures other than stairways and landings shall be placed within bluff impact zones.

Subd. 6. Steep Slopes. The Building Inspector, in consultation with a professional engineer, as necessary, will evaluate possible soil erosion impact before issuing a permit for construction on steep slopes of sewage treatment systems, roads, driveways, structures, or other improvements. When determined necessary, conditions will be attached to such permits to prevent erosion and to preserve existing vegetation which screens structures, vehicles and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

Subd. 7. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that adversely affects the aspects of the site that give it historic significance unless adequate information about the site has been obtained or removed from the site and documented in a public repository.

900.10 Lot Coverage. This section regulates the amount of area a property can have which is covered with structures and impervious surface. For the purposes of this section, "lot" area measurements will not include land below the Ordinary High Water Level, wetlands or easements for roadways and driveways.

Subd. 1. For lots containing an area greater than 16,500 square feet, the percentage of lot area covered by ~~all structures~~ the main building may not exceed 10 percent of the gross lot area, ~~and the percentage of lot area covered by an impervious surface, including the area covered by buildings,~~ may not exceed twenty-five (25) percent of the lot area. This percentage may not be exceeded, nor properties already in excess of this percentage reconfigured without the issuance of a Variance in accordance with Section 900.14 of this code.

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Subd. 2. Lots containing an area less than 16,500 square feet and serviced by municipal water and sanitary sewer, the percentage of lot area covered by an impervious surface, including the area covered by buildings, may not exceed forty (40) percent. This percentage may be increased to forty-five (45) percent with the issuance of a conditional use permit. Applications for a Conditional Use Permit shall be made under Section 900.15 of this code. In granting or denying the permit, the Council may consider the following matters:

- (a) Whether the increase in the amount of lot area covered by an impervious surface maintains or enhances the general character or welfare of the community.
- (b) The magnitude and extent of the increase in lot area covered by an impervious surface.
- (c) The resulting impact on the use and enjoyment of surrounding properties or other properties in the community.
- (d) The need for the increase in lot area covered by an impervious surface in order to permit adequate use of the property.
- (e) The proximity of any proposed alteration to any structure on the adjoining property.
- (f) The effect on the light and visibility available to the adjoining property.
- (g) The extent of vegetation or other screening on the subject property and the adjoining property.
- (h) The effect on the property value of the subject property and the surrounding properties.
- (i) Any other matters which may be relevant to the increase in lot area covered by an imperious surface.

For purposes of this Section 900.10, "lot" area measurements will not include land below the ordinary high water level, wetlands or easements for roadways and driveways. No portion of any lot may be covered by any impervious surface without a building permit.

900.11 Minimum Floor Area. Except in the Assembly Grounds, no main building erected, constructed, established or structurally altered as a dwelling unit may have a first floor area (exclusive of garages or other accessory buildings) of less than 1,200 square feet for a one-story building or a first floor area of less than 800 square feet for a building one and one-half or more stories.

900.12 Additional Requirements: Structures in Yards.

Subd. 1. General. Every required yard or open space must be unobstructed by any building or structure, from the ground upward, except as follows:

- (a) When a yard adjoins a lake, then a pump house not exceeding 5 feet in height and 30 square feet in area may be located closer to the lake than permitted under the applicable setback from the ordinary high water line, but must be located at least 12 feet back from the ordinary high water line. Any such pump house must be treated to reduce visibility from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color or other means acceptable to the City, assuming summer, leaf-on conditions.
- (b) Sills, cornices, buttresses, eaves, open work fire balconies and fire escapes, chimneys, flues and similar building appurtenances, may extend not more than 4 feet into a required minimum yard.
- (c) Except in the Assembly Grounds, uncovered porches, decks, and steps to building entrances may extend not more than 12 feet into any minimum front yard or rear yard and not more than 6 feet into any minimum side yard, but must not extend beyond any shoreland, bluff or wetland setback lines. The foregoing sentence notwithstanding, a deck addition to a structure not meeting the required lake setback may be allowed without a variance if all of the foregoing criteria and standards are met: (1) the structure existed on the date the structure setbacks were established, (2) a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary lake setback of a structure, (3) the deck encroachment toward the lake does not exceed 15 percent of the existing setback of the structure from the lake or does not encroach closer than 30 feet, whichever is more restrictive and (4) the deck is constructed primarily of wood, and is not roofed or screened.
- (d) Walks, steps on ground slopes, retaining walls, hedges and natural growth, fences, paved terraces, and structures used ornamentally or for essential services, when accessory to and customarily incidental to the principal use, are permitted in the required minimum yards.

- (e) Driveways may be placed within the required side yard setback for structures but in no case shall be placed closer than five feet from a delineated side property line or within a platted drainage or utility easement. Driveways may not be placed within bluff and shore impacts zone and may not be placed in the required shoreland setback.

Subd. 2. Stairways, Lifts and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

- (a) stairways and lifts must not exceed 4 feet in width;
- (b) landings for stairways and lifts must not exceed 32 square feet in area;
- (c) canopies or roofs are not allowed on stairways, lifts, or landings;
- (d) stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- (e) stairways, lifts, and landings must be located, whenever practical, in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.

Subd. 3. Guesthouses. The following requirements shall be applicable to guesthouses:

- (a) a guesthouse is not permitted on any lot less than 2 acres in size;
- (b) a guesthouse must not cover more than 700 square feet of land surface and must not exceed 20 feet in height;
- (c) a guesthouse must be designed or located to reduce its visibility from public waters by use of vegetation, topography, increased setbacks or color (assuming summer leaf-on conditions).

Subd. 4. Fences. All fences in the City shall meet the following requirements:

- (a) No fence may exceed 6 feet in height, other than a chain link or wire mesh fence for a tennis court or paddle tennis court not exceeding 10 feet in height. Any other chain link or wire mesh fence shall not exceed 3-1/2 feet in height.

(1) Fence height means the vertical distance between the adjoining ground level at the fence and the highest point of the fence.

(2) When measuring the height of a fence, separation from grade shall not exceed three inches to the bottom of a fence panel. If the separation from grade exceeds three inches to the bottom of the fence panel, the

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maximum permitted height will be reduced by the amount that the separation from grade exceeds three inches.

(3) The height of a fence post shall not exceed six inches above the top of a fence panel.

(b) No fence shall be placed within the required setback for structures from any lakeshore. No fence may be erected within 5 feet of a lot line until a survey of the lot line and stakes placed by the surveyor showing the proposed fence have been approved by the Zoning Administrator. All fences shall be set back from the property line a distance equal to at least two-thirds of the height.

(c) No fence shall be placed or extend into a public right-of-way.

(d) The front or decorative side of any fence which has a front and rear side must face the abutting property.

(e) No fence or hedge in any yard of a corner lot within 20 feet of the corner at the street intersection may be more than 3 feet above the level of the center of the roadway nearest it if the fence or hedge obstructs the view of traffic on the roadway.

(f) All fences must be maintained by the owner in a condition of good repair and appearance.

(g) Existing non-conforming fences may be maintained, but may not be enlarged, extended, reconstructed or structurally altered. If 25 % or more of an existing non-conforming fence is damaged, the fence must be removed or reconstructed in compliance with this Subdivision 4.

(h) There shall be no storage of any type between a fence and the property line abutting the fence. Any such storage in place at the time of the adoption of this ordinance must be removed so as to be in compliance with the ordinance.

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900.13 Structure Elevation and Height Requirements.

Subd. 1. Structure Height Limits. No portion of a structure may exceed 35 feet in height, as measured in accordance with Section 900.02, Subd. 20. No portion of an accessory structure may exceed 14 feet in height, as measured in accordance with Section 900.04, Subd. 2(b)(6). Structure height limits do not apply to chimneys or flues.

Subd. 2. Minimum Lowest Floor Elevation. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where those controls do not exist, the lowest floor of a structure must be placed at or flood proofed to a level at least 3 feet above the highest known water level, or 3 feet above the ordinary high water level, whichever is higher.

900.14 Variances.

Subd. 1. Scope. This section applies to all exceptions to the requirements of this Code, except where the paragraph stating the requirement calls for a different permitting process, e.g., Conditional Use Permit. Any persons may request variances from the literal provisions of the zoning ordinance where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration.

Subd. 2. Ordinance provisions to Which Variances May Be Granted. The City Council may consider variances from the strict application of the provisions in this Chapter and impose reasonable conditions and safeguards in the variance granted.

Subd. 3. Practical Difficulties Standard. "Practical difficulties," as used in connection with the granting of a variance, means:

- (a) That the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- (b) The plight of the landowner is due to circumstances unique to the property not created by the landowner;
- (c) The variance, if granted, will not alter the essential character of the locality.
- (d) Economic considerations alone do not constitute practical difficulties.
- (e) For existing developments, not served with municipal sewer and water, a complying sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

Subd. 4. Variance Standard. A variance to the requirements of the zoning code shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

Subd. 5. Findings. The Council, may grant variances from the strict application of the provisions of this Chapter and impose conditions and safeguards in the variance so granted, but no variance shall be granted unless the Council makes affirmative findings of fact for all of the following:

- (a) The variance is in harmony with the purposes and intent of the ordinance
- (b) The variance is consistent with the comprehensive plan
- (c) The proposal puts the property to use in a reasonable manner
- (d) There are unique circumstances to the property not created by the landowner
- (e) The variance, if granted, will not alter the essential character of the locality

Subd. 6. Conditions. No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. The Council may impose conditions in the granting of variances. A condition must be directly related to

and must bear a rough proportionality to the impact created by the variance. Violation of such conditions shall be a violation of the zoning code and subject to the enforcement provisions thereof.

Subd. 7. Application. Written application for a variance is to be made to the Clerk and accompanied by the filing fee in the amount stated in Section 305.02.

Subd. 8. Council Consideration. The Council will consider the application and hold a public hearing on the matter within 60 days after receipt of the application. The Council will by motion grant or deny the application according to the provisions of Subdivision 3 of this Section and will make a record in the minutes stating its conclusions with respect to each of the findings required under Subdivision 3.

Subd. 9. Required Vote. No variance shall be granted by the Council except upon an affirmative majority vote of the entire City Council acting as the Board of Adjustment and Appeals.

Subd. 10. Notice. The Clerk will publish notice of the Council meeting at which the variance application will be heard in the City's official newspaper at least 10 days prior to the Council meeting, and will mail such notice at least 10 days prior to the Council meeting to all persons who own property within 500 feet of the perimeter of the lot in question, to the applicant and to the Council Members. Failure of a property owner to receive notice shall not invalidate any proceedings on a variance request provided a bonafide attempt has been made to comply with the notice requirements of this ordinance.

