

# PEQUOT LAKES CITY CODE

## CHAPTER 1 – GENERAL PROVISIONS AND DEFINITIONS APPLICABLE TO THE ENTIRE CITY CODE

### ARTICLE 1. DEFINITIONS

#### Section 1-1.1. APPLICATION

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

#### Section 1-1.2. DEFINITIONS

Unless the language or context clearly indicates that a different meaning is indicated, the following words, terms and phrases, for the purpose of every chapter, section, subdivision, paragraph or provision of this City code, shall have the following meanings and inclusions:

1. **"City"** - The City of Pequot Lakes, Minnesota, acting by or through its duly authorized representative.
2. **"City Clerk-Treasurer"** - The person duly appointed by the City Council and acting in such capacity.
3. **"Conviction"** - Either of the following accepted and recorded by the Court:
  - A. A plea of guilty; or,
  - B. A verdict of guilty by a jury or a finding of guilty by the Court.
4. **"Crime"** - Conduct which is prohibited by city code or ordinance and for which the person may be sentenced to imprisonment and/or fine.
5. **"Council" and "City Council"** - The City Council of the City of Pequot Lakes, Minnesota.
6. **"Ex Officio Member"** - A person who is not counted for the purpose of determining a quorum, and has no right to vote, but shall have the right and obligation (within his discretion) to speak to any question coming before the board, commission or other deliberative body of which he is such member.
7. **"Intersection"** - The area embraced within the prolongation or connection of the lateral curb line or, if no curb, then the lateral boundary lines of the roadways or streets which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict.

8. **"May"** - Is permissive.
9. **"Misdemeanor"** – Means a crime, pursuant to Chapter 609 of the Minnesota Statutes, as amended, for which a sentence of not more than ninety (90) days or a fine of not more than \$1,000.00, or both, may be imposed.
10. **"Ordinance"** - An ordinance duly adopted by the City Council of Pequot Lakes, Minnesota.
11. **"Person"** - Includes all firms partnerships, associations, corporations and natural persons.
12. **"Petty Misdemeanor"** – means a petty offense, pursuant to Chapter 609 of the Minnesota Statutes, as amended, which is prohibited by statute and this City Code and other City Ordinances, which does not constitute a crime, and for which a sentence of a fine of not more than \$300.00 may be imposed.
13. **"Premises"** - Any lot, piece or parcel of land within a continuous boundary whether publicly or privately owned, occupied or possessed.
14. **"Police Officer" and "Peace Officer"** - Every officer, including special police, authorized to direct or regulate traffic, keep the peace, and appointed or employed for the purpose of law enforcement.
15. **"Private Property"** - All property not included within the definition of public property or public place.
16. **"Public Property" and "Public Place"** - Any place, property or premises dedicated to public use, owned by the City, occupied by the City as a lessee, or occupied by the City as a street by reason of an easement, including, but not limited to, streets, parks or parking lots so owned or occupied.
17. **"Roadway"** - That portion of a street improved, designed, or ordinarily used for vehicular travel. In the event a street includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.
18. **"Shall"** - Is mandatory.
19. **"Street"** - The entire area dedicated to public use, or contained in an easement or other conveyance or grant to the City, and shall include, but not be limited to, roadways, boulevards, sidewalks, alleys, and other public property between lateral property lines in which a roadway lies.
20. **"Violate"** - Includes failure to comply with.
21. **"Written" and "In Writing"** - Any mode of representing words and letters in the English language.

### **Section 1-1.3. VIOLATIONS**

1. **Petty Misdemeanor.** Whenever an act or omission is declared by this Code, or other City Ordinances, to be a petty misdemeanor any person violating the provision(s) shall, upon conviction, be subject to a fine of not more than \$300.00, plus the costs of prosecution by the City.
2. **Misdemeanor.** Whenever an act or omission is declared by this Code, or other City Ordinances, to be a misdemeanor any person violating the provision(s) shall upon conviction, be subject to a fine of not more than \$1,000.00 or imprisonment for a term not to exceed ninety (90) days, or both, plus, in each case, the costs of prosecution by the City.
3. **Separate Violations.** Unless otherwise provided, each act of violation and every day on which a violation occurs or continues constitutes a separate offense.
4. **Civil Enforcement.** The City may as an alternative to criminal prosecution enforce violations of the City Code or other City Ordinances through all available civil remedies.
5. **Attorneys Fees and Costs.** In all cases where the City is enforcing compliance with the City Code, or other City Ordinances, and the enforcement does not involve criminal prosecution, the offending party shall be required to reimburse the City for the City's attorney's fees and costs associated with enforcing the offending party's compliance with the City Code or City Ordinance. The City shall request reimbursement of costs of prosecution for criminal prosecution of City Code and City Ordinance violations.
6. **Otherwise Unlawful.** The City Code does not authorize an act or omission otherwise prohibited by law.

### **Section 1-1.4. OTHERWISE UNLAWFUL**

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

### **Section 1-1.5. SEVERABILITY**

Every chapter, section, subdivision, paragraph or provision of the City Code shall be, and is hereby declared, severable from every other such chapter, section, subdivision, paragraph or provision and if any part or portion of any of them shall be held invalid, it shall not affect or invalidate any other chapter, section, subdivision, paragraph or provision.

### **Section 1-1.6. PAYMENT INTO CITY TREASURY OF FINES AND PENALTIES**

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

**Section 1-1.7. MEANINGS**

As used in this City Code, words of the male gender shall include the female and neuter, and the singular shall include the plural and the plural shall include the singular.

**Section 1-1.8. CITATION**

This codification of the ordinances of the City of Pequot Lakes shall henceforth be known as the City Code and cited thus: "CITY CODE, SECTION \_\_\_\_\_."

**Section 1-1.9. PENALTIES FOR EACH OFFENSE**

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

**Section 1-1.10. TITLES**

A title or caption to or in any chapter, section, subdivision, subparagraph or other provision of the City Code is for convenience only and shall not limit, expand, or otherwise alter or control the content, wording or interpretation thereof.

**Section 1-1.11. REFERENCE TO A PUBLIC OFFICIAL**

Wherever an appointed public official is referred to in the City Code, the reference shall include such public official or his/her designee.

**CHAPTER 2 – [RESERVED FOR EXPANSION]**

## CHAPTER 3 – ADMINISTRATION

### ARTICLE 1. CITY COUNCIL

#### Section 3-1.1. COUNCIL MEETINGS

Regular meetings of the City Council shall be held in the City Hall once a month, at the time and date set by the City Council. City Council Meetings are conducted in accordance with Roberts Rules of Order.

1. **Order of Business.** Each meeting of the Council shall convene at the time and place appointed therefore. Council business shall be conducted in the following order:
  - A. Call Meeting to Order
  - B. Consider Agenda
  - C. Consent Agenda – Consent Agenda Items are considered to be routine and noncontroversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember, staff member, or citizen so requests, in which case the item will be removed from the consent agenda and considered under the regular agenda.
  - D. Open Forum – Open Forum allows the public to speak to the Council regarding issues that are not on the agenda.
  - E. Presentations
  - F. Planning and Zoning Report
  - G. Fire Chief’s Report
  - H. Water/Wastewater Supervisor’s Report
  - I. Police Chief’s Report
  - J. City Clerk’s Report
  - K. Maintenance Supervisor’s Report
  - L. City Engineer’s Report
  - M. Other Business
  - N. Adjournment

2. Varying Order. The order of business may be varied by the presiding officer; but all public hearings shall be held at the time specified in the notice of hearing.

3. Agenda. The Clerk shall prepare an agenda of business for each regular Council meeting and file a copy in the office of the Clerk not later than three days before the meeting. The agenda shall be prepared in accordance with the order of business and copies thereof shall be delivered to each Council member in their mail boxes at the City Hall three days before the meeting. No item of business shall be considered unless it appears on the agenda for the meeting; or is approved for addition to the agenda by a unanimous vote of the Council members present.

### **Section 3-1.2. SPECIAL MEETINGS**

Special meetings of the Council may be called by the Mayor or by any two other members of the Council by writing filed with the City Clerk-Treasurer stating the time, place and purpose of the meeting. Notice of a special meeting shall be given by the City Clerk-Treasurer to each member of the Council by mailing a copy of such filing to all members who did not sign or issue the call at least three (3) days prior to the time stated therein, or by personal service at least seventy-two (72) hours prior to the projected time of meeting. Special meetings may be held without prior written notice to the Council when all Council members are present at the meeting or consent thereto in writing. Any such consent shall be filed with the City Clerk-Treasurer prior to the beginning of the meeting. Any special meeting attended by all Council members shall be a valid meeting for the transaction of any business that may come before the meeting. Meetings of the Council which are adjourned from time-to-time shall not be subject to the foregoing notice requirements; nor shall special meetings which, in the judgment of the Council, require immediate consideration to meet an emergency require such notice, but may be called by telephone communication or any other expeditious means. Notice to the public and to news media as required by statute, shall be posted at City Hall at least three (3) days prior to the meeting. In addition to posting the notice, the City must also mail notice, three (3) days prior to the meeting, to each person who has filed a request for notice of special meetings.

### **Section 3.1-3. INCOMPATIBLE OFFICES**

The offices of Mayor and City Council Member for the City of Pequot Lakes are incompatible with the position of an employee of the City of Pequot Lakes. No employee of the City of Pequot Lakes may serve as the Mayor or a member of the City Council of the City of Pequot Lakes.

**CHAPTER 3 – ADMINISTRATION**

**ARTICLE 2. COMPENSATION FOR MAYOR AND COUNCIL PERSONS**

**Section 3-2.1. MAYOR**

The Mayor of the City shall receive \$350 per month plus an additional \$15 per special meeting.

**Section 3-2.2. COUNCIL PERSON**

Effective January 1, 2013 each Council Person of the City shall receive \$325 per month plus an additional \$15 per special meeting.

**Section 3-2.3. NUMBER OF COUNCIL MEMBERS**

The City Council shall consist of four-at large members and one Mayor.

## CHAPTER 3 – ADMINISTRATION

### ARTICLE 3. DEPARTMENTS

#### **Section 3-3.1. APPOINTMENT**

All Department Heads and employees shall be appointed by the Council. All appointments shall be for an indeterminate term.

#### **Section 3-3.2. COMPENSATION**

All wage and salary scales shall be fixed and determined by the Council.

#### **Section 3-3.3. POLICE DEPARTMENT**

A Police Department is hereby established. The Head of this Department shall be known as the Chief of Police, and the number of additional members and employees of the Police Department shall be determined by the Council which may be changed from time to time. The Mayor shall have, without the approval of the Council, authority to appoint additional members of the Police Department for temporary duty when in his or her judgment an emergency exists for the preservation of life or property. The Chief of Police and all members of the Police Department shall have the powers and authority of police officers generally and shall perform such duties as are required of them by the Council or by law. The office of Constable is abolished and the Chief of Police is hereby designated Process Officer, and fees for performing such duties shall be paid in to the City Treasury. The Chief of Police shall have general superintendence of the Police Department and custody of all property used and maintained for the purposes of said Department. The Chief of Police shall make and file such reports as may be required by the Council.

#### **Section 3-3.4. VOLUNTARY POLICE RESERVE**

1. The Mayor shall establish a Voluntary Police Reserve pursuant to the authority of the Mayor of the City.
2. The qualifications of the members of the Reserve and part-time police officers shall be determined by the Mayor, with the advice of the Chief of Police. These qualifications shall include, but are not limited to: unimpaired physically and mentally and of high moral character.
3. Necessary training in the field of first aid, legal and other training shall be conducted by the regular Police Department, under the direction of the Chief of Police or his designate.
4. The Chief of Police shall be responsible for the administration of the Reserve.
5. The membership shall be restricted to fifteen (15) members, and shall consist of members voted into membership by the presently existing Reserve, subject to the approval of the Chief of Police. The Mayor, at his or her discretion, may alter the

restriction, as it pertains to the number of members of the Reserve, upon the advice of the Chief of Police.

6. The duties and obligations of the Reserve shall be to aid in the enforcement of all laws and in the suppression of disturbances, the preservations of peace and the protection of life and property, all under the authority of the Chief of Police.

7. Individual members may be used as deemed necessary by the Chief of Police. No member of the Reserve, or the Reserve itself, shall exercise any authority outside the limits of the City, except under the immediate direction of a member of the regular Police Department.

8. Members of the Reserve shall serve without compensation, in the form of wages or salaries, however they shall be covered by workman's compensation insurance while on duty with the Reserve. Furthermore, the Council may, at its pleasure, dedicate funds for the purchase of necessary equipment for use by the Reserve, these funds to be allocated through the Chief of Police.

9. The rules and regulations set forth in this Section shall take effect upon the effective date as set forth by law.

### **Section 3-3.5. FIRE DEPARTMENT**

A Volunteer Fire Department under the control of the Council is hereby established. The size, composition and remuneration shall all be established by resolution of the Council, which may be changed from time to time by subsequent resolution. The Council shall also establish written rules and regulations of the Department, a copy of which shall be distributed to each of its members. The members of the Department shall elect their own Chief, Assistant Chief and other officers. The Chief and Assistant Chief are subject to confirmation and approval by the Council. The Chief of the Fire Department shall have general superintendence of the Fire Department and custody of all property used and maintained for the purposes of said Department. He shall see that the same are kept in proper order and that all rules and regulations and all provisions of the laws of the State and ordinances of the City relative to a Fire Department and to the prevention and extinguishment of fires are duly observed. He shall superintend the preservation of all property endangered by fire and shall have control and direction of all persons engaged in preserving such property. In case of the absence or disability of the Chief for any cause, the Assistant Chief shall exercise all the powers, perform all the duties and be subject to all the responsibilities of the Chief. It is also the duty of the Chief of the Fire Department to file an annual report as to the condition of the equipment and needs of the Fire Department. He shall also keep in convenient form, a complete record of all fires occurring, stating the probable cause thereof and estimated damages, and such other information as he may deem advisable or as may be required from time to time by the Council. The Chief of the Fire Department shall also make and file such other reports as may be requested by the Council.

### **Section 3-3.6. MUNICIPAL EXPENDITURES**

1. It is the purpose of this section to create guidelines for municipal expenditures which is consistent with the requirements of Minnesota law.

2. The City recognizes that under Minnesota laws a municipality or political subdivision may expend public money only when authorized expressly or impliedly by statute, and only for a public purpose. The City recognizes that there is no precise definition of a “public purpose” that will justify the expenditure of public money, but that the courts and legislature generally construe it to mean an activity that will serve as a benefit to the community as a body and, which, at the same time, is directly related to the function of government. The City further recognizes that the mere fact that some private interest may derive an incidental benefit from the activity does not deprive the activity of its public nature if its primary purpose is public.

