

ENVIRONMENTAL REVIEW PROGRAM

§ 153.135 PURPOSE.

The purpose of the environmental review program section is to provide for the preparation and review of environmental assessment worksheets (EAW), environmental impact statements (EIS), and other environmental documents required under M.S. Ch. 116D, as amended from time to time, to implement the environmental review program in accordance with applicable rules of the Minnesota Environmental Protection Board, a copy of which is on file with or available through the Clerk.

(Prior Code, § 907.01)

§ 153.136 ACTION REQUIRING ENVIRONMENTAL ASSESSMENT WORKSHEETS (EAW).

(A) *General.* The purpose of an environmental assessment worksheet (EAW) is to assess rapidly in a worksheet format whether a proposed action is a major action with the potential for significant environmental effects, and in the case of a private action, is of more than local significance.

(B) *EAW required.* An EAW shall be prepared on any of the following actions, except for those exempted.

- (1) Construction of a new industrial park of over 320 acres in size.
- (2) Construction of a facility or integral group of facilities with at least 250,000 square feet of commercial or retail floor space or at least 175,000 square feet of industrial floor space, or a mixture of commercial, industrial and retail floor space totaling at least 250,000 square feet, unless located in an industrial park for which an EIS has already been prepared.
- (3) Any industrial, commercial or residential development of 40 or more acres, any part of which is within a flood plain area, as defined by the "Statewide Standards and Criteria for Management of Floodplain Areas of Minnesota."
- (4) Construction of a commercial or industrial development, any part of which is within a shoreland area (as defined by M.S. § 103F.205, as amended from time to time), covering 20,000 or more square feet of ground space, not including access roads or parking areas, and located on a parcel of land having 1,500 feet or more of shoreline frontage.
- (5) Construction of a facility that generates more than a maximum of 2,500 vehicle trips per hour or a maximum of 12,500 vehicle trips per 8-hour period.
- (6) Construction or opening of a facility for mining gravel, other non-metallic minerals, and fuels involving more than 320 acres, except for peat fuels.
- (7) An action that will eliminate or significantly alter a wetland of Type 3, 4, or 5 (as defined in U.S. Department of Interior, Fish and Wildlife Service, Circular 39, "Wetlands of the U.S., 1956") of 50 or more acres, either singly or in a complex of 2 or more wetlands.
- (8) Any marina and harbor project of more than 20,000 square feet of water surface area.
- (9) Construction of a new or additional residential development that includes 100 or more units in an unsewered area or 500 or more units in a sewerred area.
- (10) Construction of a residential development consisting of 50 or more residential units, any part of which is within a shoreland area.
- (11) Construction of a development consisting of "condominium-type" campgrounds, mobile home parks, or other semi-permanent residential and/or recreational facilities, any part of which is within a shoreland area or floodplain exceeding a total of 50 units or, if located in areas other than the above, exceeding a total of 100 units.
- (12) Conversion of 40 or more continuous acres of forest cover to a different land use.

(C) *Options EAW.* The Council may, upon recommendation by the Zoning Administrator or Clerk, require that an optional EAW be prepared on any proposed action if the action may be a major action and appears to have the potential for significant, environmental effects. The following guidelines shall also be considered in determining whether an optional EAW shall be required:

- (1) Is the action to be in or near an area that is considered to be environmentally sensitive or aesthetically pleasing?
- (2) Is the action likely to have disruptive effects such as generating traffic and noise?
- (3) Are there public questions or controversy concerning the environmental effects of the proposed actions?
- (4) Is the action in or near a wetland or on soils unsuitable or sensitive towards the proposed action?
- (5) Is the action more than a local impact?

(Prior Code, § 907.02)

§ 153.137 ACTION REQUIRING ENVIRONMENTAL IMPACT STATEMENTS (EIS).

(A) An environmental impact statement (EIS) shall be required whenever it is determined that an action is major and has

the potential for significant environmental effects. In making this determination, material effects on the environmental variables specified in applicable rules of the Minnesota Environmental Quality Board will indicate whether an EIS should be prepared. In the case of a private action, it must also be determined that the action is of more than local significance.