Subd. 11. Reconsideration. Whenever an application for a variance has been considered and denied, a similar application for a variance affecting the same property by the applicant, their successors or assigns, shall not be considered a second time by the City Council, acting as the Board of Adjustments and Appeals, for at least six (6) months from the date of its denial; unless the Board of Adjustment and Appeals vote for reconsideration of the matter upon a vote of not less than four-fifths of the entire Board of Adjustments and Appeals.

Subd. 12. Recovery of Legal and Administrative Costs. In addition to the initial application fee as may be established from time to time by the City Council, the applicant in making any application for variance agrees to pay all legal fees, engineering fees, consultant fees, and other administrative costs the City may incur in conjunction with the processing of the variance application. No building permit shall be issued on a granted variance until such costs have been paid in full.

Subd. 13. Expiration. If a variance is granted for a property and the applicant does not commence the construction of the structure for which it was granted within one year after the date of the Council Resolution approving the variance, the variance will expire and will be of no further force and effect. The applicant may request an extension of the

approval. The request must be submitted in writing showing a good faith attempt to complete the structure for which the approval was granted and a fee, as established in Section 305 must be paid. The request for an extension may not exceed one year and shall be subject to the review and approval of the City Council.

900.15 Conditional Use Permits.

Subd. 1. Scope. This Section applies to all conditional use permits which may be granted for specified uses delineated elsewhere in this Chapter.

Subd. 2. Evidence. The applicant is responsible for substantiating the application with authoritative evidence. In considering a request for a conditional use permit, the Council must be supplied with and consider evidence of the effect of the proposed use on the character and development of the neighborhood; the health, safety, and welfare of occupants of surrounding lands; existing and anticipated traffic conditions, including parking; and the effect on property values in the surrounding area. In addition, the Council must be supplied with such evidence and studies as it deems necessary in order to (1) conduct a thorough evaluation of the topographic, vegetation and soil conditions on the site to ensure the prevention of soil erosion or other possible pollution of public waters, roadways, and adjacent private property, both during and after construction, to ensure limiting visibility of structures and other facilities as viewed from public waters, roadways, and adjacent private property, and to ensure adequacy of the site for water supply and on-site sewage treatment, and (2) assess the types, uses, and numbers of watercraft and motor vehicles that the project will generate in relation to the suitability of public waters, roads and private lands to safely accommodate watercraft, motor vehicles and proposed structures. Insufficiency of authoritative evidence will result in denial of the application.

Subd. 3. Application. Application for a conditional use permit will be made in writing on forms provided by the Clerk, and will be filed with the Clerk together with a filing fee in the amount required under Section 305.02.

Subd. 4. Notice. The Clerk will publish notice of the Council meeting at which the application will be heard in the City's official newspaper at least 10 days before the Council hearing and will mail notice at least 10 days before the hearing to all persons who own property within 500 feet of the perimeter of the lot in question, to the applicant and to the Council Members.

Subd. 5. Council Hearing. The Council will consider the application at a public hearing at its next regular meeting held not sooner than 10 days after the notice. After the hearing, the Council will grant or deny the application by resolution which will include findings of fact and the conditions imposed in connection with the conditional use permit.

Subd. 6. Assignment. Applicants may not assign any application, evidentiary material or conditional use permit without consent of the Council.

Subd. 7. Expiration. If the applicant does not commence the authorized use or improvement within one year of the date the conditional use permit is issued the conditional use permit will expire and will be of no further force or effect. The applicant may request an extension of the approval. The request must be submitted in writing showing a good faith attempt to complete or utilize the approval permitted by the conditional use permit and a fee, as established in Section 305 must be paid. The request for an extension may not exceed one year and shall be subject to the review and approval of the City Council.

900.16. Wetland Regulations.

Subd. 1. Purposes. It is in the public interest to protect the wetlands, lowlands, watershed areas, lakes and watercourses within the City from uncoordinated and unplanned development, pollution and other damage. In addition to such general purposes, this Section is intended to:

- (a) Reduce danger to health from impure surface and ground water supplies by providing safe and sanitary drainage.
- (b) Permit and encourage land uses compatible with preservation of natural vegetation and marshes, for the purposes of maintaining constant rates of water flow and sustaining wildlife and plant growth.
- (c) Encourage a system of ponding areas to avoid fast runoff of surface waters from developed areas and to avoid drainage of pollutants into streams and lakes.
- (d) Restrict development of structures which will adversely affect wetland areas and public waters.

Subd. 2. Pollution Prohibited. It is unlawful for any person to cause pollution of wetlands or any body of water into which they drain, by depositing or discharging within wetlands, or permitting to drain into such waters, contrary to then applicable state standards, sewage, chemical wastes, pesticides, insecticides, plant fertilizers, salt, or other substances which would render the wetlands or such waters unclean, noxious, or impure according to then applicable state standards.

Subd. 3. Certain Development Prohibited. No filling, grading, dredging, excavation or construction is allowed within wetlands if such activity is incompatible with the purposes set forth in this Section or would result in the pollution prohibited in this Section.

Subd. 4. Permit for Development. There may be no filling, grading, dredging, excavation or subdivision of wetlands, and no structure or obstruction may be placed or erected within wetlands, until an appropriate permit has been issued by the City.

Subd. 5. Application for Permit. An application for a permit under this Section is to be filed with the Clerk, and paying the license fee as set forth in Section 305.02. The applicant must submit four copies of the application which include:

- (a) The name of the landowner.
- (b) The mailing address of the landowner.
- (c) The address and legal description of the land.
- (d) A description, including specific locations shown by map or survey, of any filling, grading, dredging or excavation to be done.
- (e) A description, including specific locations shown by map or survey, of any structure or obstruction to be placed or erected.
- (f) Other changes which would be made in the natural condition of the area, including loss or change of ground cover, destruction of trees and grade changes, and their effects upon the wetlands and the lakes and water courses into which they drain.
- (g) Engineering and hydrological data as required by the City.
- (h) The applicant's reasons for proceeding with the items described in (d), (e), and (f) of this Subsection.
- (i) Provisions for drainage, sediment control, pollution control, water management, maintenance of landscaped features, and any additional matters intended to improve or maintain the quality of the environment.
- (j) An explanation of why issuance of the requested permit would be consistent with each of the purposes set forth in this Section.
- (k) The name of the watershed district, or districts, in which the subject property is located.

Subd. 6. Review by Watershed Districts. Upon filing of the application, a copy will be sent by the City to the watershed district, or districts, in which the property is located, for review and comment by the watershed districts. The watershed district will file its comments and recommendations, if any, with the City within 40 days after receipt of the application unless additional time is authorized by the City. If no response is received from a watershed district within the 40-day period, the City may assume that the district has no comments or recommendations.

Subd. 7. Hearing by Council. The Council will, at its next regular meeting after receipt of the recommendations of the watershed district, set a date for a public hearing regarding the application for permit. At least 10 days before the hearing, a notice of the date, time, place and purpose of the hearing will be published in the City's official newspaper, and will be mailed to all persons who own property within 500 feet of the property for which the permit has been requested. At the hearing, the Council will hear persons who wish to

be heard in the matter. The Council will make its decision at the same meeting or at the next regularly scheduled meeting.

Subd. 8. Effect of Permit. The granting of a permit under the provisions of this Section will in no way affect the owner's responsibility to obtain all approvals required by any other ordinance of the City, or any statute, ordinance or regulation of the state or any State agency or subdivision, and any items authorized by the permit must comply with all other ordinances, statutes, and regulations.

900.17. Administration and Enforcement.

Subd. 1. Voting. Voting on matters under this Chapter will be conducted as follows:

<u>Purpose</u>	<u>Votes</u>
Amendment to Chapter to change any land from a residential zoning district to commercial or industrial zoning district	Four
Any other Amendment to this Chapter	Three
Variance	Three
Conditional Use Permit and Permits Under Section 900.06	Three
Resolution	Majority of Members present
Motion	Majority of Members present

Subd. 2. Board of Appeals. The Board of Appeals consists of the Mayor and Council and will function under Section 900.14 and to hear any alleged error in any requirement or determination by the Building Inspector or other City official. Five copies of the appeal and all necessary surveys, drawings and other information must be filed with the Clerk at least 10 days prior to the meeting at which the appeal is to be heard. The Mayor or Acting Mayor will chair the Board of Appeals which will be governed by the rules of procedure applicable to the Council.

Subd. 3. Building Permits. No person may erect, alter, wreck, or move any structure or part thereof, without first securing a building permit. Application for a building permit may be made in accordance with the building code of the City. Each application must state among other things, the dimensions of the lot to be built upon, the size and location of the structure or structures to be erected, the purpose or purposes of the structure or structures, as may be deemed necessary for the proper enforcement of this Code. The fees for building permits are provided in the building code of the City. The City will issue a building permit only after determining that the building plans together with the application comply with the applicable provisions of the building code and City Ordinance.

Subd. 4. Land Alteration Permits. No land in the City may be excavated, graded, or filled without a permit from the City Engineer and Zoning Administrator. The applicant will provide a scalable survey for the proposed alteration, showing the present and

proposed elevations or contours, the existing and proposed drainage pattern including the volume and rate of runoff currently and proposed to leave the property and any other information requested by the City Engineer. The City Engineer and Zoning Administrator will consider whether the alteration and any related structures will comply with the applicable provisions of this Code, and the effects on drainage and destruction of ground cover and water holding areas.

All applications for building permit in the City must be accompanied with a land alteration permit.

- a) Except in the Assembly Grounds, any excavation, filling or grading that would increase or decrease by up to 3 feet any ground level existing as of June 14, 2010 or the date of the application, whichever ground level is lower at any point, requires written permit from the City Engineer and Zoning Administrator. Any such land increase or decrease of more than 3 feet at any point requires a variance.
- b) Any excavation, filling or grading in the Assembly Grounds that would increase or decrease by up to two feet any ground level existing as of June 14, 2010 or the date of the application, whichever ground level is lower at any point, requires written permit from the City Engineer and Zoning Administrator. Any such land increase or decrease of more than two feet at any point requires a variance.

Subd. 5. Notification to Department of Natural Resources

- (a) Copies of all notices of any public hearings to consider variances, amendments, or conditional uses respecting the City's shoreland management controls will be sent to the commissioner or the commissioner's designated representative and postmarked at least 10 days before the hearings. Notices of hearings to consider proposed plats will include copies of the plats.
- (b) A copy of any approved amendment to the City's shoreland management controls, of approved plats, and final decisions granting variances or conditional uses respecting the City's shoreland management controls will be sent to the commissioner or the commissioner's designated representative and postmarked within 10 days after final action.