3. The following guidelines shall be followed in determining whether an expenditure of public money is a lawful expenditure:

- A. The primary object of an expenditure of City funds is to serve a public purpose;
- B. The City is authorized expressly or impliedly by statute to expend the funds; and
- C. The expenditure has been authorized by the City Council.

4. The City recognizes the importance and need of volunteer services rendered to the City. In recognition of volunteer services, the City may, in its sole discretion, hold an annual lunch or dinner to recognize individuals who have dedicated volunteer services to the City. Reasonable expenditures for this purpose shall constitute a lawful expenditure of public money.

5. The City also recognizes the need to honor City employees for their years of service rendered and other contributions to the City of Pequot Lakes that may not be compensated by the City. This may be in the form of a plaque, certificate, or other nominal expenditure which the City deems is a lawful expenditure of public money consistent with this Chapter.

### **Section 3-3.7. BOARDS AND COMMISSIONS GENERALLY**

All Board and Commission appointments authorized by ordinance or resolution shall be made by the Mayor, and such appointment confirmed by the Council at the first regular meeting in January of each year. The term of each appointee shall be established and stated at the time of his appointment, and terms of present Board and Commission members may be re-established and changed so as to give effect to this Section. No Board or Commission member shall be appointed to more than two consecutive three-year terms. New appointees shall assume office on February 1, January 31 being the date of expiration of terms. Provided, however, that all appointees to Board and Commissions shall hold office until their successor is appointed and qualified. All vacancies shall be filled in the same manner as for an expired term, but the appointment shall be effective immediately when made and only for the unexpired term. All appointed Board and Commission members shall serve without remuneration, but may be reimbursed for out-of-pocket expenses incurred in the performance of their duties when such

expenses have been authorized by the Council before they were incurred. The Chairman and the Secretary shall be chosen from and by the Board or Commission membership annually to serve for one year. Provided, however, that no Chairman shall be elected who has not completed at least one year as a member of the Board or Commission. Any Board or Commission member may be removed by the Council for misfeasance, malfeasance or nonfeasance in office and his position filled as any other vacancy. Each Board and Commission shall hold its regular meeting at a time established and approved by the Council. All Commission meetings are conducted in accordance with Roberts Rules of Order.

## CHAPTER 3 – ADMINISTRATION

### ARTICLE 4. ESTABLISHMENT OF A HERITAGE PRESERVATION COMMISSION

#### Section 3-4.1. DECLARATION OF PUBLIC POLICY AND PURPOSES

The Council of the City of Pequot Lakes does hereby declare as a matter of public policy that the cultural heritage and social well being of the City of Pequot Lakes will be enhanced by the implementation of the Municipal Heritage Preservation Act as it relates to the historic areas of interest of the City of Pequot Lakes and finds that it is in the public interest to provide a sense of community identity and to preserve those properties in the City of Pequot Lakes which represent and reflect elements of the state's cultural, social, economic, religious, political, architectural and aesthetic heritage. The purpose of this Chapter is to:

1. Protect and enhance visual and aesthetic character, diversity and interest of the City of Pequot Lakes;
2. Promote the use and preservation of historic sites and structures for the education and general welfare of the people of the City of Pequot Lakes;
3. Recognize and safeguard properties both publicly and privately owned within the City by preserving sites and structures which reflect elements of the City's heritage;
4. Regulate the construction of new buildings and structures to be compatible with the historic character and architecture of the City or historic district;
5. Regulate the alteration and/or demolition of historically and architecturally significant sites and structures within the City of Pequot Lakes.

#### Section 3-4.2. DEFINITION

As used herein "Heritage Preservation Site" shall mean any area, place, building, structures, lands, districts, or other objects which have been duly designated Heritage Preservation Sites pursuant to this Chapter.

#### Section 3-4.3. CITY OF PEQUOT LAKES HERITAGE PRESERVATION COMMISSION ESTABLISHED

There is hereby created and established the City of Pequot Lakes Heritage Preservation Commission:

1. Membership. The Commission shall consist of five members, and two reserve members, appointed by the Mayor, by and with the approval of the City Council. Members shall include at least two members of the Pequot Lakes Area Historical Society and one member of the Pequot Lakes Planning & Zoning Commission. The members must have a demonstrated interest and ability to understand, appreciate, and promote the purpose of the Commission. The City Clerk or his/her representative shall be an ex-officio member of the Commission.

2. Term of Office. The members shall be appointed for a three year term except that initial appointments shall be staggered so that subsequent appointments shall not recur at the same time. Vacancies shall be filled in the same manner as the appointment is made.

Members shall serve without compensation and shall continue to hold office until their successors have been appointed and qualified.

3. Organization. The Commission when formed shall elect from its members such officers as it may deem advisable and necessary for the conduct of its affairs and for the purpose of carrying out the intent of this Chapter or the Minnesota Municipal Heritage Preservation Act. The Commission may invite other individuals to meet with them in advisory capacity, to provide technical advice or to perform administrative or clerical tasks. No advisory member shall have voting privileges. All advisory members shall serve at the discretion of the commission.

4. Records. Minutes of all meetings shall be kept and all records and meetings of the Commission shall be open to the public.

5. Voting. A quorum shall consist of *three* members. When a quorum is present action may be taken by the Commission upon a vote of a majority of those members present.

6. Powers and Duties. In order to provide a sense of community identity and to preserve elements of the cultural, social, economic, religious, political, architectural and aesthetic heritage of the City of Pequot Lakes or the State of Minnesota, the Commission shall have the following powers and duties:

- A. Conduct a continuing survey of all areas, places, buildings, structures, or objects in the City which the Commission, on the basis of information available or presented to it, has reason to believe are significant to the cultural, social, economic, political, or architectural history of Pequot Lakes.
- B. Continually survey all areas to determine needed and desirable improvements of older buildings throughout Pequot Lakes, acting in a resource and advisory capacity to owners of Historically Significant Sites regarding their preservation, restoration and rehabilitation.
- C. Recommend to the City Council for approval areas, buildings, or objects to be designated Heritage Preservation Sites. In considering the designation of Heritage Preservation Sites, the Commission shall apply the following criteria:
  - (1). Its character, interest or value as part of the development, heritage or cultural characteristics of the City of Pequot Lakes, State of Minnesota or the United States.

- (2). Its location as a site, or contributing element in proximity to a site of a significant historic event or process.
  - (3). Its embodiment of distinguishing characteristics of an architectural style, period, form or treatment.
  - (4). Its identification with a person or persons who significantly contributed to the culture and development of the City.
  - (5). Its embodiment of elements or architectural design, detail, materials or craftsmanship which represent distinctive architectural innovation.
  - (6). Its unique location or singular physical characteristics representing established and familiar aspects of a view, vista, site, area, or district in the City.
- D. Review and approve or oppose the issuance of City permits to do any of the following to a Heritage Preservation Site;
- (1). Remodel or repair in any manner, including painting that will change the exterior appearance.
  - (2). Construction of any exterior improvements.
  - (3). Move a building;
  - (4). Demolish a building.
- E. Review and make recommendations concerning all other City activity to alter the nature or appearance of Pequot Lakes Preservation Sites;
- F. Work for continuing education of the citizens of the City of Pequot Lakes with respect to the historic architectural and aesthetic heritage of the City;
- G. Solicit gifts and contributions to be made to the City and to assist in the preparation of applications for grant funds to be made to the City for the purpose of heritage preservation.
- H. Recommend to the City Council, after review and comment by the Planning Commission, that certain property eligible for designation as a Heritage Preservation Site be acquired by gift, by negotiation, or other legal means as provided in Chapter 117 of Minnesota Statutes.
- I. Recommend to the City Council programs for the continuing preservation of Heritage Preservation Sites including plans, rules, regulations and boundary changes which the Commission finds necessary to implement

the intent of this Chapter and the Minnesota Municipal Heritage Preservation Act.

- J. Assume all such other powers and duties as may be granted to Historic District Boards or Historic Preservation Commissions by the State of Minnesota, which are not contrary to the terms of this Chapter, or any appropriate tasks assigned to it by the Mayor or the Pequot Lakes City Council.

#### **Section 3-4.4. REPOSITORY FOR DOCUMENTS**

The Office of the City Clerk is designated as the repository for at least one copy of all studies, plans, reports, recommendations and programs required under this Chapter.

#### **Section 3-4.5. DECLARATION OF HISTORIC PRESERVATION SITES**

The City Council, upon the recommendation of the Heritage Preservation Commission, may by resolution designate a Heritage Preservation Site. Prior to such designation the City Council shall hold a public hearing, notice of which shall have been published in the official newspaper at least ten (10) days prior to the date of the hearing, and notice of the hearing shall be sent to all owners of property which is proposed to be designated a Heritage Preservation Site and to all property owners within 300 feet of the boundary of the area to be designated a Heritage Preservation Site.

The public hearing shall occur 60 days or more after the Commission's communication to the State Historic Preservation offices concerning the proposed Heritage Preservation Site designations as outlined in this Chapter.

#### **Section 3-4.6. COMMUNICATIONS WITH THE STATE**

The Heritage Preservation Commission shall send proposed site designations and design guidelines to the State Historic Preservation office at the Minnesota Historical Society, and otherwise comply with Minn. Stat. §471.193, subd. 6, as amended.

The office of the City Clerk shall record with the Crow Wing County Recorder or the Crow Wing County Registrar of Titles the legal description of all buildings, lands or areas designated as Heritage Preservation Sites by the Pequot Lakes City Council and shall transmit a copy of said legal description to the Pequot Lakes Planning Commission.

#### **Section 3-4.7. VIOLATIONS AND PENALTY**

It shall be a misdemeanor to alter, disturb, deface or materially change the appearance of a Heritage Preservation Site without the express written approval of the heritage Preservation Commission. Each day an owner, occupant, builder, contractor, architect or other person allows such a violation to exist or continue, constitutes a separate violation of this Chapter and it shall be punishable as such.

## CHAPTER 3 – ADMINISTRATION

### ARTICLE 5. ESTABLISHMENT OF A PARK COMMISSION

#### Section 3-5.1. ESTABLISHMENT OF A CITY PARK COMMISSION

There is hereby created and established pursuant to Minnesota Statutes 412.111 a City Park Commission for the City of Pequot Lakes, Minnesota, which shall consist of not less than three (3) nor more than seven (7) members. The Park Commission shall serve in an advisory capacity to the City Council. Park Commission members shall be appointed by the Mayor with the approval of the City Council. The Public Works Supervisor shall serve as staff to and an ex officio member of the Park Commission. The Park Commission shall also serve as the Tree Commission.

#### Section 3-5.2. TERM OF OFFICE

If the commission consists of three members, one member of the original commission shall serve for a term of one year, one for a term of two years, and one for a term of three years. If the commission consists of five members, one member of the original commission shall serve a term of one year, two for a term of two years and two for a term of three years. If the commission consists of seven members, two members of the original commission shall serve a term of one year, two for a term of two years and three for a term of three years. If the commission consists of nine members, three members of the original commission shall serve a term of one year, three for a term of two years and three for a term of three years.

After the terms of the original commission members expire, members shall be appointed for terms of three years. The City Council, upon the recommendation of a majority of the commission members, shall have the authority to remove any member of the commission.

#### Section 3-5.3. SIZE OF THE COMMISSION

The number of members may be increased or decreased within the permitted three, five, seven or nine members by subsequent ordinance. The ordinance shall include a provision for maintaining staggered terms for commission members, provided that if the number of members is reduced, the reduction shall be effected in such a manner that all incumbent members are permitted to serve their full terms.

No action to change the size of the commission shall be taken except upon a two-thirds vote of all the members of the City Council, and no such action shall be taken until at least three years after establishment of the commission or until at least three years after the last ordinance modifying the size of the commission.

#### Section 3-5.4. VACANCIES

Vacancies shall be filled for the remainder the original terms. Each member shall serve until a successor is appointed and qualifies.

### **Section 3-5.5. COMPENSATION**

The Park Commission shall serve without compensation.

### **Section 3-5.6. PARK COMMISSION PURPOSE, DUTIES AND RESPONSIBILITIES**

The purpose of the Park Commission is to serve as an Advisory Commission to the Public Works Supervisor, or designate and the City Council. In that capacity, the Commission will review and make recommendations to the Public Works Supervisor and City Council regarding the physical condition of the Pequot Lakes Park, ball fields, ice rinks and the equipment used to maintain those facilities as well as programs and in addition shall be responsible for developing policies regarding the maintenance and beautification of City park property.

1. Responsibilities: As an advisory commission, the responsibilities of the Park Commission are determined and granted solely at the discretion of the Pequot Lakes City Council. The Council retains the right, responsibilities and privileges granted unto it by the State of Minnesota and the voting residents of the City. Said responsibilities shall include the following:
  - A. Advise the Public Works Supervisor in preparation of the annual budget.
  - B. Assist and advise the Public Works Supervisor in determining cost and feasibility of improvements. All proposed improvements shall be recommended, along with time lines for completion, to the City Council for approval.
  - C. Assist and advise the Public Works Supervisor on the maintenance, replacement and purchase of equipment and on expenditures for grounds improvements.
  - D. Assist in researching, writing and presenting grants that may be available to the City of Pequot Lakes and organizing and carryout fundraising activities for park projects or programs.
  - E. Assist and advise the Public Works Supervisor regarding programming activities.
2. Objective. The objective of the Park Commission is to ensure the ongoing standard of excellence in the City Parks, through oversight of the grounds, equipment, maintenance, and programming.
3. Power and Duties of the Commission
  - A. The Commission shall make and adopt such policies and procedures as are necessary for the performance of its duties, for their guidance and for the management of all municipal property and facilities set aside for park and

recreation purposes. Such policies and procedures shall be submitted to and approved by the City Council.

- B. Develop immediate and long range plans for the park and recreational needs of the citizens of the City of Pequot Lakes, and recommend to the council a feasible means of financing such requirements.
- C. Recommend to the City Council operating policies and procedures for use in existing parks, future parks and public land.
- D. The Commission shall perform other duties as from time to time may be prescribed by the City Council.
- E. Review and make recommendations to the Planning Commission regarding park dedication for plats and subdivisions.

4. Responsibilities Retained by Pequot Lakes City Council. The City Council reserves the following rights and responsibilities under its control as the duly elected and authorized legislative board and as the legal employers of Pequot Lakes' Municipal employees.

- A. Final determinations on all hiring and termination of municipal employees.
- B. All disciplinary and management powers regarding municipal employees.
- C. All investigative powers relating to municipal employees.
- D. Final determination on all expenditures for City Parks.
- E. Final authority over employees, equipment, real estate and expenditures are by law the responsibility of the Pequot Lakes City Council.

#### **Section 3-5.7. REVIEW BY CITY COUNCIL**

The City Council shall have the right to review the conduct and decisions of the City Park Commission. The City Council may modify, affirm or reverse any determination of the City Park Commission.