(B) In determining whether an action is major, is of more than local significance, or has potential for significant environmental effects, the factors outlined in applicable rules of the Minnesota Environmental Quality Board shall be considered and satisfactorily met.

(Prior Code, § 907.03)

§ 153.138 ACTION NOT REQUIRING ENVIRONMENTAL DOCUMENTS.

(A) *General.* The following actions shall not require the preparation of an EAW or EIS:

(1) When a substantial portion of the action has been completed or implemented and an EIS on the action would not be able to influence remaining implementation or construction of the action to minimize adverse environmental consequences;

(2) When there has been adequate environmental review of an action within the jurisdiction of the Council pursuant to §§ 116C.01 *et seq.* (the Critical Areas Act of 1973), as amended from time to time, or M.S. § 116C.04 (2)(b) (the Environmental Quality Council Act of 1973), as amended from time to time;

(3) When, and so long as, a public agency denies a governmental approval required for the action;

(4) When an imminent and substantial danger to the public health, safety, or welfare makes it necessary to undertake a major action that has the potential for significant environmental effects and application of this section would be impractical. In such cases, the proposer shall consult with the chairperson of the Minnesota Environmental Quality Board to arrange an alternative means of environmental review before taking the action;

(5) Any action exempt by state agencies;

(6) All national pollutant discharge elimination system permits granted by the Minnesota Pollution Control Agency, under the authority given it by the Environmental Protection Agency of the United States of America, unless otherwise provided by resolution of the Minnesota Environmental Quality Board;

(7) Any federal permits for which review authority has been delegated to a non-federal public agency by the federal government if exempted by resolution of the Minnesota Environmental Quality Board;

(8) Where, in the opinion of the city, strict observance of this section would jeopardize the public health, safety, or welfare, or would otherwise generally compromise the public interest, the city shall comply with this section as far as practicable. In such cases, the city shall carry out alternative means of public notification and shall communicate the same to the chairman of the Minnesota Environmental Quality Board.

(B) *EAW exemptions.* Unless an action is included under another part of this section, the following items are categories for which an EAW shall not be required. The following list is not intended to imply that EAWs must be prepared on actions not included in this listing. In cases where EAWs are neither exempt nor mandatory, the city should prepare EAWs only where it is probable that the actions will cause significant environmental effects and an EAW is needed to guide the decision on whether an EIS is required.

(1) Operation, maintenance, or repair work involving no substantial change in existing structures, land uses, or water quality.

(2) Construction or alteration of a single-family, two-family, or multi-family dwelling with 4 dwelling units or fewer and accessory appurtenant structures and utilities, when not in conjunction with the construction or alteration of 2 or more such residences.

(3) Construction or alteration of a store, office, or restaurant designated for occupancy of 20 persons or fewer, if not in conjunction with the construction or alteration of 2 or more stores, offices, or restaurants accumulating an occupancy load of more than 30 persons, unless designated to be a historical structure.

(4) Restoration or reconstruction of a structure in whole or in part, being increased or expanded by less than 25% of its original size, square footage, or capacity, and aggregating less than 5,000 square feet, provided that such structure has not been designated to be of historical, cultural, archeological, or recreational value by a public agency.

(5) Repaving or reconstruction of existing highways not involving the addition of new travel lanes or acquisition of additional right-of-way.

(6) Installation of traffic control devices on existing streets, roads, and highways, other than installation of multiple fixtures on extended stretches of highway.

(7) Licensing or permitting decisions relating to individual persons or activities directly connected with an individual's household, livelihood, transportation, recreation, health, safety, and welfare; such as motor vehicle licensing, hunting licenses, professional licenses, and individual park entrance permits.

(8) Purchase of operating equipment, maintenance equipment, or operating supplies.

(9) Sales or lease of surplus governmental property other than land, radioactive material, pesticides or buildings.