900.18. Topographic Alterations. The following considerations and conditions apply to the issuance of permits involving topographic alterations, including building permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

- (a) alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;

- (b) mulches or similar materials must be used, where necessary, for temporary bare soil coverages, and a permanent vegetation cover must be established as soon as possible;
- (c) methods to minimize soil erosion and to trap sediments before they reach any lake, channel, stream, pond or wetland must be used;
- (d) altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Services;
- (e) fill or excavated material must not be placed in a manner that creates an unstable slope;
- (f) plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
- (g) fill or excavated material must not be placed in bluff impact zones;
- (h) any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, section 103G.245;
- (i) alterations of topography will be allowed only if they are accessory to permitted or conditional uses and do not adversely affect the adjacent or nearby properties; and
- (j) placement of natural rock rip-rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed 3 feet horizontal to one foot vertical, the landward extent of the rip-rap is within 10 feet of the ordinary high water level, and the height of the rip-rap above the ordinary high water level does not exceed 3 feet.

Permits for excavations where the intended purpose is connection to a public water, such as boat slips canals, lagoons, and harbors, may be issued only after the commissioner has approved the proposed connection to public waters.

900.19 Tree Removal and Vegetation Maintenance and Alterations.

Subd. 1. Purpose. The City finds that it has been established that trees and other vegetation stabilize the soil and control water pollution by preventing soil erosion and flooding, reduce air pollution, temper noise, and provide a natural habitat for wildlife. Indiscriminate removal of trees and clearing of vegetation cause deprivation of these benefits and that it is in the interests of the City and its residents to prevent the indiscriminate removal of trees and clearing of vegetation.

Subd. 2. Activities Requiring a Permit. Except as provided in Subd. 3 in this Section, no person shall engage in any of the following activities:

- (a) intensive vegetation clearing
- (b) ~~the removal of any tree having a diameter of more than six inches, unless exempted by Subd. 3 of this section.~~
- (c) tree and vegetation removal necessary for the construction of structures and public utilities and the construction of roads and parking areas otherwise complying with the applicable provisions of the Code; provided that any trees removed as a result of such construction shall be replaced as provided in Subd. 6 of this Section.

Deleted: removal of any tree except the species of Boxelder, Buckthorn, Willow, Cottonwood, Green Ash, Siberian Elm and Prickly Ash or

Deleted: .

Subd. 3. Exceptions. The requirements of Subd. 2 of this Section do not apply to the following removal of trees and vegetation:

- (a) ~~removal of the species Boxelder, Buckthorn, Willow, Cottonwood, Green Ash, Siberian Elm and Prickly Ash~~
- (b) removal of any tree and vegetation that is dead or diseased.
- (b) tree and vegetation pruning within accepted tree management parameters.

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Subd. 4. Permit. Prior to engaging in any activity that requires a permit under Subd. 2 of this Section, an application shall be submitted to the Zoning Administrator for a permit, which shall remain valid for 8 months from the date of issuance, for such activity. The application shall describe the proposed activity and its purpose in detail (landscape drawing included when appropriate; lot lines and structures noted when appropriate) and a description of all replacement plants and materials. The Zoning Administrator will not grant a permit for such activity unless the following criteria are met:

- (a) the activity will not adversely affect the ecological systems or increase the potential for soil erosion.
- (b) the activity is in conformance with accepted tree management practices.
- (c) the activity will not adversely impact property values of surrounding properties or the aesthetics of the neighborhood in which such activity is proposed to occur.

Subd. 5. Fertilizers and Pesticides. Fertilizers and pesticides must be used in such a manner as to minimize run off into shore impact zones and public waters by use of earth, vegetation or both.

Subd. 6. Replacement of Trees. Any tree removed pursuant to clause (c) of Subd. 2 of this Section or pursuant to a permit issued under Subd. 4 of this Section shall be replaced on the lot upon which removed if the Zoning Administrator determines that such

replacement is necessary to meet the purpose set forth in Subd. 1. of this Section. Any replacement tree required by this Subd. 6 shall meet the following conditions:

- (a) Replacement trees shall be of a species similar to the trees to be replaced and shall be no less than the following sizes:
 - (1) Deciduous trees – no less than three caliper inches
 - (2) Coniferous trees – no less than 7 feet high
- (b) Replacement trees shall be planted no later than the first fall or spring following the removal of the tree to be replaced or by such later date agreed to by the Zoning Administrator if planting during such period would not be in conformance with accepted tree management practices.
- (c) Any replacement tree that is not alive or healthy one year after the date of planting shall be removed and a new healthy tree of the same size and species planted in its place. Planting shall occur no later than the first fall or spring following the expiration of such year.

Subd. 7. Shade Tree Disease Program. It is the intention of the City to conduct a program of shade tree disease control pursuant to authority granted by Minnesota Statutes, Section 18.023. This program is directed specifically at the control and elimination within the City of Dutch elm disease fungus, elm bark beetles, and of oak wilt fungus.

- (a) The City shall have the right to order or cause the removal of any trees that are dead or diseased on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city.
- (b) Unless such trees pose immediate hazard to public safety, the owner of such trees will be ordered, in writing, to remove said trees, stating the reason for removal and the location of said tree or trees to be removed. Removal shall be done by said owners at the owner's expense within (30) days after the date of the order to remove or a time parameter placed by the Zoning Administrator in consideration of the time of year or protection against spread of disease. In the event the owner fails to comply with such order to remove, or if public safety considerations require immediate removal, the City shall then proceed to remove said tree or trees, and to charge removal costs to the owner of the property as provided by law in the case of special assessments.

Subd. 8. Fines. Any builder, contractor or agent who may have intentionally assisted in the commission of any such violation, shall be guilty of a separate offense. All such violations which are of a continuing nature shall constitute a separate offense for each day of such continuance, and each tree removed shall constitute a separate offense. Any

person violating any provision of this Section, upon conviction, will be guilty of a misdemeanor.

Subd. 9. Enforcement. The Zoning Administrator is hereby charged with the responsibility for the enforcement of this Section and may serve notice to any person in violation thereof or institute legal proceedings as may be required, and the City Attorney is hereby authorized to institute appropriate proceedings to that end.

Subd. 10. Appeals. A person aggrieved by the administration of this Section may have thirty (30) days to appeal by petitioning the Zoning Administrator in writing. The Zoning Administrator will consult the City Council at its next scheduled meeting.

900.20. Roads, Driveways, Parking Areas.

- (a) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve screening of view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion into public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- (b) Roads, driveways, and parking areas must meet the required lake setback for structures and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no such alternatives exist, they may be placed within these areas with the issuance of a variance, but must be designed to minimize adverse impacts.
- (c) Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this Code are met. For private facilities, the grading and filling provisions of this Code must also be met.

900.21 Storm Water Management.

- (a) When possible, existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff before discharge into public waters. When development density or site conditions are such that natural features are inadequate, various types of constructed facilities such as skimming devices, dikes, waterways and ponds may be used if they comply with the field office technical guide of the local soil and water conservation district. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
- (b) All development must be planned and conducted in a manner that will minimize erosion.

900.22 Controlled Accesses to Public Waters. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions are permissible and must meet or exceed the following standards:

- (a) Controlled access lots must meet the width and size requirements for residential lots, and be suitable for their intended uses.
- (b) Controlled access lots must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot.
- (c) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring or docking. They may also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of such non-conflicting activities include swimming, sunbathing, and picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

900.23 Lighting. Within all zoning districts, sources of artificial light shall be so fixed, directed, designed and sized so that the sum total of their illumination will not increase the level of illumination on any nearby residential property by more than 0.1 foot candle in or within 25 feet of a dwelling nor more than 0.5 foot candle on any part of the property. The source of light shall not be visible beyond the property from which it originates. Bare incandescent light bulbs shall not be permitted in view of adjacent property, over public water, or public right-of-way.

900.24 Construction Site Management. The purpose of these requirements is to ensure preparation and implementation of construction site management plans in order to limit the impact of construction on the immediate neighborhood.

Subd 1. General Regulations. All residential and commercial construction sites shall comply with the following:

- (a) Prior to issuance of a building permit, the applicant will be required to provide proof that they have contacted all adjacent property owners within five hundred (500) feet of the applicant's property to make them familiar with the proposed construction and to provide them with contact information for the applicant.

- (b) All construction activity which includes the physical alteration or repair of the structure envelope, i.e., the alteration of the footprint or height of an existing structure, or the construction of a new structure shall require the submittal of a road damage escrow as required by Section 305 of the City Code. In addition, the City Engineer will document the condition of the road surface in the vicinity of the access to the proposed project: 1) prior to the commencement of construction and, 2) before the refund of the escrow. All damage to the road that can be attributed to the project shall be repaired and restored to the previously existing condition by the owner of the construction site and to the satisfaction of the City Engineer by a duly licensed and approved contractor. In the alternative, the cost of repair to the road surface by the City's appointed contractor shall be deducted from the road damage escrow. All costs in excess of the submitted escrow amount will be charged to the property owner of record and must be paid in full. The City shall have the right to certify all unpaid costs made for road and right-of-way repairs. In the event that weather or other conditions prevent the completion of necessary road repairs, the City will retain the full escrow amount until such time road repairs can be made, not to exceed a period of 6 months. The remaining balance of the road damage escrow will be refunded with no accrued interest.
- (c) Construction activity, as defined in Section 415.01, Subd. 2, and 900.02, Subd. 10 and commercial property maintenance activity as defined in Section 415.01, Subd. 3, and 900.02, Subd. 11, at any time other than the hours of 7:00 a.m. to 6:00 p.m. on weekdays and 9:00 a.m. to 6:00 p.m. on Saturdays and no such activity is permitted on Sundays or on the following public holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Noise from equipment used during the removal of snow and generators and equipment used during power outages or other emergencies shall be exempt from the restrictions under this subsection.
- (d) The applicant shall submit a Construction Site Management Plan as outlined in Subdivision 2 of this Section.
- (e) Onsite parking of construction vehicles and equipment will be provided to the extent feasible. If street parking is necessary, it must be done in coordination with the city. Parking will be limited to only those zones designated by city resolution.
- (f) All equipment shall be stored within the confines of the construction site. If necessary, a property line fence will be required to ensure that no construction vehicles, materials or other debris encroaches onto adjacent properties.
- (g) A functioning toilet and a minimum of one dumpster are required on the site prior to commencement of construction activity. These are to be considerably placed in relation to adjacent properties.
- (h) Daily site clean up of debris and garbage is required.