Any person aggrieved by any ruling or order of the City Park Commission may appeal to the City Council, which shall hear the matter and make a final decision.

## CHAPTER 3 – ADMINISTRATION

### ARTICLE 6. ESTABLISHMENT OF A TREE COMMISSION

#### Section 3-6.1. POLICY AND PURPOSE

The purpose of this Chapter is to establish policies to protect and enhance the City of Pequot Lakes urban forest, to the extent found by the City Council to be practical within available financial and staff resources. The City Council has determined that the health of the shade trees within the municipal limits is threatened by shade tree diseases. It has further determined that the loss of shade trees, growing upon public and private property, would substantially depreciate the value of property and impair the safety, good order, general welfare, and convenience of the public. It has been further determined that the conditions of trees may exist that could create risks of injury to persons or damage to property or a hazard to public traffic safety. It is declared to be the intention of the Council to control and prevent the spread of diseases, and provide for the removal of dead, diseased trees or nuisances as described.

#### Section 3-6.2. DEFINITIONS

1. Boulevard means the area between the edge of the street or the back of the curb, where curb and gutter exist, and the property line.
2. Conifer Insect and Diseases means infestations of insects and diseases that are injurious to the life of conifer trees.
3. Disease Control Area means the entire City except those areas annually designated by the tree commission as “no control zones” pursuant to state law.
4. Public Trees means any tree or shrub located in any park, public right-of-way, trail, or other public space.
5. Public Space includes, but is not limited to, the grounds of public buildings, designated open space, City owned property, street, alley, and trail rights-of-way.
6. Shade Trees means oak, maple, elm, and all other deciduous trees in the City.
7. Tree Commission means the members of the Park Commission.
8. Tree Control Program means a program developed by the Tree Commission to combat tree diseases.
9. Tree Disease means a program developed by the Tree Commission to combat tree diseases.
10. Tree Inspector means a City employee or qualified person appointed by the Council, together with his/her designated assistants.

### **Section 3-6.3. ESTABLISHMENT OF A CITY TREE COMMISSION**

There is hereby created and established a City Tree Commission for the City of Pequot Lakes, Minnesota, which shall consist of not less than three (3) nor more than nine (9) members. The members serving on the City Park Commission will be the same members serving on the Tree Commission. The terms shall coincide and be exactly the same for both Commissions. Park Commission members shall be appointed by the Mayor with the approval of the City Council. The City Clerk or his/her representative, and the Roads, Buildings & Parks Superintendent shall serve as an ex officio member of the Tree Commission.

1. Duties and Responsibilities. The Tree Commission shall be responsible for developing policies regarding the care, preservations, planting, replanting, removal, or disposition of trees and shrubs in parks, in the public right-of-way, along trails, and in other public areas, and for developing an annual tree planting and maintenance plan. The plan shall be presented to the City Council for review and approval. All action taken by the Commission shall be within the budget constraints of the City. The Commission may, subject to City Council approval, organize volunteer community efforts to raise funds for tree planting on boulevards or for other activities and may, subject to City Council approval, set fees to carry out the requirements of this Chapter. The Commission, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work. The Tree Commission shall report its activities to the City Council quarterly each year.
2. Operation. The Commission shall choose its officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall constitute a quorum for the transaction of any business.
3. Interference with City Tree Commission. It shall be unlawful for any person to prevent, delay or interfere with the Tree Commission, or any of its agents while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any public trees or trees on private grounds as authorized by this Chapter.
4. Review by City Council. Any person aggrieved by any ruling or order of the City Tree Commission may appeal to the City Council, which shall hear the matter and make a final decision. The City Council shall have the right to review the conduct and decisions of the City Tree Board. The City Council may modify, affirm or reverse any determination of the City Tree Commission.

### **Section 3-6.4. PUBLIC TREE CARE IN GENERAL**

1. Care of Trees in Public Areas. The Tree Commission, or its agent, shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs in parks, in the public right-of-way, along trails and in other public areas, as may be necessary or desirable to protect public safety or to preserve or enhance the symmetry and beauty of such public grounds.
2. Planting Boulevard Trees. No tree may be planted on the boulevard except by permit obtained from the Tree Commission. The Tree Commission may remove or cause

or order to be moved or removed any boulevard tree not planted by permit, or any boulevard tree which is not in compliance with this Chapter. This section does not prohibit the planting of boulevard trees by adjacent property owners providing the selection, locations, and care of said trees are in accordance with the provisions of this Chapter.

3. Tree Trimming. The Tree Commission or its agent, shall have the authority to trim trees in parks and other public spaces. The Tree Commission or its agent shall have the authority to trim boulevard trees as needed to allow the movement of the City street maintenance equipment along the streets. The property owner shall be responsible for aesthetic trimming; for trimming on any corner lot which is necessary to allow visibility at intersections; for trimming of any boulevard tree or shrub which is necessary to maintain adequate sightlines for vehicles, bicycles, and pedestrians; and for any other trimming not specifically assigned to the Tree Commission or its agent.

4. Pruning and Removal of Dead Branches and Trees. Every owner of any tree within the City shall prune the branches so as to remove all dead, diseased, dangerous, or broken or decayed limbs. Any standing dead or fallen tree is hereby declared a public nuisance. Any such tree shall be removed and disposed of promptly by the owner, or in the case of boulevard trees, by the Director of Public Works. Standing or fallen dead trees located in public owned parks or open spaces shall be removed at the discretion of the Director of Public Works.

5. Storm Damage. The Director of Public Works shall be responsible for cleanup of downed trees, broken limbs and stump removal of storm damaged boulevard trees.

6. Stump Removal. All boulevard stumps shall be removed four inches below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

7. Abuse or Mutilation of Trees. No person shall intentionally damage, cut, carve, transplant, or remove any public tree; attach any rope, wire, nails, advertising posters, or other contrivances to any public trees; allow any gaseous, liquid, or solid substance which is harmful to such trees to come into contact with them; or set any fire or permit any fire to burn when such fire or the heat thereof will injure any portion of the tree; or to direct or authorize such activity or circumstance.

### **Section 3-6.5. PLANTING OF TREES**

1. Distance from Edge of Street or Sidewalk. Where there is no sidewalk, no tree may be planted closer than eight feet from the edge of the street, or from the back of the curb, where curb and gutter have been installed. Where there is a sidewalk boulevard, trees are permitted provided they are planted no closer than six feet from the edge of the street or from the back of the curb, and no closer than three feet from the edge of the sidewalk.

2. Utilities. No boulevard trees other than those which may attain a maximum height of 25 feet or less at maturity may be planted under or within 10 lateral feet of any

overhead utility wire. No boulevard tree may be planted over or within 5 lateral feet of any underground water line, sewer line, transmission line, or other utility.

3. Recommended Tree Species. The Tree Commission promotes a diverse urban forest so as to minimize the spread of tree disease.

### **Section 3-6.6. INSPECTION AND CONTROL OF TREE DISEASES**

1. Nuisance Defined. Any living or standing tree or part thereof infected to any degree with an infectious disease or which harbors any insect, fungi, or virus known to contribute to the spread of such disease is hereby declared to be a public nuisance. Any dead tree or part thereof known to contribute to the spread of infectious diseases, including logs, branches, stumps, or firewood, is hereby declared a public nuisance.

2. Nuisance Prohibited. It shall be unlawful for the owner of any parcel of land in the City of Pequot Lakes to permit or maintain on any such parcel of land or upon abutting street right-of-way any tree or dead wood which is a public nuisance. It shall be the duty of any such owner to promptly abate the nuisance by removing and destroying such tree or dead wood.

3. Inspections Authorized. In order to carry out the purposes of this Chapter and to implement the enforcement thereof, the employee or authorized agent of the City, is hereby authorized and empowered to enter upon any parcel of land in the City of Pequot Lakes at all reasonable hours for the purpose of inspecting any trees or dead wood situated thereon and removing specimens therefrom for laboratory or field analysis. It shall be unlawful for any person to prevent or interfere with the employee or its agent in the performance of any duties provided for in this Chapter.

4. Notice to Abate Nuisance. If it is determined that a public nuisance exists on a parcel of land or abutting street right-of-way, the Tree Commission or its agent shall cause to be served upon the owner of the parcel of land a written notice requiring such owner to abate the nuisance. Written notice shall be served by certified mail, addressed to the owner of the parcel at his last known address, or by affixing a copy of the order to the door at the entrance of the premises in violation. If the owner upon whom such notice is served fails, neglects, or refuses to abate the nuisance within 20 days after mailing or affixing such notice, the City or its agent shall proceed to abate the nuisance and charge the cost thereof against the owner to be paid to the City of Pequot Lakes.

5. Assessment of Unpaid Charges. Each year the City Clerk shall list the total unpaid charges for each nuisance abatement attributable to respective parcels of land pursuant to the provisions of Minnesota Statute 429. The City Council shall levy such unpaid charges as special assessments to the County Auditor. The special assessments of such unpaid charges shall be in addition to any penalties imposed against the owner of a parcel of land for violation of the provisions of this Chapter.

6. Penalty. Any person, firm, or corporation who violates any provision of this Chapter shall be guilty of a misdemeanor. In addition thereto, the costs of prosecution

may be imposed upon the defendant, and the Court shall order restitution to the City for damage to the tree or public property.

## **CHAPTER 3 – ADMINISTRATION**

### **ARTICLE 7. PLANNING AND ZONING BOARD MEMBERSHIP**

#### **Section 3-7.1. PLANNING COMMISSION MEMBERS**

The Planning Commission shall consist of no less than five (5) and no more than seven (7) members who are residents or landowners of the City and appointed by the City Council for terms of three years. All terms shall end on December 31; however, commissioners shall hold office until their successors have been appointed. A vacancy shall be filled by the City Council for the remainder of the term. The members of the Planning Commission, by a majority vote, shall elect one of the appointed commissioners at the first meeting of the year to serve as chair.

See City Code Chapter 17 for additional information regarding the Planning Commission.

## CHAPTER 3 - ADMINISTRATION

### ARTICLE 8. ABANDONED PROPERTY- DISPOSAL OF ABANDONED MOTOR VEHICLES, UNCLAIMED PROPERTY AND EXCESS PROPERTY

#### Section 3-8.1. DEFINITIONS

1. Abandoned Motor Vehicle means a motor vehicle as defined in Minnesota Statutes, Chapter 169, as amended, that has remained for a period of time of more than forty-eight hours on public property illegally or lacking vital component parts, or has remained for a period of more than forty-eight hours on private property without the consent of the person in control of such property, or in an inoperable condition such that it has no substantial potential further use consistent with its usual function unless it is kept in an enclosed garage or storage building. It shall also mean a motor vehicle voluntarily surrendered by its owner to and accepted by the City. A classic car or pioneer car, as defined in Minnesota Statutes, Chapter 168, as amended, shall not be considered an abandoned motor vehicle within the meaning of this Section. Vehicles on the premises of junk yards or automobile graveyards, which are licensed and maintained in accordance with the City Code, shall not be considered abandoned motor vehicles within the meaning of this Section.

2. Vital Component Parts means those parts of a motor vehicle that are essential to the mechanical functioning of the vehicle, including, but not limited to, the motor, drive train and wheels.

#### Section 3-8.2 CUSTODY

1. The City may take into custody and impound any abandoned motor vehicle.

2. Immediate Sale. When an abandoned motor vehicle is more than seven model years of age, is lacking vital component parts, and does not display a license plate currently valid in Minnesota or any other state or foreign country, it shall immediately be eligible for sale at public auction, and shall not be subject to the notification, reclamation, or title provision of this Article.

A. Notice.

(1). When an abandoned motor vehicle does not fall within the provisions of this Article, the City shall give notice of the takings within ten days. The notice shall set forth the date and place of the taking, the year, make, model and serial number of the abandoned motor vehicle, if such information can be reasonably obtained, and the place where the vehicle is being held, shall inform the owner and any lien holders of their right to reclaim and vehicle under this Article, and shall state the failure of the owner or lien holder to exercise their right to reclaim the vehicle and contents be deemed a waiver by them of all rights, title and interest in the

vehicle and a consent to the sale of the vehicle and contents at a public auction pursuant to this Article.

(2). The notice shall be sent by mail to the registered owner, if any, of the abandoned motor vehicle and to all readily identifiable lien holders of record. If it is impossible to determine with reasonable certainty the identity and address of the registered owner and all lien holders, the notice shall be published once in the official newspaper. Published notices may be grouped together for convenience and economy.

B. Right to Reclaim.

(1). The owner or any lien holder of an abandoned motor vehicle shall have a right to reclaim such vehicle from the City upon payment of all towing and storage charges resulting from taking the vehicle into custody within fifteen days after the date of the notice required by this Article.

(2) Nothing in this Article shall be construed to impair any lien of a garage keeper under the laws of this State, or the right of the lien holder to foreclose. For the purposes of this Article "garage keeper" is an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair or maintenance of motor vehicles.

3. Public Sale.

A. An abandoned motor vehicle and contents taken into custody and not reclaimed under this Article shall be sold to the highest bidder at public auction or sale, following one published notice published at least seven days prior to such auction or sale. The purchaser shall be given a receipt in a form prescribed by the Registrar of Motor Vehicles which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership. Before such a vehicle is issued a new certificate of title, it must receive a motor vehicle safety check.

(1). From the proceeds of the sale of an abandoned motor vehicle, the City shall reimburse itself for the cost of towing preserving and storing the vehicle, and all administrative, notice and publication costs incurred pursuant to this Subdivision. Any remainder from the proceeds of the sale shall be held for the owner of the vehicle or entitled lien holder for ninety days and then shall be deposited in the General Fund of the City.

4. Disposal of Vehicles Not Sold. Where no bid has been received for an abandoned motor vehicle, the City may dispose of it in accordance with this Article.

A. Contracts and Disposal.

(1). The City may contract with any qualified person for collection, storage, incineration, volume reduction, transportation or other services necessary to prepare abandoned motor vehicles and other scrap metal for recycling or other methods of disposal.

(2). Where the City enters into a contract with a person duly licensed by the Minnesota Pollution Control Agency, the Agency shall review the contract to determine whether it conforms to the Agency's plan for solid waste disposal. A contract that does so conform may be approved by the Agency. Where a contract has been approved, the Agency may reimburse the City for the costs incurred under the contract which have not been reimbursed.

(3). If the City utilizes its own equipment and personnel for disposal of the abandoned motor vehicle, it shall be entitled to reimbursement for the cost thereof along with its other costs as herein provided.

5. Disposal of Unclaimed Property.

A. Definition. The term "abandoned property" means tangible or intangible property that has lawfully come into the possession of the City in the course of municipal operations, remains unclaimed by the owner, and has been in the possession of the City for at least sixty days and has been declared such by a resolution of the Council.