- (10) Loan, mortgage, guarantee, or insurance transactions in connection with new or existing structures or uses.
- (11) Borrowing for purposes other than capital construction or land purchase.
- (12) Maintenance of existing landscaping, native growth, and water supply reservoirs, excluding the use of pesticides.
- (13) Utility extensions as follows: water service mains of 500 feet or less and 1.5 inches diameter or less; sewer lines of 500 feet or less and 8 inch diameter or less; electrical service lines of 500 feet or less and 240 volts or less; gas service mains of 500 feet or less and 1 inch diameter or less; and telephone service lines of 500 feet or less.
- (14) Construction of accessory appurtenant structures, including garages, carports, patios, swimming pools, fences, barns, or other similar agricultural structures, excluding feedlots or other similar buildings not changing land use or density.
- (15) Grading or filling 750 cubic yards or less.
- (16) Local bus stops and bus shelters or transit signs, which do not require accessory parking facilities.
- (17) Minor temporary uses of land having negligible or no permanent effect on the environment, including such things as carnivals and sales of Christmas trees.
- (18) Filling of earth into previously excavated land with materials compatible with the natural material on the site.
- (19) Individual land use variances, including minor lot line adjustments and side yard and setback variances, not resulting in the creation of a new subdivided parcel of land or any change in land use character or density.
- (20) Basic data collection, training programs, research, experiment management, and resource valuation projects which do not result in an extensive or permanent disturbance to an environmental resource, and do not constitute a substantial commitment to a further course of action having potential for significant environment effects.
- (21) Accessory signs appurtenant to any commercial, industrial, or institutional facility not regulated by an agency of the state.

(Prior Code, § 907.04) (Am. Ord. 2019-8-3, passed 8-13-2019)

§ 153.139 REVIEW PROCEDURES AND ADMINISTRATION.

- (A) *Administration.* The Zoning Administrator or Clerk shall be the person responsible for the administration of the environmental review program.
- (B) *Applicant to provide data.* The applicant, for a permit for any section for which environmental documents are required, shall supply in the manner prescribed by the Zoning Administrator or Clerk all unprivileged data or information reasonably requested by the city that the applicant has in his or her possession or to which he or she has reasonable access.
- (C) *Determination of need for EAW or EIS.* The Council shall be responsible for determining whether an action is one for which an EAW or EIS is required under this chapter.
- (D) *Preparation of EAW or EIS.* All EAWs and EISs shall be prepared under the supervision of the Zoning Administrator or Clerk, reviewed by the Planning Commission, and reviewed and approved by the Council.
- (E) *Recommended changes.* When reviewing an EAW or EIS, the Zoning Administrator or Clerk and the Planning Commission may suggest design alternatives or other action, including no action, which would lessen the environmental impact of the action. The Council may require these design alterations to be made as a condition for issuing the permit.
- (F) *Review.* After an EAW is prepared, the Planning Commission shall review the EAW and recommend to the Council whether or not it should require the preparation of an EIS. The Council shall require an EIS when it finds that action is major and has potential for significant environmental effects.

(Prior Code, § 907.05)

§ 153.140 ENFORCEMENT.

- (A) *No permit prior to review.* No permit shall be issued for a project for which environmental documents are required, until the entire environmental review procedures established by this chapter are completed.
- (B) *No work prior to review.* No work shall commence and any work progress on any project for which environmental documents are required shall cease until the environmental review procedures established in this chapter are fully compiled with.

(Prior Code, § 907.06)

§ 153.141 COST OF PREPARATION AND REVIEW.

- (A) *Costs paid by applicant.* No permit for an action for which an EAW or EIS is required shall be issued until all costs of preparation and review are paid by the applicant; all information required is supplied; the environmental review process has been completed as provided in this section; and pursuant to any written agreement entered into between the applicant and the Council as provided under division (B) of this section.

(B) *Division of costs.* The applicant for a permit for any action for which an EAW or EIS is required and the Council may, in writing, agree as to the different divisions of costs for the preparation and review of any EAW or EIS.

(Prior Code, § 907.07)

§ 153.142 CHANGES IN STATE AND/OR FEDERAL ENVIRONMENTAL REGULATIONS.

EAW and EIS applicants shall comply with procedures and requirements contained herein as well as all amendments and additions to state and federal rules, regulations and laws. If this subchapter is found to be inconsistent with changing requirements, the Clerk and City Attorney shall be so notified in writing at the earliest possible date by the applicant.

(Prior Code, § 907.08)