- (i) Weekly street cleaning is required to remove all dirt, mud and debris from public streets. City staff will monitor the condition of public streets and may require more frequent street cleaning.

Subd 2. Construction Site Management Plan. The Construction Site Management Plan is a stand-alone document and shall include the following:

(a) A site plan showing:

- (1) Site address.
- (2) Names, addresses and telephone numbers of persons responsible for preparing the construction site management plan.
- (3) Site property lines.
- (4) Location of proposed buildings and structures on site.
- (5) Identification and location of all significant natural boundaries/buffers to neighboring properties.
- (6) All property line fencing and erosion control fencing.
- (7) Location of soil stockpiling.
- (8) Locations of the temporary toilet, if required, and dumpster.
- (9) Site entrance and on-site parking areas, and/or proposed street parking plan.

(b) A document requiring:

- (1) A statement that all garbage/debris on the site will be picked up daily.
- (2) A statement that the street will be swept clean once per week, and that the applicant will endeavor to have sweeping take place on Friday, so the street is clean for the weekend.
- (3) A statement that the applicant has communicated with adjacent property owners that the project will be commencing and have provided them with contact information.

(c) Waiver. Specific provisions of this ordinance may be waived by City Staff based on the scope and duration of the specific construction project.

(d) Notification and Inspection. The applicant or its authorized agent shall notify the City on completing the installation of all property line and silt fencing. The applicant shall not proceed with site activity until the City has been notified and allowed two full business days to inspect the site and, as necessary, confer with applicant.

900.25 Construction Site Runoff Control

Subd. 1 Intent

To promote the health, safety and general welfare of the citizens of Woodland, Minnesota and protecting the City's environmental resources by reducing the discharge of pollutants into receiving water bodies, by requiring a sediment & erosion control program for

construction activity as required the City of Woodland Storm Water Management Program Permit (Reference permit no. or indicate permit pending as appropriate).

Subd. 2 Findings

The City of Woodland hereby finds that uncontrolled land disturbing activity at construction sites are subject to soil erosion where sediment and other pollutants enter into receiving water bodies adversely affecting the public health, safety and general welfare by impacting water quality, creating nuisances, impairing or permanently damaging environmental resources and otherwise hindering the ability of the City of Woodland to provide adequate water, sewage, flood control and other community services.

Subd. 3 Purpose

The purpose of the ordinance is to promote, preserve and enhance the natural resources within the City of Woodland and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land disturbing activities that would have an adverse and potentially irreversible impact on water quality, environmentally sensitive land and surface water bodies; by minimizing conflicts and encouraging construction site runoff control through proper evaluation, assessment, design and implementation of a erosion and sediment control program for site disturbance or development.

Subd. 4 Definitions

For the purpose of this ordinance, the following terms, phrases, words and their derivatives shall have the meaning stated below. When inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directive.

1. "Applicant" any person who wishes to obtain a building permit, zoning or subdivision approval.
2. "Best Management Practices (BMPs)" means erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including avoidance of impacts, construction-phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

Individual BMPs are described in the current version of Protecting Water Quality in Urban Areas, Minnesota Pollution Control Agency 2000. BMPs must be adapted to the site and can be adopted from other sources. However, they must be similar in purpose and at least as effective and stringent as MPCA's BMPs. (Other sources include manufacturers specifications, Storm Water Management for Construction Activities: Developing Pollution Prevention Plans and Best Management Practices,

U.S. Environmental Protection Agency 1992, and Erosion Control Design Manual, Minnesota Department of Transportation, et al, 1993).

3. "Commissioner" means the Commissioner of the Minnesota Pollution Control Agency or the Commissioner's designee.
4. "Common Plan of Development or Sale" means a contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan. One plan is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.
5. "Construction Activity" includes construction activity as defined in 40 C.F.R. part 122.26(b)(14)(x) and small construction activity as defined in 40 C.F.R. part 122.26(b)(15). This includes a disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated storm water runoff, leading to soil erosion and movement of sediment into surface waters or drainage systems. Examples of construction activity may include clearing, grading, filling and excavating. Construction activity includes the disturbance of less than one acre of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) acre or more.
6. "Dewatering" means the removal of water for construction activity. It can be a discharge of appropriated surface or groundwater to dry and/or solidify a construction site. It may require Minnesota Department of Natural Resources permits to be appropriated and if contaminated may require other MPCA permits to be discharged.
7. "Energy Dissipation" means methods employed at pipe outlets to prevent erosion. Examples include, but are not limited to: concrete aprons, riprap, splash pads, and gabions that are designed to prevent erosion.
8. "Erosion Prevention" means measures employed to prevent erosion including but not limited to: soil stabilization practices, limited grading, mulch, temporary or permanent cover, and construction phasing.
9. "Final Stabilization" means that either:
 - a. All soil disturbing activities at the site have been completed and a uniform (e.g., evenly distributed, without large bare areas) perennial vegetative cover with a density of 70% of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures (such as the use of riprap, gabions, or geotextiles) have been employed;

- b. For individual lots in residential construction by either: (a) The homebuilder completing final stabilization as specified above, or (b) the homebuilder establishing temporary stabilization including perimeter controls for an individual lot prior to occupation of the home by the homeowner and informing the homeowner of the need for, and benefits of, final stabilization. (Homeowners typically have an incentive to put in the landscaping functionally equivalent to final stabilization as quick as possible to keep mud out of their homes and off sidewalks and driveways.); or
10. "General Contractor" means the party who signs the construction contract with the owner to construct the project described in the final plans and specifications. Where the construction project involves more than one contractor, the general contractor will be the party responsible for managing the project on behalf of the owner. In some cases, the owner may be the general contractor. In these cases, the owner may contract an individual as the operator who would become the Co-Permittee.
11. "Impervious Surface" means a constructed hard surface that either prevents or retards the 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. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.
12. "National Pollutant Discharge Elimination System (NPDES)" means the program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345..
13. "Normal Wetted Perimeter" means the area of a conveyance, such as a ditch, channel, or pipe that is in contact with water during flow events that are expected to occur once every year.
14. "Notice of Termination" means notice to terminate coverage under this permit after construction is complete, the site has undergone final stabilization, and maintenance agreements for all permanent facilities have been established, in accordance with all applicable conditions of General Permit Authorization to Discharge Storm Water Permit Associated with Construction Activities (MN R100001). Notice of Termination forms are available from the MPCA.
15. "Operator" means the person (usually the general contractor), designated by the owner, who has day to day operational control and/or the ability to modify project plans and specifications related to the SWPPP. The person must be knowledgeable in those areas of the permit for which the operator is responsible, (MN R100001: Part II.B. and Part IV.) and must perform those responsibilities in a workmanlike manner.

16. "Owner" means the person or party possessing the title of the land on which the construction activities will occur; or if the construction activity is for a lease holder, the party or individual identified as the lease holder; or the contracting government agency responsible for the construction activity.
17. "Permanent Cover" means final stabilization. Examples include grass, gravel, asphalt, and concrete.
18. "Permittee" means a person or persons, firm, or governmental agency or other institution that signs the application submitted to the MPCA and is responsible for compliance with the terms and conditions of this permit.
19. "Saturated Soil" means the highest seasonal elevation in the soil that is in a reduced chemical state because of soil voids being filled with water. Saturated soil is evidenced by the presence of redoximorphic features or other information.
20. "Sediment Control" means methods employed to prevent sediment from leaving the site. Sediment control practices include silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.
21. "Small Construction Activity" means small construction activity as defined in 40 C.F.R. part 122.26(b)(15). Small construction activities include clearing, grading and excavating that result in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity includes the disturbance of less than one (1) acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five (5) acres.
22. "Stabilized" means the exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, or other material that prevents erosion from occurring. Grass seeding is not stabilization.
23. "Standard Plates" means general drawings having or showing similar characteristics or qualities that are representative of a construction practice or activity.
24. "Storm water" is defined under Minn. R. 7077.0105, subp. 41(b), and includes precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.
25. "Storm Water Pollution Prevention Plan" means a plan for storm water discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site nonpoint pollution.

26. "Surface Water or Waters" means all streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private.
27. "Temporary Erosion Protection" means methods employed to prevent erosion. Examples of temporary cover include; straw, wood fiber blanket, wood chips, and erosion netting.
28. "Underground Waters" means water contained below the surface of the earth in the saturated zone including, without limitation, all waters whether under confined, unconfined, or perched conditions, in near surface unconsolidated sediment or regolith, or in rock formations deeper underground. The term ground water shall be synonymous with underground water.
29. "Waters of the State" (as defined in Minn. Stat. § 115.01, subd. 22) 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.
30. "Water Quality Volume" means ½ inch of runoff from the new impervious surfaces created by this project and is the volume of water to be treated in the permanent storm water management system, as required by this permit except as provided in Appendix A.C.2.
31. "Wetland" or "Wetlands" is defined in Minn. R. 7050.0130, subp. F and includes those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state. Wetlands must have the following attributes:
- a. A predominance of hydric soils;
 - b. Inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in a saturated soil condition; and
 - c. Under normal circumstances support a prevalence of such vegetation.

Subd. 5 Scope and effect

A. Applicability. Every applicant for a building permit, subdivision approval, or a permit to allow land disturbing activities greater than or equal to one acre or part of a larger common plan or development greater or equal to one acre or smaller

area where the Zoning Administrator determines the activity poses a risk to water resources must submit a storm water pollution prevention plan to the Zoning Administrator. No building permit, Subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the storm water pollution prevention plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this ordinance. The provisions of Subd. 6.B of this ordinance apply to all land, public or private. Nothing in this ordinance shall relieve the applicant of other County, State, Federal or local watershed district requirements that may be applicable to the applicants proposed activities.

B. Exemptions. The provisions of this ordinance do not apply to:

1. Any part of a Subdivision if a plat for the Subdivision has been approved by the City Council on or before the effective date of this ordinance;
2. A lot for which a building permit has been approved on or before the effective date of this ordinance;
3. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles; or
4. Emergency work to protect life, limb or property.
5. Tilling, planting, or harvesting of agricultural, horticultural, or silvicultural (forestry) crops.
6. Minor land disturbance activities such as home gardens and an individual's home landscaping, repairs and maintenance work.
7. Additions or modifications to existing single family structure which result in creating under five thousand (5,000) square feet of exposed soil or impervious surface and/or is part of a larger common development plan.