B. Preliminary Notice. If the City Clerk-Treasurer knows the identity and whereabouts of the owner, he shall serve written notice upon him at least thirty days prior to a declaration of abandonment by the Council. If the City acquired possession from a prior holder, the identity and whereabouts of whom are known by the City Clerk-Treasurer notice shall also be served upon him. Such notice shall describe the property and state that unless it is claimed and proof of ownership, or entitlement to possession established, the matter of declaring it abandoned property will be brought to the attention of the Council after the expiration of thirty days from the date of such notice.

C. Notice and Sale. Upon adoption of a resolution declaring certain property to be abandoned property, the City Clerk-Treasurer shall publish a notice thereof describing the same, together with the names (if known) and addresses (if known) of prior owners and holders thereof, and including a brief description of such property. The text of such notice shall also state the time, place and manner of sale of all such property, except cash and negotiables. Such notice shall be made to the highest bidder at public auction or sale conducted in the manner directed by the Council in its resolution declaring property abandoned and stated in the notice.

D. Fund and Claims Thereon. All proceeds from such sale shall be paid into the General Fund of the City and expenses thereof paid therefrom. The former

owner, if he makes claim within eight months from the date of publication of the notice herein provided, and upon application and satisfactory proof of ownership, may be paid the amount of cash or negotiables or, in the case of property sold, the amount received therefore, less a pro-rata share of the expense of storage, publication of notice, and sale expenses, but without interest. Such payment shall be also made from the General Fund.

6. Disposal of Excess Property.

A. Property which is operable, but no longer useable to a particular department may be disposed, if the surplus property cannot be transferred or sold.

B. Sale of Property. Surplus property, which is to be sold, is subject to the requirements described in Minnesota Statutes Section 471.345 or Minnesota Statutes Section 15.054

C. Public Sale – A notice of public sale shall be listed in one of the following ways.

a. A published notice in the official newspaper stating that the City is accepting sealed offers on the capital asset or surplus property. The notice shall be published in the newspaper at least ten (10) days prior to the close of offers.

b. Through an electronic selling process in which purchasers compete to purchase the surplus supplies, materials or equipment at the highest purchase price in an open and interactive environment.

c. The asset shall be sold to the party who presents the highest cash offer under the stipulated terms. The City shall have the right to reject all offers.

D. To Another Government Agency – Surplus property or non-expendable supplies may be sold to a government agency without going through the public sale process if approved by the City Council.

E. Trade-Ins - Property can be traded-in for a new acquisition, if approved by Council.

F. Lost, Stolen, or Damaged Beyond Repair - When property is retired from the City through one of these unexpected methods, the incident will be reported to the appropriate law enforcement personnel (if applicable).

7. Persons Who May Not Purchase

A. No employee of the City who is a member of the administrative staff, department head, a member of the Council, or an advisor serving the City in a professional capacity, may be a purchaser of property under this Section. Other

City employees may be purchasers if they are not directly involved in the sale, or sealed response process, and there has been reasonable public notice and the property is sold by public auction or sealed bid.

**CHAPTER 4 – [RESERVED FOR EXPANSION]**

## **CHAPTER 5 – GENERAL REGULATIONS**

### **ARTICLE 1. ESTABLISHMENT OF AN ABSENTEE BALLOT COUNTING BOARD**

#### **Section 5-1.1. ESTABLISHMENT**

Pursuant to the provision of MN Statutes, Section 203B.13, The City Council of Pequot Lakes hereby authorizes the Crow Wing County Commissioners to establish an Absentee Ballot Precinct, to be located in the Crow Wing county courthouse complex, for the purpose of receiving all Absentee Ballots for any Primary or General election nor Special Referendum held within the City of Pequot Lakes. The Absentee Ballot Precinct shall be under the direct charge and supervision of the Crow wing County Auditor and shall be administered pursuant to the Minnesota Election Laws without cost to the City of Pequot Lakes.

## **CHAPTER 5 – GENERAL REGULATIONS**

### **ARTICLE 2. REGULATIONS FOR OPERATION OF THE PEQUOT LAKES CEMETERY**

#### **Section 5-2.1. ESTABLISHMENT**

A cemetery has been established and is continued upon land acquired by petition of the Pequot Cemetery Association and now owned by the City of Pequot Lakes, and described as follows:

Beginning at the northwest corner of the northwest quarter of the northeast quarter (N.W. corner of N.W. ¼ of the N.E. ¼), Section fifteen (15), Township one hundred and thirty six (136), Range twenty-nine (29); running and thence easterly along the section line twenty-two (22) rods; thence southerly at right angles 22 rods, thence westerly at right angles twenty-two (22) rods; thence northerly and at right angles twenty-two rods to the place of beginning, Crow Wing County, being three and one-fourth (3 ¼) acres. The plat of said cemetery as Jack Curo, surveyor, and placed on file in the office of the City Clerk showing all boundaries, sections, lots, divisions, roads, drives, and paths is hereby adopted as the official plat of said cemetery which shall be called the Pequot Lakes Cemetery.

No person shall lay out or establish any cemetery, or use any lot of land within this City for the burial of the dead except in the said City Cemetery, or some other tract of land duly designated as a cemetery by an ordinance of the City Council.

#### **Section 5-2.2. REGULATIONS**

These regulations are designed to operate the cemetery in an orderly fashion and to advance the interests and elevate the character of the Pequot Lakes Cemetery. No changes can be made to these regulations without the approval of the Pequot Lakes City Council. Special requests must be presented to the Council and, if granted, will appear on the deed or addendum to the deed.

#### **Section 5-2.3. SALE OF LOTS**

The City Clerk is responsible for collecting fees for the sale of burial lots and perpetual care and issuing receipts therefore. Upon receipt of the entire cost of lots sold and perpetual care, the City Clerk will issue deeds as proof of ownership. Attached to the deed will be a set of regulations for the owner's information. The City Clerk is also responsible for keeping accurate records of the burial lots, ownership and occupancy.

1. Burial lots will be sold in multiples of one.
2. The price of each burial lot and perpetual care will be set by resolution annually by the City Council. A charge will be set by resolution annually by the City Council for staking and clearing snow from lots for winter interments. The charge for staking and clearing snow from lots is applicable beginning on the date of first measurable accumulation of snowfall through April 30<sup>th</sup>.

3. The owner of a burial lot is not authorized to sell such lot to another person. If for some reason the owner may wish to dispose of a burial lot, it can be re-sold to the City at the price the owner paid for it, less the cost of perpetual care, upon proper proof of such price and presentation of adequate proof of ownership.

#### **Section 5-2.4. INTERMENTS**

All interments, disinterments or removals must be made at a time and in a manner approved by the City and upon payment which shall be set by the City Council.

1. No interment shall be permitted in any lot until such lot is fully paid for except as may be provided in the sales agreement.
2. The City reserves the right to require at least forty-eight (48) hours notice prior to any interment and at least forty-eight (48) hours notice to any disinterment or removal.
3. The City reserves the right to refuse the interment and to refuse to open any burial lot for any purpose except upon written application by a lot owner of record or his authorized representative.
4. In order to assist in maintaining the constant beauty of Pequot Lakes Cemetery no interment shall be made without the use of a concrete steel reinforced vault, or other non-deteriorating material.
5. When instructions received from a lot owner or his legal representative regarding the location in a lot of an interment space are indefinite or when for any reason the interment space cannot be opened where specified, the City may at its discretion open such other location in the lot as is deemed best and proper to avoid delaying the interment service. The City shall not be made liable for payment of damages for such action or for any error that might develop therefrom.

#### **Section 5-2.5. LIABILITY OF THE CITY**

The City shall not be held responsible for the execution of any order given by telephone or for any error occurring from lack of the receipt of proper written instructions pertaining to the funeral service or interment.

1. The City reserves and shall have a right to correct without liability for the payment of damages any errors that may be inadvertently made by the City either in making interment, disinterment, or removal, or in the installation of memorial or in the description, transfer or conveyance of burial rights, and to substitute and convey in lieu thereof other interment property of similar nature and location insofar as is possible, or as may be selected by the City or in the sole discretion of the City to refund the amount of money paid on account of its purchase. In the event such an error is in respect to the interment of the remains of the deceased person in such property, the City reserves the right to substitute such other property of similar nature in the location as may be substituted and conveyed in lieu thereof.

2. The City shall not be liable for the payment of any damages for any delay in the interment of a body of a deceased person caused by reason of a protest to the interment of such a body or the violation of the rules and regulations of the cemetery.
3. In making disinterments, the City will exercise reasonable care but will not be liable for payment in connection with any injury to casket or burial case.
4. The City shall incur no liability whatsoever except for its willful acts or malfeasance.
5. The City shall be entitled in all cases to rely upon the statement, written or oral, of any person claiming to have knowledge of the facts and claiming to be authorized to act and shall incur no liability whatsoever by reason of an act committed by it or permitted to be done in reliance on such statement.

**Section 5-2.6. NUMBER OF PERSONS INTERRED PER GRAVE**

The bodies of two or more persons shall not be interred in one grave unless approved by the City, except in the case of cremation, hereby up to six (6) persons can be buried in one grave. There will be charges required for such burial.

**Section 5-2.7. LOT OWNER'S RIGHTS**

In case of a lot owner's death, the rights of the surviving wife or husband and next of kin will be recognized in accordance with the laws of the State of Minnesota insofar as it is able to ascertain who such parties are, but the City will not be responsible for any errors which may be committed due to lack of adequate information.

In the absence of an express direction by the owner of the lot or provision contained in a will, the following will be recognized as having the right to direct interments herein:

1. The original owner may at any time designate whom he/she wishes to have interred in the lot which may be recorded on the books of the cemetery and which will be recognized by the City subject to right of interment upon the part of the surviving spouse.
2. If no such designation is made, the surviving husband or wife shall have the first right.
3. Where there is not a surviving husband or wife, the heirs of the purchaser may by agreement in writing, determine who among them shall have the right of interment.
4. In the event such original purchaser or his/her heirs shall not have arranged for future interments of the direct lineal heirs, then the direct lineal heirs of the purchaser or his/her spouse shall in the order of their death be entitled to interment thereon until the lot shall be filled.
5. In case there are not lineal heirs then the nearest of kin to the owner and their respective spouses have the right to interment in order of their need.

**Section 5-2.8. DISINTERMENTS**

No disinterments will be allowed except as provided by law, nor without the assent in writing of the surviving husband or wife, or next of kin to the person whose body is to be disinterred or removed together with the written permit or order from the owner of the lot or his/her legal representative or person in control of such lot.

The City shall under no circumstances be held liable in case of disinterment or removal where it acts upon the written order of such persons. The City shall have the right to refuse to permit disinterment while the payments for the cemetery lot have not been completed or are in default.

**Section 5-2.9. MONUMENTS, MARKERS, FLOWERS, VASES, ETC.**

All monument and markers placed in the cemetery shall be of bronze, granite, or marble and no vertical joints therein will be permitted. All foundation for monuments and other structures must be of sufficient depth and stability to support the proposed structure, and no structure may be erected until the foundation has been approved by the Maintenance Supervisor or when any marker, monument or other structure to be erected in the cemetery requires, in the opinion of the Maintenance Supervisor, foundation to support it properly, such foundations shall be installed under the direction of the Maintenance Supervisor at a proper depth and strength to support the proposed structure at the expense of the person erecting the structure.

1. Emblems or flag holders furnished by the Veterans shall be placed flush with the ground, the locations of which shall be directed by the Maintenance Supervisor.
2. No seats, fences, separate vases, urns or other memorials other than the markers herein, will be permitted.
3. No planting of any kind in any section of the cemetery is permitted, other than by the Maintenance Supervisor.
4. Glass containers, of all kinds, and cans are prohibited on graves. If placed thereon they will be removed by the Maintenance Supervisor. Metal vases, approved by the Maintenance Supervisor, are allowed on the grave lot only. The City will not be responsible for brass vases not removed or tipped before snow covers them.
5. Flowers, wreaths or funeral designs will be permitted on the grave lot only. Potted plants must NOT be sunk in the ground. No copings around graves will be permitted.
6. The Maintenance Supervisor is authorized to remove all decorations including flowers, pots, wires and artificial flowers as they become unsightly or uncared for or that have not been removed by October 1<sup>st</sup>.
7. Flags for graves of Veterans and other organizations will be permitted two weeks before and two weeks following Memorial Day and Veteran's Day.

**Section 5-2.10. CEMETERY GROUNDS REGULATIONS**

1. No person shall discharge any firearm or have possession of any firearms within the cemetery grounds, except in case of military funeral and on Memorial Day without the written consent of the City Council
2. No person shall obstruct any drive or path in the cemetery or in any way injure, deface or destroy any stone structure, grave, flower, tree, shrub, vine, or any other object in the cemetery.
3. No person shall disturb the quiet of the cemetery by noise of any kind or by improper conduct.
4. No person shall enter or leave the cemetery except through the gates.
5. No person may use the cemetery grounds or any road therein as a public thoroughfare nor drive any vehicle through the cemetery grounds except for the purpose of making deliveries in the cemetery.

**Section 5-2.11. SPECIAL CASES**

Special cases may arise in which the literal enforcement of a rule may impose unnecessary hardship. The City therefore reserves the right without notice to make exceptions, substitutions or modifications in any of these rules and regulations when in its judgment the same appear advisable and suspension or modification shall in no way be considered as affecting the general application of such rule.

**Section 5-2.12. UNOCCUPIED AND UNSOLD LOTS**

The City reserves the right to plat and re-plat unoccupied and unsold lots, remove and change the location of trees, shrubs and other objects, lay out and change location of roads, paths and walks and to make such other changes or alterations as it deems necessary or advisable and to correct errors in locations and descriptions in contracts, deeds, and interments without incurring any obligation to or securing the consent of lot owners.

**Section 5-2.13. MODIFICATIONS**

These rules and regulations may be changed or modified at any time as occasion may require, without notice by the City to the lot owners.

1. The term “person” in this Chapter includes firms and corporations.

## CHAPTER 5 – GENERAL REGULATIONS

### ARTICLE 3. DEFERRED SPECIAL ASSESSMENTS

#### Section 5-3.1. SPECIAL ASSESSMENT DEFERRAL

Pursuant to Minn. Stat. §§ 435.193 through 435.195 senior citizens and retired disabled homeowners may defer special assessments levied against homestead property owned by the applicant if the criteria set forth in §§ 2 through 6 of this Chapter are met by the applicant.

#### Section 5-3.2 ELIGIBILITY

Any person 65 years of age or older or totally and permanently disabled (as determined by the Social Security Administration or the City may adopt any other standard or guideline) may defer special assessments levied against real property for public improvements if the following conditions are met:

1. Ownership. The applicant must be the fee simple owner of the property or must be a contract vendee for fee simple ownership. An applicant must provide either a recorded deed or contract for deed with the application to establish a qualified ownership interest as required herein.
2. Homestead. The property must be the applicant's principal place of domicile and classified on the City's and County's real estate tax rolls as the applicant's homestead.
3. Net Income. The applicant's net income and net income of all other joint tenants, tenants in common or contract vendedes in title to the property may not exceed an amount as set by resolution of the City Council during the preceding year from the assessment levy. Net income determinations shall be made under a formula as set forth on a form provided by the City (or use of federal or tax forms).

