

CITY OF GEM LAKE, RAMSEY COUNTY, MINNESOTA

ORDINANCE NO. 92

AN ORDINANCE DESCRIBING THE ENVIRONMENTAL REVIEW PROCESS

THE CITY COUNCIL OF THE CITY OF GEM LAKE ORDAINS:

SECTION 1. State law adopted. The City of Gem Lake hereby adopts the provisions of Minnesota Statutes, § 116D.04 and 116D.045, and Minnesota Rules Chapter 4410, as those laws and rules may be amended or altered from time to time, and makes those provisions a part of this ordinance as if fully set out herein.

SECTION 2. Application. The provisions of this ordinance shall apply to all land use applications submitted to the City, including but not limited to zoning amendments, planned unit development applications, subdivision applications, shoreland and wetland permits, variances, conditional use permits, and nonconforming use permits. The intent of this ordinance is to standardize the City's process for determining when to require review by Environmental Assessment Worksheet ("EAW") or Environmental Impact Statement ("EIS").

SECTION 3. Determination of Need for Environmental Review.

3.1 The City Planner shall be the person responsible for the administration of this ordinance, and the rules adopted by reference by this ordinance.

3.2 The City Planner shall be responsible for determining whether an action for which a permit is required is an action for which an EAW is mandatory under Minn. R. 4410.4300 and/or an EIS is mandatory under Minn. R. 4410.4400. The planner shall also determine those proposed actions for which a discretionary EAW may be required under Minn. R. 4410.1000, subp. 3, and shall notify the Planning Commission and the City Council of these proposed actions.

3.3 If the City Planner identifies a proposal as potentially requiring a discretionary EAW, or if the City receives a petition for EAW determination from the Environmental Quality Board, the decision to require an EAW must be made by the city council. The planner's notice or EQB petition shall be referred to the Planning Commission, which shall make a recommendation to the City Council. The city council's decision on whether or not to require an EAW shall take place no later than 30 days from receipt of the planner's notice or petition from the EQB. Notice of the council's decision shall be sent to the proposer within five (5) days of the decision. Copies of this notice shall also be sent to the EQB and petitioners' representative if the determination was triggered by a citizen petition.

3.4 If the City Planner identifies a proposal as requiring mandatory environmental review, the planner may require that review process to begin immediately.

SECTION 4. Procedures on Determination that EAW is Required.

4.1 If an EAW is required, the proposer of the project shall submit an “Application for Environmental Review” along with the completed data portions of the EAW. The applicant shall agree in writing, as a part of the application, to reimburse the City prior to the issuance of any permits for all reasonable costs, including legal and consultants’ fees, incurred in preparation and review of the EAW. The proposer shall make a deposit of five thousand dollars (\$5,000.00) with the City Treasurer to be held in escrow for the payment of these costs. Any unexpended funds remaining after final consideration of the EAW by the city council shall be returned to the proposer within thirty (30) days of the council’s decision.

4.2 The City Planner shall promptly review the application for completeness and accuracy. If the city planner determines that the submittal is incomplete, the submittal shall be returned to the proposer for completion of the missing data. If the city planner determines that the submittal is complete, the proposer shall be notified of the acceptance of the submittal within five days. The City shall have 30 days from notification to add supplementary material to the EAW, if necessary, and to approve the EAW for distribution.

4.3 Upon completion of the EAW for distribution by the city planner, the City Clerk shall provide mailed notice of the availability of the EAW and date of the meeting at which the Planning Commission will consider the matter to all property owners within at least seven hundred and fifty (750) feet of the boundaries of the property which is the subject of the EAW. Said notice shall be mailed at minimum ten (10) days before the date of the Planning Commission meeting during which the EAW will be considered. Failure of a property owner to receive notice shall not invalidate any such proceedings on the EAW or the underlying land use proposal.

4.4 The City Clerk shall also send the notices, copies and other material required by Minn. R. 4410.1500 within five (5) days of the planner’s approval of the EAW.

4.5 The City Clerk shall receive and collect all written comments on an EAW submitted during the 30-day EAW review and comment period. The planning commission and city council may take public comment on the EAW during the 30-day period, provided that notice of the comment time is published and mailed to the proposer at least ten (10) days prior to the date the commission or council plans to take public comment.

4.6 When reviewing an EAW or EIS, city staff and the Planning Commission may suggest design alterations which would lessen the environmental impact of the action. The City Council may require these design alterations to be made as a condition for approving the land use proposal when it finds that the design alterations are necessary to lessen the environmental impact of the action.

4.7 The Planning Commission shall review the EAW and all public commentary after the close of the comment period, and make a recommendation to the City Council regarding the need for an EIS. The City Council shall meet no less than 3 days and no more than 30 days after the close of the comment period to decide whether an EIS is needed for the land use proposal. Both the Planning Commission and the City Council shall use the standards and procedures set forth in Minn. R. 4410.1700 to guide their recommendations and decisions.

SECTION 5. Procedure when an EIS is required. The City shall apply and follow the guidance of Minn. Stat. § 116D.045 and Minn. R. 4410.2000 – 4410.3000 in the preparation and review of a required EIS.

SECTION 6. Prohibition on Approvals During Environmental Review. No permit for an action for which an EAW or an EIS is required shall be issued until all costs of preparation and review which are to be paid by the applicant are paid, and all information required is supplied in adequate detail and until the environmental review process has been completed as provided in this article, and pursuant to any written agreements entered into by the applicant for the permit or permits and the City Council.

SECTION 7. Severability. It is the intention of the City Council that the several provisions of this Ordinance are separate and that if any court of competent jurisdiction shall adjudge any provision of this Ordinance or application thereof to be invalid, such judgment shall not effect other provisions of this Ordinance not specifically included in such judgment.

SECTION 8. Effective date. This Ordinance shall take effect and be in force after its passage and publication.

Dated October 21, 2008

Paul Emeott – Mayor

William Short - Clerk