Subd. 6 Storm water pollution prevention plan submittal procedures

A. Application. A copy of the written application for General Permit Authorization to Discharge Storm Water Permit Associated with Construction Activities (MN R100001) and all supporting documentation including a copy of the proposed storm water pollution prevention plan, including evidence of the permit fee payment, and/or the application requirements of the Minnehaha Creek Watershed District as applicable shall be filed with the City and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this ordinance. Prior to applying for approval of a storm

water pollution prevention plan, an applicant may have the storm water pollution prevention plan reviewed by the appropriate departments of the City.

Two sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the Zoning Administrator and shall be accompanied by a receipt from the City Clerk evidencing the payment of all required fees for processing and/or financial securities in accordance with the City. The permit letter and certification acknowledging permit coverage under General Permit MN R10001 from Minnesota Pollution Control Agency shall also be submitted upon receipt. Drawings shall be prepared to a scale appropriate to the site of the project and suitable for the review to be performed. At a minimum, the scale shall be 1 inch equals 100 feet.

B. Storm water pollution prevention plan. At a minimum, the storm water pollution prevention plan shall fully comply with the requirement of Parts III and IV of General Permit Authorization to Discharge Storm Water Associated with Construction Activity, Permit No. MN R100001. All submissions and notifications required Permit No. MN R100001 shall also be submitted to the Zoning Administrator.

Subd. 7 Enforcement Procedures

A. Right of Entry. The applicant shall promptly allow the city and their authorized representatives, upon presentation of credentials to:

- 1.) Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations, inspections or surveys.
- 2.) Bring such equipment upon the permitted site as is necessary to conduct such surveys and investigations.
- 3.) 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.
- 4.) Inspect the storm water pollution control measures.
- 5.) Sample and monitor any items or activities pertaining to storm water pollution control measures.
- 6.) Any temporary or permanent obstruction to the safe and easy access of such an inspection shall be promptly removed upon the inspector's request. The cost of providing such access shall be born by the applicant.

B. Warning letter. If upon inspection by the City or designated representative, the applicant fails to implement the erosion and sediment control practices outlined in the approved stormwater pollution prevention plan or minimum BMP

standards outlined in Subd. 6B, the City will notify the applicant with a letter of warning which outlines the issues of noncompliance and a timeline for completion of any work to bring the site into compliance.

C. Action Against the Financial Security. If appropriate actions by the applicant have not been completed within 7 days after notification by the City, the City may act against the financial security if any of the conditions listed below exist. The city shall use funds from this security to finance any corrective or remedial work undertaken by the City or a contractor under contract to the City and to reimburse the City for all direct cost incurred in the process of remedial work including, but not limited to, staff time and attorney's fees.

- 1.) The applicant ceases land disturbing activities and/or filling and abandons the work site prior to completion of the city approved grading plan.
- 2.) The applicant fails to conform to any city approved grading plan and/or the storm water pollution control plan as approved by the city, or related supplementary instructions.
- 3.) The techniques utilized under the storm water pollution control plan fail within one (1) year of installation.
- 4.) The applicant fails to reimburse the city for corrective action taken.
- 5.) Emergency action under part D.

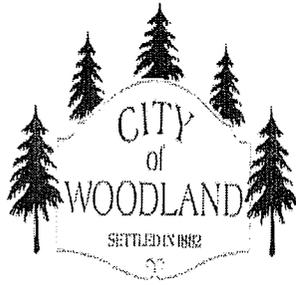
D. Emergency Action. If circumstances exist such that noncompliance with this ordinance poses an immediate danger to the public health, safety and welfare, as determined by the city engineer, the city may take emergency preventative action. The city shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the city may be recovered from the applicant's financial security.

Subd. 8 Penalty

Any person, firm, or corporation violating any provision of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed \$700 and/or imprisonment not to exceed 90 days. Each day that a violation continues shall constitute a separate offense.

Subd. 9 Severability

The provisions of this ordinance are severable. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application.



WOODLAND CITY COUNCIL

MEETING DATE: October 14, 2013
FROM: Shelley Souers, City Clerk
SUBJECT: 2014 LMCC Budget and Proposed Amendments to the Joint Powers Agreement

OVERVIEW

The Lake Minnetonka Communications Commission (LMCC) provides the following services to the member cities within its Joint Powers Association (JPA):

- Franchise negotiations.

- The production of public cable TV programming.

- Enforcing the terms of the negotiated contract with Mediacom.

- Handles all resident complaints regarding Mediacom services.

Each year the Council reviews and approves the LMCC's operating budget.

The LMCC needs approval of the majority of the cities to proceed with the proposed budget. The LMCC is asking member cities to review and approve the budget at their October meeting.

No tax dollars go into funding the LMCC budget. The budget is funded with a cable company franchise fee paid annually to the LMCC.

RECOMMENDED COUNCIL ACTION:

Motion to approve the 2014 LMCC Budget and a motion to approve the Amendments to the Joint Powers Agreement, as recommended by the commission members.

ATTACHMENT

2014 LMCC Budget and Proposed Amendments to the JPA



LMCC

LAKE MINNETONKA COMMUNICATIONS COMMISSION

4071 SUNSET DRIVE ■ BOX 385 ■ SPRING PARK, MN 55384-0385 ■ 952.471.7125 ■ FAX 952.471.9151 ■ lmcc@lmcc-tv.org

September 27, 2013

RE: Approval of LMCC 2014 Budget and Proposed Amendments to the JPA

DEEPAHVEN

Dear Mayor and Council Members:

EXCELSIOR

The Lake Minnetonka Communications Commission (LMCC) passed the enclosed budget for 2014, at the Special Full LMCC Commission Meeting on September 24, 2013.

GREENWOOD

INDEPENDENCE

This budget is not funded with tax dollars, but rather a cable company franchise fee paid annually to the LMCC. We are also receiving a PEG (public, educational, governmental) access fee. This year included in the budget are two contingency items. There has been some discussion about cities who have or are considering withdrawing from the LMCC. Some of these cities have proposed interest in continuing to contract for services from the LMCC. Due to the uncertainty of this proposition, included in the budget is a contingency amount of \$257,000. This amount is an estimated amount that cities could potentially contract for services based on four cities' current fees. It is understood in the commission's approval of the budget that these funds would not be spent unless the money was received for contracted services. It would not be spent on other services. The second contingency comes from the existing fund balance and would cover the cost that would be incurred with the reduction of staff in terms of severance or unemployment compensation. This was set at \$100,000.

LONG LAKE

LORETTO

MAPLE PLAIN

MEDINA

MINNETONKA BEACH

MINNETRISTA

Also included in this packet are two proposed amendments to the JPA. Included is a redlined document showing proposed amendments to the Joint and Cooperative Agreement forming the LMCC. Also included is a clean copy of the agreement with the amendments incorporated. At the Special Full Commission Meeting on September 24, the commission recommended that the member cities approve the amendments. Member cities that approve these amendments should sign and date the clean version of the agreement and return it to me. The amendments will be effective if and when all member cities approve and return the executed copy to the LMCC.

ORONO

ST. BONIFACIUS

SHOREWOOD

SPRING PARK

Regarding the budget, I am submitting the budget to all city members of the LMCC for review and approval according to our Joint Powers Agreement. Please send me the minutes or resolution of your actions regarding the LMCC Budget as we keep a record of approval on file at the LMCC Offices.

TONKA BAY

VICTORIA

WOODLAND

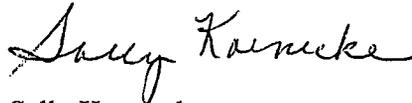
If you would like me to attend your council meeting to answer any questions please let me know the date and time of the meeting or the time I would be placed on the agenda.

The LMCC needs approval of the majority of the cities to proceed with the proposed budget. We would appreciate your approval at your October Council meeting.

Thank you for continued support and use of the television facilities and your participation in your programming of city council meetings, Tonka Report, with your city events, with any election coverage of candidates and other city related programs.

Sincerely,

LAKE MINNETONKA COMMUNICATIONS COMMISSION

A handwritten signature in cursive script that reads "Sally Koenecke".

Sally Koenecke
Executive Director

Enclosures

Lake Minnetonka Communications Commissions
2014 Proposed Budget

<u>6.17.2013 draft</u>	Revised			
<u>Approved by</u>	Franchise	Studio	Total	
<u>Full Commission</u>	Administration	Capital	All Funds	
<u>9.24.2013</u>				

Revenues

Revenue Contingency from contracted services			257,000
Franchise Fees	64,639	249,100	313,739
PEG Fees		79,398	79,398
Mound Usage Fees		49,816	49,816
Studio Rental Dub Fees		2,000	2,000
Interest		1,500	1,500
Insurance Refund		500	500
Projected Total Revenue	64,639	382,314	703,953

Expenses

Projected Fr.Exp/S.Salaries	48,952	252,233	301,185
Projected Total Studio Capital Expenses			93,815
Principal Mortgage Payments			0
Communications Education and Assessment			0
Franchise Renewal Consulting			0
Franchise Fee Audit			<u>0</u>
Total			395,000

Capital Equipment Budget

Proposed 2014 Capital Equipment Proposal			5,000
Projected Total Expenses			400,000

Contingency Expenditure funds only spent if collected from non-member cities contracting for services

Amount derived from current fees from Orono, Medina, Minnetrista, Victoria			257,000
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Fund Balance

Projected 2014 Fund Bal.	376,208		
Projected 2014 Revenues	446,953		
Total Fund Balance	823,161		
Projected Total Expenses	400,000		
Projected Remaining FB	423,161		
Allocated contingency	100,000	for reduction of staff	
	323,161		