#### Section 5-3.3 INTEREST ON DEFERRED ASSESSMENT

All deferred special assessments shall be subject to and charged simple interest at the prevailing interest rate applicable at the time the assessment was originally levied. Said interest shall be payable upon termination of the deferral status.

#### Section 5-3.4 TERMINATION OF DEFERRAL STATUS

Special Assessment payments deferred pursuant to the eligibility requirements set forth by this Chapter shall become payable effective upon the occurrence of one of the following events:

1. Sale of Property. The subject property is sold, transferred, subdivided, or in any way conveyed to another by the fee owner qualified for deferral status.

2. Death of Owner. The death of the fee owner qualified for deferral status unless a surviving joint tenant, tenant in common, or contract vendee is eligible for the deferral benefit provided hereunder.
3. Nonhomestead Property. The subject property loses its homestead status for any reason.
4. No Hardship. The City council determines that there would be no hardship to require an immediate or partial payment of the deferred special assessment.

**Section 5-3.5 FILING FOR DEFERRAL STATUS/FEE**

An eligible applicant must file an application on or before September 15<sup>th</sup> of the year preceding the year for which deferral status is requested in order to implement the deferral program for said year. All deferral applications must be made on forms approved by the City and submitted to the City Clerk. The applicant will be charged an administrative filing fee of \$25.00 for the purpose of processing the application.

**CHAPTER 5 – GENERAL REGULATIONS**

**ARTICLE 4.**

**(Reserved for Expansion)**

## CHAPTER 5 – GENERAL REGULATIONS

### ARTICLE 5. FEES, CHARGES, AND EXPENSES

#### **Section 5-5.1. ESTABLISHMENT OF FEE SCHEDULE**

The City council of the City of Pequot Lakes hereby establishes provisions for a schedule of fees and a collection procedure for fees, charges, and expenses related to miscellaneous city projects requested by the City. The schedule of fees shall be available in the office of the City Clerk. Said schedule may be altered or amended by a resolution of the City Council. No permits, investigation, or expenses shall be incurred unless or until such fees have been paid in full to the City Clerk, or appropriate arrangements or agreements made between the applicant, party, or person requesting action or permits from the City.

#### **Section 5-5.2. FEE SCHEDULE**

Whenever any action or permit is requested of the City, the City shall have the right to assess or charge to said applicant or requester the reasonable fees as set forth in the City's fee schedule ordinance, as amended. Any after the fact application fee or prior application fee shall not constitute approval or authorization of the City, and shall not constitute a penalty or waiver of the right of the City to institute civil or criminal legal action against the applicant or party or person requesting action or permits from the City. All fees or charges incurred are nonrefundable.

#### **Section 5-5.3. DEVELOPER COSTS**

In addition to the fee schedule adopted by the City on an annual basis the City Council recognizes the necessity for the City of Pequot Lakes to recoup the costs and expenses incurred by the city in the process of working with developers/owners of property within the city limits. The City Council has determined that costs and expenses related to specific developments or improvements shall not be paid out of the general fund of the City of Pequot Lakes.

#### **Section 5-5.4. DEFINITIONS**

1. "Developer." Individual, partnership, corporation, sole proprietorship or company acting on their own behalf or on the behalf of a property owner, franchiser, franchisee, or utility company in developing or improving property within the City of Pequot Lakes.
2. "Owner." Individual partnership, corporation, sole proprietorship or company which owns property in fee simple or as a contract for deed purchaser or lessee.
3. "City Engineer." Individual or firm contracted with by the city for the provision of engineering services.
4. "City Attorney." Individual or firm contracted with by the city for the provision of legal services.

5. "Development Costs." Costs, expenses and fees directly related to a specific development or improvement within the city limits of the City of Pequot Lakes.

#### **Section 5-5.5. DETERMINATION OF DEVELOPMENT COSTS**

The costs and charges to be assessed for development or improvement related expenses incurred by the City on behalf of developers or owners in the City of Pequot Lakes shall be determined in the following manner:

1. The City Staff shall take the application of the developer/owner requesting action by the City of Pequot Lakes.
2. The City Staff shall open a file and place the following information in the file:
  - A. Date of Application
  - B. Name and address of the owner and/or developer.
  - C. Name and address of the fee owner (if different than the property owner).
  - D. Complete Copy of the Application
  - E. Analysis of Project and potential city expenses.
  - F. Findings of Administrator
3. The City Staff shall make a preliminary determination of the development costs which must be borne by the developer/owner.

#### **Section 5-5.6. NOTIFICATION TO DEVELOPER**

1. **Determination of Deposit Amount.** The City Staff shall notify the developer/owner of the requirement to deposit an amount equal to one and one-half times the anticipated cost of the services and professional fees required or incurred by the city as a development cost.
2. **Deposit of Funds.** The City Staff shall advise the developer that the funds, in a form described in Section 4 subdivision 1, must be deposited with the City of Pequot Lakes prior to any action on the application or request or placing the application on the agenda before the Planning and Zoning Commission or Board of Adjustment or City Council.
3. **Examples of Development Costs.** Development costs which may typically be associated with the development and/or improvement of property and the average anticipated expenses include the following (list not inclusive):

- A. Review of development agreements, franchise agreements, negotiation, and title work by City Attorney.
- B. Review of Title Opinion or Title Insurance commitment by City Attorney.
- C. Survey check by City Engineer.
- D. T.I.F. and Development agreements and related work.
- E. Ordinance/City Code analysis by City Attorney and/or City Planner.
- F. Preparation for and attendance at City meetings by City Attorney, City Engineer or City Planner relating to the specific development project.
- G. Site visits by Engineer, City Attorney or City Planner.
- H. Review of Development Plan by Engineer, City Attorney or City Planner.
- I. Feasibility studies related to extension of sewer and water.
- J. Erosion control, traffic studies, lake impact studies, environmental worksheet preparation, and environmental impact statement.
- K. Preparation of or participation in Environmental Assessment Worksheets or Environmental Impact Statements, or other environmental matters.

**Section 5-5.7 PAYMENT OF ESTIMATED DEVELOPMENT COSTS OF OWNERS**

1. **Deposit.** Developers must deposit a sum equal to one and one-half times the estimated development costs before the notice of hearing on the application shall be published. The deposit may consist of a cash deposit, letter of credit, or performance bond in an amount sufficient to cover the deposit required by the City.
2. **Additional Expenses.** In the event the costs, expenses and fees incurred by the city on behalf of the developer (or the anticipated expenses to be incurred by the City) exceed the amount deposited with the City, the developer or owner shall be required to pay the additional expenses and fees prior to the final hearing or in the case of post-hearing expenses, before issuance of a permit.
3. **Overpayment and Refund.** In the event the amount deposited by the Developer is more than the amount expended by the City, the City shall promptly refund to the Developer any excess funds as soon as all of the bills for Development Expenses have been paid.

## CHAPTER 5 – GENERAL REGULATIONS

### ARTICLE 6. FEES FOR EMERGENCY PROTECTION FIRE SERVICES

#### Section 5-6.1. PURPOSES AND INTENT

This Chapter is adopted for the purpose of authorizing the city of Pequot Lakes to charge for fire service as authorized by Minnesota Statute 366.011, 366.012, and 415.01.

#### Section 5-6.2. DEFINITIONS

1. Fire Service. Any deployment of fire fighting personnel and/or equipment to extinguish a fire or perform any preventative measure in an effort to protect equipment, life, or property in an area threatened by fire. It also includes the deployment of fire fighting personnel and/or equipment to provide fire suppression, rescue, extrication, and any other services related to fire and rescue as may occasionally occur.
2. Fire Service Charge. The charge imposed by the City for receiving fire service.
3. Motor Vehicle. Any self-propelled vehicle designed and originally manufactured to operate primarily upon public roads and highways, and not operated exclusively upon railroad tracks. It includes semi trailers. It does not include snowmobiles, manufactured homes, all terrain vehicles, or park trailers.
4. Fire Protection Contract. A contract between the City and a town or other city for the City to provide fire service.
5. Mutual Aid Agreement. An agreement between the City and a town or other city for the City's fire department to provide assistance to the fire department of a town or other city.

#### Section 5-6.3. PARTIES AFFECTED

1. Owners of property within the City who receive fire service.
2. Anyone who receives fire service as a result of a motor vehicle accident or fire within the City.
3. Owners of property in towns or cities to which the City provides fire service pursuant to a fire protection contract.

#### Section 5-6.4. RATES

Rates will be set by the Fire Contracts.

### **Section 5-6.5. BILLING COLLECTION**

1. Parties requesting and receiving fire services will be billed directly by the City of Pequot Lakes within 30 days of the fire service. Additionally, if the party receiving fire services did not request services but a fire or other situation exists, which at the discretion of the fire department personnel in charge requires fire service; the party will be charged and billed. All parties will be billed whether or not the fire service is covered by insurance. Any billable amount of the fire charge not covered by a party's insurance remains a debt of the party receiving the fire service.
2. Parties billed for fire service will have 30 days to pay. If the fire service charge is not paid by that time, it will be considered delinquent and the City will send a notice of delinquency.
3. If the fire service charge remains unpaid for 30 days after this notice of delinquency, the city will use all practical and reasonable legal means to collect the fire service charge. The party receiving fire service shall be liable for all collection costs incurred by the City including, but not limited to, reasonable attorney fees and court costs.
4. If the fire service charge remains unpaid for 30 days after the notice of delinquency is sent, the City Council may also, on or before October 15 of each year, certify the unpaid fire service charges of persons owning property within the City to the county auditor for collection with property taxes. The City must give the property owner notice of its intent to certify the unpaid fire service charge by September 15.
5. If property owners outside of the City receive fire service as a result of a fire protection contract and do not pay their fire service charge for 30 days after the notice of delinquency is sent, the City may bill the town or other city with which it contracts to provide fire protection services as specified in the fire protection contract.

### **Section 5-6.6. MUTUAL AID AGREEMENT**

When the City fire department provides fire service to another fire department pursuant to a Mutual Aid Agreement, the billing will be determined by the Mutual Aid Agreement.

### **Section 5-6.7. APPLICATION OF COLLECTIONS TO BUDGET**

All collected fire charges will be city funds and used to offset the expenses of the City fire department in providing fire services.

## CHAPTER 5 – GENERAL REGULATIONS

### ARTICLE 7. RESTRICTIONS REGARDING THE USE OF PHOSPHORUS TURF FERTILIZER

#### Section 5-7.1. DEFINITIONS

1. “Turf” means non-crop land planted in closely mowed, managed grasses including, but not limited to, residential and commercial residential property, private golf courses, and property owned by federal, state or local units of government, including parks, recreation areas, and public golf courses. Turf does not mean pasture, hay-land, hay, turf grown on turf farms, or any other form of agricultural production.
2. “Impervious surface” means a highway, street, sidewalk, parking lot, driveway, or other material that prevents infiltration of water into the soil.

#### Section 5-7.2. PHOSPHORUS USE RESTRICTIONS

A person may not apply a fertilizer containing the plant nutrient phosphorus to turf within the City of Pequot Lakes except under the following conditions:

1. A tissue, soil, or other test by a laboratory or method approved by the Commissioner of Agriculture and performed within the last three years indicates that the level of available phosphorus in the soil is insufficient to support healthy turf growth;
2. The property owner or an agent of the property owner is first establishing turf via seed or sod procedures, and only during the first growing season;
3. The fertilizer containing the plant food phosphorus is used on a golf course under the direction of a person licensed, certified, or approved by an organization with an ongoing training program approved by the Commissioner of Agriculture.

Applications of phosphorus fertilizer authorized under these conditions must not exceed rates recommended by the University of Minnesota and approved by the Commissioner of Agriculture.

#### Section 5-7.3. FERTILIZER APPLICATION TO AN IMPERVIOUS SURFACE PROHIBITED

A person may not apply a fertilizer to an impervious surface. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site or returned to the original or other appropriate container.

#### Section 5-7.4. ENFORCEMENT

Violation of a provision in either of these sections is a petty misdemeanor.

## CHAPTER 5 – GENERAL REGULATIONS

### ARTICLE 8. A UNIFORM SYSTEM FOR NUMBERING PROPERTIES IN THE CITY OF PEQUOT LAKES

#### Section 5-8.1. PURPOSE

This Chapter is intended to be compatible with and supplementary to the Crow Wing County Coordinate Datum Based Unincorporated Addressing and Sign Ordinance AND THE 911 Emergency Telephone System established by Minnesota Statutes, Chapter 403.

The official city map, on file in the City Clerk's Office, is hereby adopted and made a part of this Chapter.

#### Section 5-8.2. NUMBERING CRITERIA

Address numbers for individual structures shall be determined and assigned using the Crow Wing County Single Quadrant Datum Addressing System utilizing a Global Positioning System to obtain the latitude and longitude location of the structure's driveway. The Crow Wing County Surveyor shall maintain an official list of road names and address ranges of all public and private roads within the City, and will be responsible for the assignment of numbers on new structures.

#### Section 5-8.3. ASSIGNMENT OF NUMBERS

Upon approval of a completed Pequot Lakes Zoning Permit Application, the Zoning Officer shall submit a copy of the Address Application and Notification Form to the County Surveyor for address processing.

The County Surveyor shall, upon receipt of the Address Application and Notification Form, obtain a GPS latitude and longitude of the driveway access for the proposed structure. Assignment of the address will be made based on the GPS coordinates.

The County Surveyor shall send the applicant and/or Zoning Officer a completed copy of the Address Application and Notification Form. Duplicate copies of that form shall be forwarded to the Pequot Lakes Post Office, Crow Wing County Auditor's Office, and the City of Pequot Lakes Planning & Zoning Office.

#### Section 5-8.4. FEES

Fees established and charged by the Crow Wing County Board of Commissioners for services associated with the assignment of addresses shall be borne by the Applicant, in addition to the cost of sign, post and installation. All costs to replace the sign shall be paid by the property owner.

**Section 5-8.5. ASSIGNMENT OF NAMES**

When any new road or street is proposed by any person, governmental body, department or by submittal of a Plat or Subdivision, the proposal shall be referred to the County Surveyor to be checked for road name duplication, spelling and conformity.

In the case of road name duplication, the County surveyor will make the final name determination.

**Section 5-8.6. DISPLAY OF NUMBERS**

It shall be the duty of the property owner of every house, industrial, commercial or other building, to have property house or building numbers located in a position near the front door of each structure so as to be clearly visible from the street or road. The resident or caretaker shall be responsible for keeping the house number sign clear of snow, dirt, vegetation, debris or any other obstruction.