Lake Minnetonka Communications Commission
2014 Proposed Budget

6.17.2013 draft

Franchise Administration

Expenses

	2012 Adopted	2012 Actual	2013 Proposed	2013 6 Mo. Proj	2013 Projected	2014 Proposed
<u>Personal Services</u>						
101 Salaried Part-time	49,019	49,479	50,224	24,509	49,019	25,112
103 Salaried Part-time	33,825	23,050	33,825	11,324	23,372	12,066
121 Pera Cont.	6,012	6,790	6,393	3,700	7,400	500
122 FICA Cont.	6,970	8,315	7,500	5,500	7,500	2,305
131 Health Insurance	15,500	14,981	15,700	8,500	15,500	3,000
151 Workers Comp. Insurance	775	1,684	1,684	1,684	1,684	842
Total Personal Services	112,101	104,299	115,326	55,217	104,475	43,825
<u>Supplies</u>						
200 Office Supplies	1,500	1,821	1,500	750	1,500	100
210 Special Events/Meetings	525	548	525	263	525	0
220 Repair & Maint. Supplies	200	63	300	100	200	0
225 Studio Expendables	0	0	0	0	0	0
Total Supplies	2,225	2,432	2,325	1,113	2,225	100
<u>Professional Services</u>						
301 Accounting/Audit Fees	7,000	2,070	7,000	4,000	7,000	1,000
302 Access Contractors	0	0	0	0	0	0
304 Legal Fees	10,000	5,721	10,000	4,478	9,000	1,000
314 Payroll Services	800	555	800	360	750	300
318 Janitorial Services	1,200	724	1,200	628	1,200	100
319 Security Services	470	402	470	200	470	170
325 Computer/Consulting	1,250	851	1,250	340	1,250	100
326 Training	400	875	400	200	400	0
Total Professional Services	21,120	11,198	21,120	10,206	20,070	2,670
305 Franchise Renewal Legal		7,848				
<u>Other Services and Charges</u>						
309 Copier Expense	3,300	3,235	1,848	1,532	3,300	300
321 Telephone/Communications	1,100	1,250	1,100	550	1,100	100
322 Postage	1,300	1,172	1,300	360	1,100	100
331 Travel School & Conference	8,500	8,625	7,500	2,570	8,500	35
332 Mileage	680	185	500	342	680	100
350 Printing and Publishing	1,500	440	1,500	228	1,400	100
360 Insurance	2,000	2,800	2,200	500	2,000	1,227
380 Utilities	4,700	2,555	3,700	2,350	4,700	100
384 Refuse & Recycling Collection	500	848	500	250	500	50
395 Bank Finance fee	20	20	50	20	20	20
401 Contracted Building Repair	2,000	1,096	2,000	409	1,500	200
404 Maint. Repair Equip.	400	1,545	2,000	1,200	2,000	25
413 Equipment Rental	200	31	300	150	300	0
433 Dues & Subscriptions	2,000	575	2,000	1,098	1,500	0
438 Property Taxes	0	0	0	0	0	0
439 Contingency	3,000	1,637	3,000	1,700	3,000	0
440 Advertising	400	0	400	0	400	0
441 Van Operation	0	0	0	0	0	0
442 Webstreaming/Broadband	0	-832	0	0	0	0
443 Licenses	250	106	250	0	100	0
Total Other Charges	31,850	25,288	30,148	13,859	32,100	2,357
<u>Interest / Capital</u>						
411 mortgage interest	3,050	0	0	0	1,500	0
412 mortgage interest	0	689	0	0	0	0
599 Building Improvements	5,000	0	4,000	2,500	5,000	0
Total Interest / Capital	8,050	689	4,000	2,500	6,500	0
Total Expenditures	175,346	151,754	172,919	82,895	165,370	48,952

**Lake Minnetonka Communications Commission
2014 Proposed Budget**

6.17.2013 draft

Access Studio Operating

	2012 Adopted	2012 Actual	2013 Proposed	2013 6 Mo. Proj.	2013 Projected	2014 Proposed
<u>Personal Services</u>						
101 Salaried Full-time	206,742	191,526	209,843	88,392	206,742	215,950
103 Hourly Part-time	42,904	36,614	40,600	16,248	38,000	0
121 Pera Cont.	14,860	15,842	17,981	8,858	17,716	10,205
122 FICA Cont.	16,900	17,815	19,158	11,886	15,023	13,388
131 Health Insurance	27,000	25,508	26,490	14,504	27,000	10,500
151 Workers Comp. Insur	1,000	2,190	2,190	2,190	2,190	2,190
Total Personal Services	309,406	289,495	316,262	142,078	306,671	252,233
<u>Access Studio Capital</u>						
<u>Supplies</u>						
200 Office Supplies	1,500	1,822	1,500	960	1,500	1,500
210 Special Events/Meetin	1,200	882	1,200	810	1,200	500
220 Repair & Maint. Supp	400	63	600	0	400	1000
225 Studio Expendables	2,750	4,098	3,000	1,000	2,750	4,000
Total Supplies	5,850	6,865	6,300	2,770	5,850	7,000
<u>Professional Services</u>						
301 Acct. Fees	7,000	12,424	7,000	2,000	7,000	10,000
302 Access Contractors	26,000	25,988	26,000	9,782	26,000	16,802
304 Legal Fees	3,000	2,636	3,000	1,764	3,000	9,000
314 Payroll Services	1,500	1,297	1,600	842	1,500	1,300
318 Janitorial Services	2,575	1,689	2,575	1,466	2,700	2,289
319 Security Services	470	403	470	200	470	634
325 Computer/Consulting	4,000	1,988	3,000	798	3,000	3,000
326 Training	600	875	800	1000	1,500	500
Total Professional Ser	45,145	47,300	44,445	17,852	45,170	43,525
305 Franchise Renewal Legal		1,549				
<u>Other Services and Charges</u>						
309 Copier Expense	3,250	3,235	1,848	1,584	3,250	3,710
321 Telephone/Communic	2,550	2,916	2,700	1,290	2,450	3,300
322 Postage	1,250	1,172	1,350	360	1,250	1,450
331 Travel School & Con	4,770	2,503	4,500	1,500	4,770	500
332 Mileage	1,100	926	900	300	1,000	900
350 Printing and Publishir	1,600	440	1,200	350	1,600	400
360 Insurance	4,500	6,533	4,700	4,500	4,500	4,700
380 Utilities	1,000	5,961	8,500	3,779	8,000	9,500
384 Refuse & Recycling C	575	848	600	253	575	900
395 Bank Finance Fee	0	0	0	0	0	0
401 Contracted Building F	1,750	1,096	1,800	266	1,750	2,000
404 Maint. Repair Equip.	2,000	1,545	3,000	1,214	2,000	3,500
413 Equipment Rental	100	31	300	0	100	30
433 Dues & Subscriptions	2,100	1,459	2,000	1,434	1,500	0
438 Property Taxes	0	0	0	0	0	0
439 Contingency	2,000	3,912	2,000	300	2,000	0
440 Advertising	3,000	770	1,500	696	1,500	50
441 Van Operation	2,000	1,251	2,000	892	2,000	2,000
442 Webstreaming/Broadl	8,000	11,855	11,000	5,318	10,700	10,000
443 Licenses	700	319	350	100	400	350
Total Other Charges	42,245	46,772	50,248	24,136	49,445	43,290
<u>Interest/ Capital</u>						
411 Mortgage Interest	9,500	2,064	0	2,656	7,500	0
412 Mortgage Interest Expense		0	0	0	0	0
599 Building Improvemen	10,000	-	5,000	2,500	7,000	0
Total Interest / Capita	19,500	2,064	5,000	5,156	14,500	-
Total Expenditures	422,146	394,045	422,255	191,992	421,636	346,048

LAKE MINNETONKA COMMUNICATIONS COMMISSION
2014 Proposed Budget Notes to Budget Committee on Proposed Changes

1. Streaming and agenda parsing are left in the budgeted services as these services are what city officials have deemed as important to them.
2. Due to staff cuts there will be some reorganizing of duties which could potentially lead to a much reduced number of educational and staff produced programs for the cities.
3. Van operation was left in the budget because our needs assessment supported it. If the van becomes inoperable we have nothing in capital or contingency to cover replacement.
4. The franchise budget was cut by over \$100,000.
5. Executive Director salary and hours were cut by 50%. The Executive Director would participate in the PERA program currently offered through PERA called "Phased Retirement".
6. For the last 5 or 6 years Abdo, Eich and Meyers have completed our audits. We have had successful audits.

Approximated Cuts to LMCC Budget:

	cuts
1. Cut capital budget to minimal replacement costs of peripherals.	\$55,000
2. Eliminated all membership and dues for MACTA, NATOA and Chambers of Commerce.	4000
3. Cut conference fees for commissioners and staff to a minimum.	8540
4. Cut contracted videotaping to those cities who may drop out	9198
5. Cut contingency line item	5000
6. Cut portion Health Insurance, eliminated Health Savings	25,212
7. Cut part time staff budget for studio. Reorganize duties of full time.	40,600
8. Cut building improvements	14,000
10. Cut PERA	14,157
11. Cut FICA	9018
12. Communications And Assessment	10,000
13. Franchise Renewal Consulting	20,000
14. Franchise Fee Audit	7,000
15. Numerous line item cuts (printing, mileage, building repair, advert. etc.)	14,000

Cost saving measures:

The LMCC would reduce the number of hours of operation to close at 7 PM and would not be open on Saturdays. Currently we are open until 10 PM on weekdays and 2 PM on Saturdays. This should cut our utility expenses.

Some line item expenses in franchise were transferred to studio. Many of the bills will still be relevant even if the franchise budget is reduced. Many of the line items were split 50/50 on past budgets but the studio operations take up a much greater portion of the building and those costs will remain.

FINAL
JOINT AND COOPERATIVE AGREEMENT
LAKE MINNETONKA COMMUNICATIONS COMMISSION
AS AMENDED (1989, 1997, 2007, 2013)

The parties to this agreement are governmental units of the State of Minnesota. This agreement is made pursuant to Minn. Stat. §§ 238.08 and 471.59.

I.

PURPOSE

The general purpose of this agreement is to establish an organization to study, prepare, adopt, grant, administer and enforce a single non-exclusive cable communications franchise and establish rates thereunder, in member cities in the Lake Minnetonka Suburban communities of Hennepin County, Minnesota, and to advise and provide recommendations to the member cities regarding communications matters which may affect the member cities. In order to carry out the purpose of this agreement, the parties shall appoint a commission which shall be representative of all members.

II.

NAME

The organization created by this agreement shall be known as the "Lake Minnetonka Communications Commission" (hereinafter "Commission").

III.

DEFINITIONS

For purposes of this agreement, the terms defined in this article shall have the meanings given to them.

Section I. "Commission" means the organization created pursuant to this agreement.

Section II. "Director" means the person appointed by a member City Council to be its representative on the Commission.

Section 3. "Member" means a city which enters into this agreement and is, at the time involved, a member in good standing.

Section 4. Other Definitions. Definitions of other words, terms, and phrases contained in the rules of the Minnesota Cable Communications Board (hereafter "MCCB") and the Federal Communications Commission (hereafter "FCC") are incorporated herein as though fully set forth.

IV.