If the structure is more than 100 ft. from the street or road, a separate post with the numbers attached shall be placed within 30 ft. of the street identifying the number of the structure on the property. If a garage or similar accessory building obstructs the view of the main structure from the driveway, the building numbers for the structure shall be placed in a conspicuous location on the garage or accessory building.

Each number of the address shall be four inches or greater in height and shall be of a color that contrast with the color of the structure to which it is attached.

Numbers shall be in Arabic form.

**Section 5-8.7. COMPLIANCE**

All structures for which numbers are required shall display numbers promptly upon notification of the correct address from the Crow Wing County Surveyor. New structures shall display such numbers prior to occupancy if the structure is residential, or immediately upon use of the building if the structure is commercial or industrial.

**Section 5-8.8. ADMINISTRATION**

The City Clerk shall be responsible for maintaining a record of addresses assigned in accordance with the Crow Wing County Datum Based Addressing System.

**Section 5-8.9. ENFORCEMENT**

Failure to comply with any provisions listed in this Chapter shall constitute a misdemeanor.

**Section 5-8.10. SEPARABILITY**

Should any section, clause or provision of this Chapter be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Chapter as a whole or any part thereof, except that part so declared to be invalid.

**CHAPTER 6 – [RESERVED FOR EXPANSION]**

## CHAPTER 7 – GENERAL OFFENSES

### ARTICLE 1. THE ENFORCEMENT OF ADMINISTRATIVE OFFENSES AND ISSUANCE OF PENALTIES RELATED TO THESE OFFENSES

#### Section 7-1.1. PURPOSE

Administrative offense procedures established pursuant to this Section are intended to provide the public and the City of Pequot Lakes with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of certain City Code and Ordinance provisions. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to payment of the administrative penalty as is provided for thereafter, the individual may withdraw from participation in the procedures, in which event the City may bring criminal charges in accordance with law, likewise, the City of Pequot Lakes in its discretion may choose not to initiate an administrative offense and may bring criminal charges in the first instance. In the event a party participates in the administrative offense procedures but does not pay the monetary penalty which may be imposed, the City of Pequot Lakes will seek to collect the costs of the administrative offense procedures as part of a subsequent criminal sentence in the event the party is charged and is adjudicated guilty of the criminal violation. Any minor traffic offense subject to an administrative fine set forth in Section 7-1.11 shall be governed by that section.

#### Section 7-1.2. DEFINITIONS

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For purposes of this Chapter the following words and terms when used herein shall have the following meanings unless the context clearly indicates otherwise.

1. Administrative Offense. An administrative offense is a violation of a provision of the City Code/Ordinance(s) and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in this Chapter, entitled “Offenses and Penalties”, hereafter.
2. Independent Commission. A City Council appointed commission, assigned the authority to serve as Hearing Officer regarding administrative offenses. The Council shall consist of three (3) members selected from surrounding communities that are not residents of the City of Pequot Lakes. Commission members shall serve for a term of two (2) years.

#### Section 7-1.3. NOTICE.

Any Officer of the City of Pequot Lakes Police Department or any other person employed by the City, authorized in writing by the City Council, and having authority to enforce this Chapter, shall upon determining that there has been a violation, notify the violator, or in the case of a vehicular violation, attach to the vehicle, a notice of violation. Said notice shall set forth the

nature, date and time of the violation, the name of the official issuing the notice, and the amount of the scheduled penalty.

**Section 7-1.4. PAYMENT**

Once such notice is given, the alleged violator may, within ten (10) days of the time of issuance of notice, request a hearing in writing as is provided for hereafter. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

**Section 7-1.5. HEARING**

Any person contesting an administrative offense pursuant to this Section may, within ten (10) days of the time of issuance of the notice, request a hearing to determine if a violation has occurred. The hearing officer shall have authority to dismiss the violation or reduce or waive the penalty. If the violation is sustained by the hearing officer, the violator shall pay the penalty imposed within ten (10) days.

**Section 7-1.6. HEARING OFFICER**

An independent commission shall be the hearing officer. The independent commission is authorized to hear and determine any controversy relating to administrative offense provided for in this Section.

**Section 7-1.7. FAILURE TO PAY**

In the event a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes. If the penalty is paid or if an individual is found not to have committed the administrative offense by the hearing officer, no such charge may be brought by the City of Pequot Lakes for the same violation.

**Section 7-1.8. DISPOSITION OF PENALTIES**

All penalties collected pursuant to this Section shall be paid to the City of Pequot Lakes, deposited in the City's General Fund as a designated revenue account for Community Policing efforts within the City of Pequot Lakes.

**Section 7-1.9. OFFENSES AND PENALTIES**

Offenses which may be charged as an administrative offense and the penalties for such offenses will be established by Ordinance of the City Council and incorporated into the City's annual fee schedule.

**Section 7-1.10. SUBSEQUENT OFFENSE**

In the event a party is charged with a subsequent administrative offense, within twelve (12) months for the same or substantially similar offense, the subsequent administrative penalty shall be increased by twenty-five percent (25%) (except speeding).

**Section 7-1.11 ADMINISTRATIVE CITATIONS FOR CERTAIN TRAFFIC OFFENSES PURSUANT TO MINN. STAT. §169.999**

1. The City hereby authorizes the issuance of administrative citations for traffic offenses designated at Minn. Stat. § 169.999, subd. 1(b)(1), (2) and (3), as it may be amended from time to time.
2. The City hereby sets the fine for committing an administrative traffic violation designated by Minn. Stat. § 169.999 and this Section at the amount designated by Minn. Stat. § 169.999, subd. 5, as it may be amended from time to time.
3. The City hereby directs that only licensed City peace officers may issue administrative traffic citations authorized by this Section.
4. The City hereby directs that no City peace officer may issue an administrative traffic citation in violation of Minn. Stat. § 169.999.
5. The City hereby directs that no administrative traffic citation authorized by this Section may be issued to a holder of a commercial driver's license or the driver of a commercial vehicle in which the administrative violation was committed.
6. The City hereby directs the appointment of a neutral third party to hear and rule on challenges to administrative traffic citations authorized by this Section. Such appointment may be renewed annually at the first meeting of the year as all other Council appointments, or more immediately as the Council directs, in its sole, reasonable discretion.
7. The City hereby adopts the uniform administrative traffic citation form prescribed by the Commissioner of Public Safety.
8. The City hereby authorizes City staff to create materials as necessary to supplement the uniform administrative traffic citation to provide recipients of an administrative traffic citation with information related, but not limited to, the recipient's right to challenge the citation; the City's process for handling challenges to administrative traffic citations; the location, dates, and times designated to hear traffic citation challenges; the process for paying a traffic citation; and the effect of an administrative traffic citation on a recipient's driving record.
9. City staff is hereby directed to separately account for administrative traffic citations authorized by this Section in City financial reports, summaries, and audits in keeping with common accounting practices and standards.
10. City staff is hereby directed to designate a special fund for the portion of administrative traffic fines that must be spent on law enforcement purposes, in keeping with common accounting practice and standards, and to report annually, or as otherwise directed by Council, to the City Council on said fund.

## CHAPTER 7 – GENERAL OFFENSES

### ARTICLE 2. DEFINING AND PROHIBITING NUISANCES AND PROVIDING A PENALTY FOR VIOLATION

#### Section 7-2.1. PUBLIC NUISANCE DEFINED

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

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

#### Section 7-2.2. PUBLIC NUISANCES AFFECTING HEALTH

The following are hereby declared to be nuisances affecting health:

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

11. Any offensive trade or business as defined by statute not operating under local license.

**Section 7-2.3. PUBLIC NUISANCES AFFECTING MORALS AND DECENCY**

1. All gambling devices used in violation of the City of Pequot Lakes' gambling regulations.
2. Betting, bookmaking, and all apparatus used in such occupations.
3. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses.
4. Any vehicle used for the transportation of intoxicating liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

**Section 7-2.4. PUBLIC NUISANCES AFFECTING PEACE AND SAFETY**

1. All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection.
2. All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles.
3. All unnecessary noises and annoying vibrations.
4. Obstructions and excavations affecting the ordinary use by the public of street, alleys, sidewalks, or public grounds except under such conditions as are permitted by this code or other applicable law.
5. Radio aerials or television antennae erected or maintained in a dangerous manner.
6. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free use of the street or sidewalk.
7. Any barbed wire fence less than six feet above the ground and within three feet of a public sidewalk or way.
8. Any dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public.
9. Waste water cast upon or permitted to flow upon streets or other public property.
10. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies, or other material, in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so

accumulated, or in a manner creating fire, health, or safety hazards from such accumulation.

11. Any well, hole, or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located.

12. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials.

13. The placing or throwing on any street, sidewalk, or other public property of any glass, nails, tacks, bottles, or other substance which may injure any person or animal or damage any pneumatic tire when passing over such substance.

14. The depositing of garbage or refuse on a public right-of-way or on adjacent private property.

15. Noisy assembly, which shall mean a gathering of more than one person in a residentially zoned or used area of building between the hours of 10:00 p.m. and 6:00 a.m. that would be likely to cause significant discomfort or annoyance to a reasonable person or normal sensitivities present in the area considering the time of the day and the residential character of the area.

A. Participating in, visiting, or remaining at a gathering knowing or having reason to know that the gathering is a noisy assembly except the person(s) who have come to the gathering for the sole purpose of abating the disturbance.

16. Knowingly permitting real estate under one's care or control to be used for a noisy assembly, as previously described.

17. The sounding of any horn or signal device on an automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal or traffic warning.

18. The use of any automobile, pickup truck, motorcycle, or other vehicle which is not reasonably maintained and which causes noise which would be likely to cause significant discomfort or annoyance to a reasonable person of normal sensitivities present in the area.

19. The playing or operation, or permitting the playing, use or operation, of any radio, tape player, disc player, loud speaker, or other electronic device used for the amplification of music or other entertainment, which is located within a motor vehicle being operated on a public street or alley, or in commercial or residential parking facilities, which is audible by any person from a distance of fifty (50) feet or more from the vehicle.

A. When sound violating this section is produced or reproduced by any such device that is located in a motor vehicle, the motor vehicle's owner, if

present when the violation occurs, is in violation of this section. If the motor vehicle's owner is not present at the time of the violation, the person in charge or control of the vehicle at the time of the violation is in violation of this section. In addition to an owner or a driver, any person who controls or assists with the production of sound violating this section is in violation of this section. Violation constitutes a misdemeanor.

20. The playing or operation, or permitting the playing, use or operation, of any radio tape player, loud speaker or other electronic device used for the amplification of sound located inside or outside, the sound of which carried to points of habitation on adjacent properties, and is audible above the level of conversational speech at a distance of fifty (50) feet or more from the point of origin of the amplified sound.

21. All other conditions or things which are likely to cause injury to the person or property of anyone.

22. The use/operation of skateboards or roller skates including in-line skates on City sidewalks, walkways, driveways, parking lots or other areas frequented by pedestrians.

#### **Section 7-2.5. DUTIES OF CITY OFFICERS**

The police department shall enforce the provisions of this Chapter relating to nuisances affecting public safety and other nuisances. Such officers shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances.

#### **Section 7-2.6. ABATEMENT**

Whenever the officer charged with enforcement determines that a public nuisance is being maintained or exists on premises in the City, the officer shall notify in writing the owner or occupant of the premises of such fact and order that such nuisance be terminated and abated. The notice shall be served in person or by certified or registered mail. If the premises are not occupied and the owner is unknown, the notice may be served by posting it on the premises. The notice shall specify the steps to be taken to abate the nuisance and the time, not exceeding 30 days, within which the nuisance is to be abated. If the notice is not complied with within the time specified, the enforcing officer shall report that fact forthwith to the Council. Thereafter the Council may, after notice and the owner or occupant has had an opportunity to be heard, provide for abating the nuisance by the City. The notice shall be served in the same manner as notice by the enforcing officer is served, and shall be given at least ten (10) days before the date stated in the notice when the Council will consider the matter. If notice is given by posting, at least thirty (30) days shall elapse between the day of posting and the hearing.

#### **Section 7-2.7. RECOVERY OF COST**

1. Personal Liability. The owner of the premises on which a nuisance has been abated by the City shall be personally liable for the cost to the City of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City clerk shall prepare a bill for the cost and mail it to the owner.

Thereupon, the amount shall be immediately due and payable at the office of the City Clerk.

2. Assessment. If the nuisance is a public health or safety hazard on private property, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minnesota Statutes, Section 429.101 against each separate lot or parcel to which the charges are attributable. The Council may then spread the charges against such property under the statute and other pertinent statutes for certification to the County Auditor and collection along with the current taxes the following year or in annual installments, not exceeding ten years, as the Council may determine in each case.

**Section 7-2.8. PENALTY**

Any person convicted of violating any provisions of this Chapter is guilty of a misdemeanor.

## CHAPTER 7 – GENERAL OFFENSES

### ARTICLE 3. CURFEW FOR MINORS

#### Section 7-3.1. PURPOSE

1. Purpose. The curfew for minors established by this section is maintained for four primary reasons:
  - A. To protect the public from illegal acts of minors committed during the curfew hours;
  - B. To protect minors from improper influences that prevail during the curfew hours, including involvement with gangs;
  - C. To protect minors from criminal activity that occurs during the curfew hours; and
  - D. To help parents control their minor children.

#### Section 7-3.2 DEFINITIONS

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

1. Emergency Errand. A task that if not completed promptly threatens the health, safety, or comfort of the minor or a member of the minor's household. The term shall include, but shall not be limited to, seeking urgent medical treatment, seeking urgent assistance from law enforcement or fire department personnel, and seeking shelter from the elements or urgent assistance from a utility company due to a natural or human-made calamity.
2. Official City Time. The time of day as determined by reference to the master clock used by the Police Department.
3. Places of Amusement, Entertainment or Refreshment. Those places that include, but are not limited to, movie theaters, pinball arcades, shopping malls, nightclubs catering to minors, restaurants, and pool halls.
4. Primary Care or Primary Custody. The person who is responsible for providing food, clothing, shelter, and other basic necessities to the minor. The person providing primary care or custody to the minor shall not be another minor.
5. School Activity. An event which has been placed on a school calendar by public or parochial school authorities as a school sanctioned event.

### **Section 7-3.3. HOURS**

1. Minors under the age of 16 years. No minor under the age of 16 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 10:30 p.m. and 5:00 a.m. the following day, official city time.
2. Minors ages 16 years to 18 years. No minor of the ages of 16 or 17 years shall be in or upon the public streets, alleys, parks, playgrounds or other public grounds, public places, public buildings; nor in or upon places of amusement, entertainment or refreshment; nor in or upon any vacant lot, between the hours of 12:00 midnight and 5:00 a.m. the following day, official city time.