MEMBERS

Section 1. The cities eligible to enter this agreement are the following Minnesota cities: Deephaven, Excelsior, Greenwood, Minnetonka Beach, Minnetrista, Orono, Shorewood, Spring Park, Tonka Bay, Woodland, Medina, St. Bonifacius, Long Lake, Victoria, Independence, Loretto and Maple Plain, Minnesota.

Section 2. Any municipality desiring to become a member shall execute a copy of this agreement and conform to all requirements herein.

Section 3. The initial members shall be those municipalities who become members on or before September 1, 1982.

Section 4. Any other municipalities desiring to become members after September 1, 1982, may be admitted by an affirmative vote of two-thirds (2/3) of the eligible votes of the Commission. The Commission may, by resolution, impose conditions upon the admission of additional members.

V.

DIRECTORS

Section 1. Qualification/Appointment. The City Council of each member shall be entitled to appoint two directors, at least one of whom shall be a member of that council and the other a qualified voter residing within that city. The City Council of each member shall be entitled to appoint at least one alternate director. When the council of a member appoints its first two directors, it shall give notice of their appointments to the City Administrator of the City of Tonka

Bay. Notice of a successor director shall be given to the Secretary of the Commission. That notice shall include the name and mailing address of the appointee which shall be deemed to be the official name and address of that appointee for the purpose of giving any notice required under this agreement.

Section 2. **Term.** Each director shall serve for a term of one year. All terms shall begin as of the effective date of this agreement. A director shall serve at the pleasure of his or her city council, and a director may be removed at any time by that city council.

Section 3. **Voting.** Each director shall have one vote for each 1,000 dwelling units or fraction thereof in the municipality represented by the director as recorded in the most recent records of the Metropolitan Council; provided, however, that each director shall have at least one vote and no director shall have more than four votes. Prior to December 31 of each year, the Secretary of the Commission shall determine the number of dwelling units in each member in accordance with this section and certify the results to the Chair. There shall be no voting by proxy, but all votes must be cast in person at Commission meetings by the director or his or her alternate. A director shall not be eligible to vote on behalf of his or her city during the time that it is in default on any contribution or payment to the Commission. During the existence of such default, the vote or votes of such member shall not be counted for the purposes of this agreement.

Section 4. **Compensation.** Directors shall serve without compensation from the Commission, but this shall not prevent a member from compensating its directors if compensation by that member is otherwise authorized by law.

Section 5. **Vacancies.** A vacancy in the office of director shall exist for any of the reasons set forth in Minnesota Statutes S351.02, or upon revocation of a director's appointment by a member duly filed with the Commission. The city council of each member shall fill for the unexpired portion of the Term of said director any vacancy in the directors appointed or to be appointed by it. A suspected vacancy or directors failure to attend three consecutive meetings shall be

reported by the Secretary of the Commission to the appointing city council for action in replacing its directors.

VI.

OFFICERS

Section 1. **Number/Election.** The officers of the Commission shall consist of a Chair, a Vice Chair, a Treasurer, and a Secretary all of whom shall be elected at the first meeting of the Commission and at the annual meeting of the Commission held in July of each year. New officers shall take office at the adjournment of the annual meeting of the Commission at which they are elected. Officers shall serve one year terms and may serve up to two consecutive terms in the same office.

Section 2. **Chair/Vice Chair.** The Chair shall preside at all meetings of the Commission and shall perform all duties incident to the office of Chair, and such other duties as may be prescribed by the Commission. The Vice Chair shall act as Chair in the absence of the Chair.

Section 3. **Secretary.** The Secretary shall be responsible for keeping a record of all the proceedings of the Commission and giving notice of the meetings.

Section 4. **Treasurer.** The Treasurer shall have custody of the Commission's funds, pay its bills, keep its financial records and generally conduct its financial affairs. The Commission shall have the right to appoint a Deputy Treasurer. All check drawn upon the Commission's bank account shall require the signatures of the Treasurer or Deputy Treasurer and the Chair or Vice Chair. The Commission's financial books and records shall be audited on or before June 1 of each year, or at such other time as the Commission may direct, by an independent auditor designated and approved by the Commission. The Commission may require the Treasurer to post a fidelity bond or other insurance against loss of Commission funds in an amount approved by the Commission, at the expense of the Commission.

Section 5. **Executive Committee.** There shall be an Executive Committee which shall consist of the four officers and three other directors elected by the Commission. To the extent determined by resolution of the Commission or by-law, the Executive Committee shall have the authority of the Commission in the management of the business of the Commission. The Executive Committee shall act only in the interval between meetings of the Commission and at all times is subject to the control and direction of the Commission. The Executive Committee shall meet at the call of the Chair or upon the call of any other three members of the Executive Committee. The date and place of the meeting shall be fixed by the person(s) calling it. At least forty-eight hours advance written notice of that meeting shall be given to all members of the Executive Committee by the person calling that meeting; however, notice may be waived by any or all members who actually attend the meeting or who give written waiver of such notice for a specified meeting.

VII.

EFFECTIVE DATE, MEETINGS

Section 1. This agreement is effective on the date when executive agreements and authorizing resolutions of ten (10) of the municipalities named in Article V, Section 1 have been filed as provided in this Article.

Section 2. Within thirty (30) days after the effective date of this agreement, the Mayor of Tonka Bay, Minnesota shall call the first meeting of the Commission which shall be held no later than fifteen (15) days after such call.

Section 3. The first meeting of the Commission shall be its organizational meeting. At the organizational meeting, the Commission shall select from among the directors a chair, a vice-chair, a secretary and a treasurer, and may appoint any consultants or other staff to coordinate the activities of the Commission and to draft any necessary Commission documents.

Section 4. At the organizational meeting, or as soon thereafter as it may reasonably be done, the Commission shall adopt by-laws governing its procedures

including the time, place, notice for and frequency of its regular meetings, procedure for calling special meetings, and such other matters as are required by this agreement. The Commission may amend the by-laws from time to time.

Section 5. **Voting/Quorum.** No business shall be performed unless a majority of the votes of the directors present and voting at a Commission meeting vote in the affirmative, or unless a majority of the Executive Committee vote in the affirmative at a meeting. The presence of commissioners from a majority of member cities shall constitute a quorum of the Commission and a majority of those appointed shall constitute a quorum for a meeting of the Executive Committee, but a smaller number may adjourn from time to time.

VIII.

POWERS, RIGHTS AND DUTIES OF COMMISSION

The powers, rights and duties of the Commission shall include those set forth in the Article.

Section 1. **Franchising Authority.** It shall act as the cable communications franchising authority for the members to this agreement.

Section 2. **Grant of Franchise.** It shall prepare, adopt and grant a cable communications franchise pursuant to the Minnesota Cable Communications Act, Minn. Stat. Ch. 238,1 the rules of the MCCB and the FCC, and according to the following procedure:

a. **Needs Assessment Report.** It shall compile, make publicly available and approve a summary of the Needs Assessment Reports from member municipalities.

b. **Request for Proposals.** It shall prepare and adopt in a public hearing and perform all other acts incident to the issuance of a Request for Proposals. The adoption of the Request shall be by an affirmative vote of not less than twenty (20) directors of the Commission representing not less than ten (10) members.

c. **Designation of Company by Resolution.** After receipt and review of all proposals submitted to the Commission by cable communications companies, it shall select at a public hearing by resolution one cable communications company to which it may grant a franchise. The adoption of this resolution shall be by an affirmative vote of not less than twenty (20) directors of the Commission representing not less than ten (10) members.

d. **Adoption of Franchise Ordinance.** It shall prepare and adopt an authorization known hereafter as a “franchise ordinance” and, by that franchise ordinance, grant to one cable communications company a non-exclusive franchise to construct, operate, maintain or manage a cable communications system encompassing all of the territory of the members to this agreement. The adoption of the franchise ordinance and the grant of the franchise shall be by an affirmative vote of not less than twenty (20) directors of the Commission representing not less than ten (10) members; provided, however, that the franchising process shall cease if the cable communications company which was selected by resolution in accordance with paragraph c above is not granted the franchise by ordinance approved by a vote in accordance with this paragraph, the Commission shall promptly recommence the franchising process at any stage determined by Commission.

e. **Public Hearing.** It shall hold at least one public hearing before it adopts a franchise ordinance. At least ten (10) days prior to that public hearing, it shall publish in all official newspapers of the members a notice of that hearing. The franchise ordinance adopted by the Commission shall be signed by the Chair and attested by the Secretary.

f. **Publication/Effective Date.** The franchise ordinance shall be published within fifteen (15) days after adoption by the Commission in the official newspaper of the members. The franchise ordinance shall take effect thirty (30) days after the last date of its publication, or at such later date as fixed therein, unless four (4) or more members withdraw under paragraph g below, in which case

the franchise ordinance shall not become effective. The franchise ordinance may incorporate by reference, without publication in full, (I) a statute of Minnesota, (ii) a rule of the MCCB or the FCC, and (iii) the "Proposals for Franchise" and other offers and representations submitted by the cable communications company to whom the franchise is granted.

~~g. Withdrawal. At any time after the franchise ordinance has been adopted by the Commission, but not later than five days before its effective date, a member may withdraw for any cause from the Commission by giving written notice of its withdrawal to the Secretary of the Commission. A member's withdrawal under this paragraph shall be effective upon the receipt of the notice of withdrawal by the Secretary of the Commission. A member which does not withdraw under this paragraph shall be bound by the franchise ordinance adopted and granted by the Commission. If four (4) or more members withdraw under this paragraph, the franchising process shall cease.~~

g. ~~h.~~ Amendment. The Commission may review and amend the franchise ordinance in accordance with the procedures set forth in this agreement and the rules of the MCCB and FCC upon the affirmative vote of not less than two-thirds (2/3) of the votes of the directors present and voting representing not less than ten (10) members. The Commission shall hold at least one public hearing before it amends a franchise ordinance or establishes rates therein. At least ten (10) days prior to that public hearing, it shall publish in the official newspapers of the members a notice of that public hearing. An amendment to the franchise ordinance shall be signed by the Chair and attested by the Secretary. An amendment to the franchise ordinance shall be published in the official newspaper of the members within fifteen (15) days after adoption by the Commission, and any amendment shall take effect upon publication or at such later date as is fixed therein.

Section 3. Administration/Enforcement. It shall administer and enforce the cable communications franchise ordinance; provided that the franchise

ordinance may permit the enforcement and administration of certain of its provisions by members to this agreement, for which services the Commission may pay or reimburse its member.

Section 4. **Rates.** It shall establish rates charged subscribers by the cable communications company.

Section 5. **Lobbying.** It may submit written comments on rules, regulations or legislation regarding cable communications proposed by or pending before the MCCB, the FCC, the Minnesota Legislature, or Congress, or it may direct its representatives to appear and testify on cable communications before these governmental bodies.

Section 6. **Advisory Authority:** Investigation and Recommendations. It may investigate such matters or concerns regarding communications and/or the regulation of communications services or the use of rights-of-way within the member cities to provide such services which affect the member cities, and provide advice and recommendations relating thereto. The expense of making such investigations and providing any such advice and recommendations shall be borne by the Commission, or the relevant communications provider, to the extent provided by law.

Section 7. **Gifts/Grants.** It may accept gifts, apply for and use grants and may enter into agreements required in connection therewith and it may hold, use and dispose of money or property received as a gift or grant in accordance with the terms hereof.

Section 8. **Contracts.** It may enter into any contracts deemed necessary by the Commission to carry out its powers and duties, subject to the provisions of this agreement. Contracts shall be let and purchases shall be made in accordance with the legal requirements applicable to contracts and purchases by Minnesota statutory cities. It may not purchase real estate without the prior approval of at least two-thirds (2/3) of its members.

Section 9. **Advisory Bodies**. It may appoint advisory bodies to make recommendations to it on communications matters.

Section 10. **Consultants**. It may act or cause others to act in any manner regarding (i) the study of cable communications, (ii) the preparation of a franchise ordinance and other documents required to grant such a franchise, (iii) the evaluation of proposals, (iv) the administration and enforcement of a cable communications franchise, and (v) the establishment of rates thereunder.

Section 11. **Other Actions**. It shall take such action as it deems necessary and appropriate to accomplish the general purposes of the Commission and it may exercise any other power necessary and incidental to the implementation of its powers and duties.

Section 12. **Amendments and Agreement**. It shall recommend for enactment by its members amendments to this agreement which will facilitate the administration and enforcement of the franchise granted by it, and the establishment of rates thereunder.

Section 13. **Members Building Codes**. Nothing in this agreement or in the franchise ordinance adopted by the Commission shall be deemed to waive the requirements in each member's codes and ordinances regarding zoning, building or construction permits, fees or manner of construction.

IX.

FINANCIAL MATTERS

Section 1. **Contributions 1982**. For the remainder of the calendar year 1982, the financial contributions of the parties in support of the Commission shall be \$800 for each allocated vote of each director representing said members on the Commission (eg. Excelsior - 2 votes times two (2) directors equals four (4) times \$800, or \$3,2000 initial contribution). In the event a franchise is granted by the Commission, the financial contributions of the member municipalities up to the date of the grant of the franchise, as well as all other reasonable expenses incurred by the member municipalities in the cable television franchising process, shall be

recovered and paid to the member municipalities from the acceptance fee of the franchise grantee. The 1982 contribution by the members shall be the maximum contribution and no further contributions are to come from the members without approval by each member.

Section 2. **Contributions: Subsequent Years.** Contributions for the year 1983 and subsequent years sufficient to satisfy the final budget of the Commission shall be established in relation to the allocated votes of each member and shall come from the franchise fees or from Grantee as an acceptance fee or as an advance on the franchise fees.

Section 3. **Annual Budget Process.** A proposed budget the ensuing calendar year shall be formulated by the Commission on or before August 31 of each year and the final adoption of a budget for the ensuing calendar year shall be made by the Commission by September 30. Within fifteen (15) days after final adoption, the Commission Secretary shall send the budget to each member for review and approval. That budget shall be effective unless rejected by a majority of the members within 45 days after its receipt by them. If the budget is not timely approved by a majority of the members, the Commission shall promptly adopt a revised budget and shall submit it to each member for review and approval. The Commission budget shall be funded only from monies collected from Grantee as application fees, or funds charged to Grantee as advances on franchise fees. This Commission may also budget the expenditure of funds received from grants, gifts, or the like.

Section 4. **Expenditures.** The Commission expenditures shall not exceed the current budget of the Commission without prior written authorization of all member cities.

X.

WITHDRAWAL

Section 1. A member may withdraw from the Commission ~~prior to the effective date of the franchise ordinance~~ by filing a written notice with the

Secretary by October 15th of any year giving notice of withdrawal effective as of the end December 31st of that the next calendar year; and membership shall continue until the effective date of withdrawal. A notice of withdrawal may be rescinded at any time by a member prior to the effective date of the withdrawal. If a member withdraws pursuant to this section, the member shall have no claim on the assets of the Commission. A member shall not withdraw until the member's financial contribution for the calendar year is paid in full.

Section 2. ~~Withdrawal for Cause.~~ A member may withdraw from the Commission after the effective date of the franchise ordinance as prescribed by Article VIII, Section 5, paragraph f only (i) if the Commission itself breaches or violates this agreement, or (ii) if the Commission fails to commence enforcement of the ordinance within four months after being notified by a member of the existence of a violation of the ordinance occurring within the territorial limits of that city. Section 3. Notice of Withdrawal. A member withdrawing from the Commission under this article shall send to the MCCB and the Commission Secretary a written Notice of Withdrawal which shall specify both the grounds and the effective date of its withdrawal.

Section 4. ~~3.~~ Effectiveness of Ordinance after Withdrawal. ~~The~~ Any franchise ordinance adopted and granted by the Commission shall provide that it is effective and enforceable within the territorial limits of a city which has withdrawn from the Commission under this article and a city which withdraws from the Commission shall be bound by the terms of any cable communications franchise previously adopted and granted by the Commission. A city which has withdrawn shall be the exclusive authority to administer and enforce the cable communications franchise ordinance as to its corporate boundaries.

Section 5. ~~4.~~ Cooperation. The Commission and a city which withdraws under this article shall cooperate with each other and the cable communications operator and shall use their best efforts to achieve an orderly and efficient transfer

to that city of the administrative and enforcement authority over the cable communications system established within the withdrawn city.

Section ~~6~~. 5. Access to Commission Assets. A member withdrawing from membership at a time when such withdrawal does not result in dissolution of the Commission shall forfeit its claim to any assets of the Commission except that it shall have access, at a reasonable cost and under such conditions as the Commission may determine, to any cable communications programs, files or other materials developed for its use while it was a member.

Section ~~7~~. 6. Merger. The merger of two or more municipalities then parties to this agreement shall not be deemed a withdrawal of the merged municipalities for the purposes of this agreement. In the event of a merger of two or more municipalities then parties to this agreement, the newly created municipality shall be entitled to the number of votes on the Commission calculated pursuant to Article V, Section 3 of this agreement and based upon the number of dwelling units within the newly formed municipality. Any subsequent financial contribution to the Commission required of a merged municipality shall be calculated pursuant to this agreement based upon the new vote allocation of the merged municipality.

XI.

DISSOLUTION

Section 1. Method. The Commission shall be dissolved (a) when a sufficient number of members withdraw from the Commission to reduce the total number of remaining continuous members to less than nine (9), or (b) upon an affirmative vote of two-thirds (2/3) of the directors of the Commission.

Section 2. Distribution of Assets. Upon dissolution, the remaining assets of the Commission, after payment of all obligations, shall be distributed among the then existing members in proportion to their contributions, or in such other way as those members may agree.

Section 3. Necessary Measures. In the event of a dissolution the Commission shall determine the measure necessary to effect the dissolution and

shall provide for the taking of such measures as promptly as circumstances permit and subject to the terms of this agreement.

Section 4. **Effectiveness of Ordinance after Dissolution.** The franchise ordinance adopted and granted by the Commission shall provide that it is effective and enforceable within the corporate limits of all cities which were members prior to the dissolution of the Commission, and those cities shall be bound by the terms of any cable communications franchise previously adopted and granted by the Commission. After dissolution, each city shall be the exclusive authority to administer and enforce the cable communications franchise ordinance within its corporate boundaries.

XII.

ARBITRATION

Section 1. **Compulsory Arbitration.** Any controversy arising out of or relation to this agreement including but not limited to the withdrawal by a member for cause from the Commission shall be settled by a Board of Arbitrators in accordance with the provisions of the Uniform Arbitration Act, Sections 572.08 to 572.30, Minnesota Statutes.

Section 2. **Board of Arbitrators.** The Board of Arbitrators may be comprised of one individual mutually selected by the Commission and the member which has raised the issue in controversy. If the Commission and member are unable to agree upon a single arbitrator, the Board of Arbitration shall be comprised of three (3) individuals, one of whom shall be appointed by the Commission, the second appointed by the member which has raised the issue in controversy, and the third appointed by the other two arbitrators. Upon failure to agree upon selection the third arbitrator, that individual shall be appointed by the Chief Judge of the Fourth Judicial District, Hennepin County, Minnesota.

XIII.

INDEMNIFICATION

The Commission and its member municipalities shall indemnify and hold harmless any member municipality for damages, including reasonable attorneys' fee, incurred as a result of any action brought against said member municipality and resulting from the joined act or omission of the Commission established herein. Said responsibility for indemnification shall be proportional to the contribution of any member municipality.

XIV.

EFFECTIVE DATE

Section 1. Execution of Agreement. A member entering into this agreement shall do so by the duly authorized execution of a copy of this agreement by its proper officer. Thereafter, the Clerk or other appropriate officer of that member shall file a duly executed copy of this agreement, together with a certified copy of the authorizing resolution and any initial contribution required by Article VIII with the City Administrator of the City of Tonka Bay.

Section 2. Effective Date. This agreement shall become effective when (a) it has been authorized by ten (10) of fourteen (14) eligible cities, and b) all appropriate documents have been filed as provided above.

Section 3. Previous Agreement Superseded. This agreement, when effective under Section 2 above, supersedes all previous agreements between the members hereto establishing a joint cable communications commission.

XV.

AMENDMENT OF AGREEMENT; DURATION

Section 1. Amendment of Agreement. Any proposed amendment of this agreement shall be provided to all members of the Commission. As provided in Article VIII, Section 12, the Commission may provide a recommendation regarding any proposed amendment. The agreement shall be amended upon the approval of a proposed amendment by two-thirds (2/3) of all members.

Section 2. Duration. This agreement shall continue in effect from year to year until termination in accordance with the terms of this agreement.

IN WITNESS WHEREOF, the undersigned governmental unit has caused
this agreement, as amended, to signed and delivered on its behalf.

EXECUTED as of _____, 19____201____.

CITY OF _____.

(SEAL)

By _____

Its _____

By _____

Its _____