### **Section 7-3.4. EFFECT ON CONTROL BY ADULT RESPONSIBLE FOR MINOR**

Nothing in this article shall be construed to give a minor the right to stay out until the curfew hours designated in this section if otherwise directed by a parent, guardian, or other adult person having the primary care and custody of the minor; nor shall this article be construed to diminish or impair the control of the adult person having the primary care or custody of the minor.

### **Section 7-3.5. EXCEPTIONS**

The provisions of this article shall not apply in the following situations:

1. To a minor accompanied by his or her parent or guardian, or other adult person having the primary care and custody of the minor.
2. To a minor who is upon an emergency errand at the direction of his or her parent, guardian, or other adult person having the primary care and custody of the minor.
3. To a minor who is in any of the places described in this section if in connection with or as required by an employer engaged in a lawful business, trade, profession, or occupation; or to a minor traveling directly to or from the location of the business, trade, profession or occupation and the minor's residence. Minors who fall within the scope of this exception shall carry written proof of employment and proof of the hours the employer requires the minor's presence at work.
4. To a minor who is participating in or traveling directly to or from an event which has been officially designated as a school activity by public or parochial school authorities; or who is participating in or traveling directly to or from an official activity supervised by adults and sponsored by the city, a civic organization, school, religious institution, or similar entity that takes responsibility for the minor and with the permission of the minor's parent, guardian, or other adult person having the primary care and custody of the minor.
5. To a minor who is passing through the city in the course of interstate travel during the hours of curfew.

6. To a minor who is attending or traveling directly to or from an activity involving the exercise of First Amendment rights of free speech, freedom of assembly, or freedom of religion.

7. To minors on the sidewalk abutting his or her residence or abutting the residence of a next-door neighbor if the neighbor does not complain to the city's designated law enforcement provider about the minor's presence.

8. To a minor who is married or has been married, or is otherwise legally emancipated.

### **Section 7-3.6 DUTIES OF A PERSON LEGALLY RESPONSIBLE FOR MINOR**

No parent, guardian, or other adult having the primary care or custody of any minor shall permit any violation of the requirements of this section by the minor.

### **Section 7-3.7 DUTIES OF OTHER PERSONS**

No person operating or in charge of any place of amusement, entertainment, or refreshment shall permit any minor to enter or remain in his or her place of business during the hours prohibited by this section unless the minor is accompanied by his or her parent, guardian or other adult person having primary care or custody of the minor, or unless one of the exceptions to this section applies.

### **Section 7-3.8 DEFENSE**

It shall be a defense to prosecution under this section that the owner, operator, or employee of an establishment promptly notified the city's designated law enforcement provider that a minor was present on the premises of the establishment during curfew hours and refused to leave.

1. A law enforcement officer must look into whether a minor has an affirmative defense before making an arrest.

### **Section 7-3.9. PENALTY**

1. Any person, firm, or corporation who violates any provision of this Chapter for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor. The penalty which may be imposed for any crime which is a misdemeanor under this Chapter, including Minnesota Statutes specifically adopted by reference, shall be a sentence as provided by state law for misdemeanors.

2. Any person, firm or corporation who violates any provision of this Chapter, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction be guilty of a petty misdemeanor. The penalty which may be imposed for any petty offense which is a petty misdemeanor shall be a sentence as provided by state law for petty misdemeanors.

3. In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

4. The failure of any officer or employee of the city to perform any official duty imposed by this Chapter shall not subject the officer or employee to the penalty imposed for a violation.

5. In addition to any penalties provided for in this section, if any person, firm or corporation fails to comply with any provision of this Chapter, the Council or any city official designated by it, may institute appropriate proceedings at law or at equity to restrain, correct or abate the violation.

## CHAPTER 7 – GENERAL OFFENSES

### ARTICLE 4. ENFORCEMENT OF EXCESSIVE VEHICLE NOISE OFFENSES AND ISSUANCE OF PENALTIES RELATED TO THESE OFFENSES

#### Section 7-4.1. PURPOSE

Excessive vehicle noise offense procedures established pursuant to this Section are intended to provide the public and the City of Pequot Lakes with a means to limit the exposure to noise pollution created by vehicles operating within the city limits of Pequot Lakes. These procedures shall be established by uniform regulations as to what the offenses of excessive vehicle noise are by definition, what type of offenses these are and what the penalty shall be for those who have been charged with the offense.

#### Section 7-4.2. DEFINITIONS.

For the purposes of this Chapter, the following phrases are defined as follows:

1. Engine Retarding Brake. An engine retarding brake shall mean a Dynamic Brake, Jake Brake, Jacobs Brake, C Brake, Paccar Brake, transmission brake or other similar engine retarding brake system, which alters the normal compression of the engine and subsequently releases that compression.
2. Abnormal or Excessive Noise. An abnormal or excessive noise shall mean (a) distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value, (b) noise in excess of that permitted by Minnesota Statutes Section 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order, or (c) noise in excess of that permitted by Minnesota Statutes Section 169.693, as this statute may be amended from time to time, which establish motor vehicle noise standards.

#### Section 7-4.3. EXCESSIVE VEHICLE NOISE.

1. It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.
2. It shall be unlawful for the operator of any truck to intentionally use an engine retarding brake on any public highway, street, parking lot or alley within the city which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.

#### **Section 7-4.4. SIGNING**

Signs stating "VEHICLE NOISE LAWS ENFORCED" or "NO JAKE BRAKES" may be installed at locations deemed appropriate by the City Council to advise motorists of the prohibitions contained in this Chapter, except that no sign stating "VEHICLE NOISE LAWS ENFORCED" shall be installed on a state highway without a permit from the Minnesota Department of Transportation. The provisions of this Chapter are in full force and effect even if no signs are installed.

#### **Section 7-4.5. AMENDMENTS**

It is the intention of the City Council that all future amendments to any statutes and rules referenced or adopted by reference in this Chapter are also referenced or adopted by reference as if they had been in existence at the time this Chapter was adopted.

#### **Section 7-4.6. PENALTY**

Any person, firm or corporation who violates any provision of this Chapter shall, upon conviction, be guilty of a petty misdemeanor.

## CHAPTER 7 – GENERAL OFFENSES

### ARTICLE 5. ENFORCEMENT OF UNREASONABLE ACCELERATION OFFENSES AND ISSUANCE OF PENALTIES RELATED TO THESE OFFENSES

#### Section 7-5.1. PURPOSE

Unreasonable acceleration offense procedures pursuant to this Section are intended to provide the public and the City of Pequot Lakes with the means to monitor and enforce safe driving practices within the city limits of Pequot Lakes. These procedures shall be established by uniform regulations as to what the offense of unreasonable acceleration is by definition, what type of offense it is and what the penalty shall be for those who have been charged with the offense.

#### Section 7-5.2. DEFINITIONS

No person shall start or accelerate any motor vehicle with an unnecessary exhibition of speed on any public or private way within the city. Prima facie evidence of such unnecessary exhibition of speed shall be squealing or screeching sounds emitted by the tires or the throwing of sand or gravel by tires of said vehicle or both.

#### Section 7-5.3. AMENDMENTS

It is the intention of the City Council that all future amendments to any statutes and rules referenced or adopted by reference in this Chapter are also referenced or adopted by reference as if they had been in existence at the time this Chapter was adopted.

#### Section 7-5.4. PENALTY

Any person violating any provision of this section shall be guilty of a petty misdemeanor.

## **ARTICLE 6. SOCIAL HOST LIABILITY**

### **Section 7-6.1. PURPOSE AND FINDINGS.**

The Pequot Lakes City Council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The Pequot Lakes City Council finds that:

1. Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
2. Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
3. Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
4. Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.
5. Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
6. A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

### **Section 7-6.2. AUTHORITY.**

This ordinance is enacted pursuant to Minn. Stat. §145A.05 subdivision 1, as amended.

### **Section 7-6.3. DEFINITIONS.**

For purposes of this ordinance, the following terms have the following meanings:

1. Alcohol. “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
2. Alcoholic beverage. “Alcoholic beverage” means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, liquor, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

3. Event or gathering. “Event or gathering” means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
4. Host. “Host” means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.
5. Parent. “Parent” means any person having legal custody of a juvenile:
  - (a) As natural, adoptive parent, or step-parent;
  - (b) As a legal guardian; or
  - (c) As a person to whom legal custody has been given by order of the court.
6. Person. “Person” means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.
7. Residence or Premises. “Residence” or “premises” means any home, yard, farm, field, land, apartment, condominium, hotel or hotel room, or other dwelling unit, or a hall or meeting room, park or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.
8. Underage Person. “Underage person” is any individual under twenty-one (21) years of age.

#### **Section 7-6.4. PROHIBITED ACTS.**

1. It is unlawful for any person(s) to host or knowingly allow an event or gathering to take place at any residence, premises, or any other private or public property in the City of Pequot Lakes under the following circumstances:
  - (a) where alcohol or alcoholic beverages are present; and
  - (b) the person knows or reasonably should know that an underage person will or does:
    - (i) consume any alcohol or alcoholic beverage; or
    - (ii) possess any alcohol or alcoholic beverage with the intent to consume it; and
  - (c) the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).

2. A person is criminally responsible for violating Subdivision 4(a) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.
3. A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

**Section 7-6.5. EXCEPTIONS.**

1. This ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.
2. This ordinance does not apply to legally protect religious observances.
3. This ordinance does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. §340A.503 Subd. 1(a)(1).
4. This ordinance does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

## ARTICLE 7. LOITERING

### Section 7-7.1. DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, and words shall have the meaning given herein. The word "shall" is mandatory and not merely directory.

1. Premises. For purposes of this section, premises shall include any house, yard, lot, parcel, sidewalk, boulevard, street, highway, alley, park, playground, restaurant, café, church or other place of worship, school, any car or other motor vehicle, parking lot, boat landing, drive-in, building used for public, business, commercial, or industrial purposes, washroom, apartment building and entryways and hallways located therein, or any other location whether public or private in the City of Pequot Lakes.
2. Loitering Defined. Whoever commits any of the following acts is guilty of loitering:
  - a. Lingering about the entryway of any public or private premises, or sitting or lingering upon the sidewalk, steps, windowsills, railing, fence, or parking area adjacent to any such premises in such a manner so as to obstruct or partially obstruct ingress to or egress from such building to the annoyance or inconvenience of owners, occupants, pedestrians, or entrants.
  - b. Lingering for any length of time upon any public or private premises or move in a slow and deliberate manner without purpose or otherwise interfere with, obstruct, or render dangerous or unreasonable for passage, any public highway, sidewalk, parking area, or right-of-way.
  - c. Remaining for more than five minutes on any public or private premises in which the actor has been verbally informed at least one (1) time prior in the past twelve (12) months as to the existence of this ordinance, or are posted with a conspicuous sign containing the words "No Loitering".
  - d. Lurking, loitering, or prowling in any place, at a time or in a manner not usual for law abiding individuals, under circumstances that warrant alarm for the safety of persons or property in the vicinity.
  - e. Warning - Exception. A person may not be arrested or convicted under Section 7-7.1 (a)-(c), until after a law enforcement officer has informed the person at least once in the previous 12 month period that his or her action violates this Ordinance and has asked the person to move to a location that would not violate this Ordinance. It shall not be necessary to inform any person (1) who is charged under Section 7-7.1 (d); or (2) who has been convicted of a violation of this Ordinance within one year of the act complained of.

### Section 7-7.2. CIRCUMSTANCES CAUSING ALARM

1. Prohibition. A person shall not lurk, loiter, or prowl in any place, at a time or in a manner not usual for law abiding individuals, under circumstances that warrant alarm for the safety of

persons or property in the vicinity.

- a. Circumstances Causing Alarm. Among the circumstances that may be considered in determining whether alarm is warranted is the fact that the person takes flight upon the appearance of a police officer, refuses to identify him/herself, or endeavors to conceal him/herself or an object.
2. Authority to Detain. A police officer may stop and briefly detain a person suspected of violating Section 7-7.2 (1), if the person's behavior reasonably causes suspicion of criminal activity. The officer's reasonable suspicion must be based on objective, articulable facts and reasonable inferences drawn from all the circumstances surrounding the person's behavior.
  3. Opportunity to Dispel Alarm. Unless flight by the person or other circumstances make it impracticable, a police officer must, prior to any arrest for a violation of 7-7.2 (1), allow the person an opportunity to dispel any alarm which would otherwise be warranted by requesting him/her to identify him/herself and explain his/her presence and conduct. The person may identify him/herself by presenting any of the following:
    - a. A state-issued identification card or driver's license containing the person's photograph.
    - b. An employer-issued identification card which verifies the person's employment and includes the person's photograph.
    - c. A currently valid passport.
    - d. A certified copy of the person's birth certificate; or
    - e. Verification of the persons' identity by another person who can establish his/her own identity by one of the documents listed above.

An explanation of the person's presence and conduct will be sufficient to dispel alarm if it shows that the person was engaging in and planning to continue engaging in, lawful activity consistent with his/her actions and all the circumstances surrounding his/her behavior.

4. Requisites for Conviction. A person may not be convicted of a violation of Section 7-7.2 if:
  - a. No police officer gave the person the opportunity provided in 7-7.2(3) to dispel the alarm created by his/her actions; or
  - b. The finder-of-fact determines that the police officer should have accepted the person's explanation as sufficient to dispel alarm.

### **Section 7-7.3. INTENT TO COMMIT CRIME**

A person shall not in any public or private place lurk, loiter, prowl, lie in wait, or be concealed with intent to commit any act prohibited by law.

**Section 7-7.4. PENALTIES**

1. Petty Misdemeanor. Whoever commits any of the acts enumerated in Section 7-7.1 or Section 7-7.2 of this Ordinance is guilty of a petty misdemeanor.
  
2. Misdemeanor. Whoever commits any of the following acts is guilty of a misdemeanor:
  - a. Loitering with intent to commit a crime as provided in Section 7-7.3;
  
  - b. Any of the acts enumerated in this Ordinance within one year of being found guilty of any violation of this Ordinance; and
  
  - c. Failing or refusing to vacate or leave any premises after being requested or ordered, either orally or in writing to do so by the owner, agent, manager or person in charge thereof, or by any law enforcement officer or official or returning at any time thereafter to any such premises after having been so requested or ordered to vacate such premises.
  
3. Administrative Fine. Alternatively the City may impose an administrative fine for violations of this Article. The administrative fine shall be established by the City annually through the Ordinance Establishing Fees and Charges, as amended from time to time by ordinance.

**Section 7-7.5. SEVERABILITY AND SAVINGS CLAUSE**

If any section or portion of this Ordinance shall be found unconstitutional or otherwise invalid or unenforceable by a court of competent jurisdiction, that finding shall not serve as invalidation or affect the validity and enforceability of any other section or provision of this Ordinance.

**Section 7-7.6. PENALTY DEFINITION**

For purposes of this Ordinance, “misdemeanor” shall be defined as defined in Minn. Stat. § 609.02, Subd. 3, and 'petty misdemeanor" shall be defined as defined in Minn. Stat. § 609.02, Subd. 4a.

**CHAPTER 8 – [RESERVED FOR EXPANSION]**

## CHAPTER 9 – LICENSE AND BUSINESS REGULATIONS

### ARTICLE 1. REGULATION OF ADULT ORIENTED BUSINESSES

#### Section 9-1.1. PURPOSE AND INTENT

It is the purpose of this Chapter to regulate adult oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to:

1. Prevent additional criminal activity with the City;
2. Prevent deterioration of neighborhoods and its consequent adverse effect on real estate values of properties within the neighborhood;
3. To locate adult oriented businesses away from residential areas, schools, churches, and parks and playgrounds;
4. Prevent concentration of adult oriented businesses within certain areas of the City.
5. The provision of this Chapter have neither the purpose nor effect of imposing a limitation of restriction on the content of any communicative material, including adult oriented materials. Similarly, it is not the intent or effect of this Chapter to restrict or deny access by adults to adult oriented materials protected by the First Amendment, or to deny access by distributors and exhibitors of adult oriented entertainment to their intended market.

#### Section 9-1.2. DEFINITIONS

For purposes of this section the terms defined in this section have the meanings given them.

1. Adult Use. Any of the activities and businesses described below constitute “adult oriented businesses” which are subject to the regulation of this Chapter.
2. Adult Book and/or Media Store. An establishment which has a substantial portion (25% of utilized floor area) of its stock in trade or stock on display books, magazines, films, videotapes, or other media which are characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
3. Adult Cabaret. An establishment which provides dancing or other live entertainment, if such establishment excludes minors by virtue of age from all or part of the establishment and if such dancing or other live entertainment is distinguished or characterized by emphasis on the performance, depiction or description of specified sexual activities of specified anatomical areas.

4. Adult Establishment. Any business which offers its patrons services, entertainment, or the sale of merchandise characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to specified sexual activities or specified anatomical areas. Specifically included in the term, but without limitation, are adult book and media stores, adult cabarets, adult hotels or motels, adult mini-motion picture theaters, adult modeling studios, adult motion picture arcades, adult motion picture theaters, adult novelty businesses, and other adult establishments.

5. Adult Hotel or Motel. Adult hotel or motel means a hotel or motel wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

6. Adult Mini-Motion Picture Theater.

A. A theater in an enclosed building, from which minors are excluded from all or part of the establishment, with a capacity for less than 50 persons used for presenting motion pictures, including but not limited to film and videotape, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical area.

B. Any business which presents motion pictures, from which minors are excluded from all or part of the establishment, including films and videotapes, having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, for viewing on the premises, including but not limited to private booths, viewing by means of coin operated or other mechanical devices, and the viewing of excerpt of motion pictures offered for sale or rent.

7. Adult Modeling Studio. An establishment, which excludes minors from all or part of the establishment, whose major business in the provision, to customers, or figure models who are so provided with the intent of providing sexual stimulation to sexual gratification to customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

8. Adult Motion Picture Arcade. Any place wherein coin or token operated or electronically, electrically, or mechanically controlled or operated still or motor picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

9. Adult Motion Picture Theater. A theater is an enclosed building with a capacity of fifty (50) or more persons used regularly and routinely for presenting live entertainment or motion pictures, including but not limited to film and videotapes, having

as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons herein.

10. Adult Novelty Business. A business which sells, offers to sell, or displays devices which stimulate human genitals or devices which are designed for sexual stimulation.

11. Specified Anatomical Area. Are any of the following conditions:

A. Less than completely and opaquely covered:

- (1) human genitals, pubic regions, or pubic hair
- (2) buttocks; and
- (3) female breast below a point immediately above the top of the areola; and

B. Human male genitals in a discernible turgid state, even if opaquely covered.

12. Specified Sexual Activities. Are any of the following conditions:

A. An act of sexual intercourse, normal or perverted, actual or simulated, including genital-genital, anal-genital, or oral-genital intercourse, whether between human beings or between a human being and an animal.

B. Sadomachochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a revealing costume or the condition of being fettered, bound, or otherwise physically restricted on the part of one so clothed.

C. Masturbation or lewd exhibitions of the genitals including any explicit, close-up representation of a human genital organ clothed or unclothed.

D. Physical contact or simulated physical contact with the clothed or unclothed pubic areas or buttocks of a human male or female, or the breasts of a female, whether alone or between members of the same or opposite sex or between humans and animals in an act of apparent sexual stimulation or gratification.

### **Section 9-1.3. APPLICATION OF THIS CHAPTER**

Except as specifically provided in this Chapter, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used, for any purpose nor in any manner which is not in conformity with this Chapter.

No adult oriented business shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the establishment which is prohibited by the Pequot Lakes City Code, an ordinance of the City of Pequot Lakes, the laws of the State of Minnesota,

or the United States of America. Nothing in this Chapter shall be construed as authorizing or permitting conduct which is prohibited or regulated by other statutes or ordinances, including but not limited to statutes or ordinances prohibiting the exhibition, sale or distribution of obscene material generally, or the exhibition, sale or distribution of specified materials to minors.

#### **Section 9-1.4. LOCATION**

During the term of this Chapter, no adult oriented businesses shall be located less than 1,000 feet from any residential zoning district boundary or site used for residential purposes, and less than 1,000 feet from any church site, from any school site, from any day care facility, or from any park which is adjacent to property zoned residential. In addition, no adult oriented business may be located within 500 feet of another adult oriented business. For purposes of this Chapter, this distance shall be a horizontal measurement from the nearest existing residential district boundary or site used for residential purposes, church site, school site, day care site, park site, or another adult oriented business site to the nearest boundary of the proposed adult oriented business site.

#### **Section 9-1.5. HOURS OF OPERATION**

No adult oriented business site shall be open to the public from the hours of 11:00 p.m. to 9:00 a.m.

#### **Section 9-1.6. OPERATION**

1. Off-site Viewing. An establishment operating as an adult oriented business shall prevent off-site viewing of its merchandise, which if viewed by a minor, would be in violation of Minnesota Statutes Chapter 617, as amended, or other applicable federal or state statutes or local ordinance or City Code.
2. Entrances. All entrances to the business, with the exception of emergency fire exits which are not useable by patrons to enter the business, shall be visible from a public right-of-way.
3. Layout. The layout of the display areas shall be designed so that the management of the establishment and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes or any other material.
4. Illumination. Illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.
5. Signs. Signs for adult oriented businesses shall comply with the City Code, and in addition signs for adult oriented businesses shall not contain representational depiction of an adult nature of graphic descriptions of the adult theme of the operation.

#### **Section 9-1.7. CONSUMPTION OR SALE OF ALCOHOLIC BEVERAGES.**

The consumption and/or sale of intoxicating or non-intoxicating liquor shall be prohibited from an adult oriented business.

## Section 9-1.8. LICENSES

1. Licenses Required. All establishments, including any business operating at the time of this Chapter becomes effective, operation or intending to operate adult oriented business shall apply for and obtain a license from the City of Pequot Lakes. A person is in violation of the Chapter if he or she operates an adult oriented business without a valid license, issued by the City.
2. Applications. An application for a license must be made on a form provided by the City.
  - A. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
  - B. The applicant must be qualified according to the provisions of this section and the premises must be inspected and found to be in compliance with the appropriate state, county, and local law and codes by the health official, fire marshal, and building official.
  - C. Application for license shall contain the address and legal description of the property to be used; the names, addresses, phone numbers, dates of birth of the owners, lessee, if any, the operator or manager, and all employees; the names, address, and phone number of two persons, who shall be residents of the State of Minnesota, and who may be called upon to attest to the applicant's, manager's, or operator's character; whether the applicant, manager, or operator has ever been convicted of a crime or offense other than a traffic offense and, if so, complete and accurate information the disposition thereof; the names and addresses of all creditors of the application, owner, lessee, or manager insofar as the regarding credit which has been extended for the purposes of constructing, equipping, maintaining, operating, or furnishing or acquiring the premises, personal effects, equipment or anything incidental to the establishment, maintenance and operation of the business.
  - D. If the application is made on behalf of the corporation, joint business venture, partnership, or any legally constituted business association, it shall submit along with its application, accurate and complete business records showing the names, addresses, and dates of birth of all individuals having an interest in the business, including partners, officers, owners, and creditor furnishing credit for the establishment, acquisition, maintenance, and furnishings of said business, in the case of a corporation, the names, addresses, and dates of birth of all officers, general managers, members of the board of directors as well as any creditors who have extended credit

for the acquisition, maintenance, operation, or furnishing of the establishment including the purchase or acquisition of any items of personal property for use in said operation.

- E. All applicants shall furnish to the City, along with their applications, complete and accurate documentation establishing the interest of the applicant and any other person having an interest in the premises upon which the building is proposed to be located or the furnishings thereof, personal property thereof, or the operation or maintenance thereof. Documentation shall be in the form of a credit arrangement, loan agreements, security agreements, and any other documents establishing the interest of the applicant or any other person in the operation, acquisition or maintenance of the enterprise.
- F. The license fee required by the City Code has not been paid.
- G. An applicant has been convicted of a crime involving any of the following offenses:
  - (1). Any sex crimes as defined by Minn. Stat. 609.29 through 609.352, as amended, inclusive or as defined by any city code, ordinance or statute in conformity therewith;
  - (2). Any obscenity crime as defined by Minn. Stat. 617.23 through 617.299, as amended, inclusive, or as defined by any city code, ordinance or statute in conformity therewith, for which:
    - (a). Less than two year have elapsed since the date if conviction or the date of releases from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense.
    - (b). Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or
    - (c). Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the conviction is two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24 hour period.
  - (3). The fact that a conviction is being appealed shall have no effect on disqualification of the applicant or applicant's spouse.

3. Requalification. An applicant who has been convicted of an offense listed in this Chapter may qualify for an adult oriented business license only when the time period required by this Chapter has elapsed.
4. Posting. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the adult oriented business. The license shall be posted in a conspicuous place at or near the entrance to the adult oriented business so that it may be easily read at any time.
5. Council Action. The City Council shall act to approve or disapprove the license application within 120 days from the date the application was submitted, provided that the application contains all the information required by this Chapter. If the application is deficient, the Council shall act on the application within 120 days from the date that the deficiency has been corrected.
6. Appeals. Within 90 days after the decision by the Council, the applicant may appeal to the District Court by serving a notice upon the mayor or clerk of the municipality.

#### **Section 9-1.9. INVESTIGATION AND ISSUANCE**

The City Council shall direct the police department to investigate all facts set forth in the application. An advanced fee of \$500 shall be submitted with the application to defray the City's costs and expenses with the background investigation. After the background investigation has been completed and all information required by the application has been submitted to the City, the City Council shall determine whether to grant or deny the license application.

#### **Section 9-1.10. LICENSE FEES**

Fees shall be set by City resolution of the fee structure.

#### **Section 9-1.11. INSPECTION**

1. Access. An applicant or licensee shall permit health officials, representatives of the police department, fire department, and building inspection division, to inspect the premises of an adult oriented business for the purpose of ensuring the compliance with the law, at any time it is occupied or open for business.
2. Refusal to Permit Inspections. A person who operates an adult oriented business or his agent or employee commits an offense if she or he refuses to permit a lawful inspection of the premises by health officials, representatives of the police department, fire department, and building inspection division at any time it is occupied or open for business. Refusal to permit inspections may result in the suspension of the license as provided in this Chapter.
3. Exceptions. The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for uses as a permanent or temporary habitation.

**Section 9-1.12. EXPIRATION AND RENEWAL**

1. Expiration. Each license shall expire at the end of the calendar year and may be renewed only by making application as provided in Section 7, Subdivision 1. Application for renewal must be made at least 60 days before the expiration date, and when made less than 60 days before the expiration date, the expiration of the license will not be affected.
2. Denial of Renewal. When the City denies renewal of a license, the applicant shall not be issued a license of one year from the date of denial. If, subsequent to denial, the City finds that the basis for denial of the renewal license have been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

**Section 9-1.13. SUSPENSION**

1. Causes of Suspension. The City may suspend a license for a period not to exceed 30 days if it determines that a licensee or an employee of a license has:
  - A. Violated or is not in compliance with any provision of this chapter.
  - B. Engaged in the use of alcoholic beverages while on the adult oriented business premises other than at an adult hotel or motel.
  - C. Refused to allow an inspection of the adult oriented business premises as authorized by this chapter.
  - D. Knowingly permitted gambling by any person on the adult oriented business premises.
  - E. Demonstrated inability to operate or manage an adult oriented business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.
2. Notice. A suspension by the City shall be preceded by written notice to the licensee and a hearing. The notice shall give at least 10 days' notice of the time and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the license's business premises with the person in charge thereof.

**Section 9-1.14. REVOCACTION**

1. Suspended Licenses. The City may revoke a license if a cause of suspension in Section 11 occurs and the license has been suspended within the preceding 12 months.
2. Causes of Revocation. The city shall revoke a license if it determines that:

- A. A licensee gave false or misleading information in the material submitted to the City during the application process;
- B. A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- C. A licensee or an employee has knowingly allowed prostitution on the premises;
- D. A licensee or an employee knowingly operated the adult oriented business during a period of time when the licensee's license was suspended;
- E. A licensee has been convicted of an offense listed in this Chapter for which the time period required in this Chapter has not elapsed;
- F. On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in this Chapter for which a conviction has been obtained, and the person or persons were employees of the adult oriented business at the time the offenses were committed.
- G. A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation or masturbation to occur in or on the licensed premises.
- H. A licensee has allowed the sale and/or consumption of alcoholic beverages at the adult oriented business for which a license has been issued herein.

3. Appeals. The fact that conviction is being appealed shall have no effect on the revocation of the license.

4. Exceptions. Section 9-1.14.1.G. does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.

5. Granting a License After Revocation. When the City revokes a license, the revocation shall continue for one year and the licensee shall not be issued an adult oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the city finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under this Chapter, an applicant may not be granted another license until the appropriate number of years required under this Chapter has elapsed.

6. Notice. A revocation by the City shall be preceded by written notice to the licensee and a public hearing. The notice shall give at least 10 days notice of the time

and place of the hearing and shall state the nature of the charges against the licensee. The notice may be served upon the licensee personally, or by leaving the same at the licensed premises with the person in charge thereof.

**Section 9-1.15. TRANSFER OF LICENSE**

A licensee shall not transfer this license to another, nor shall a licensee operate an adult oriented business under the authority of a license at any place other than the address designated in the application.

**Section 9-1.16. SEVERABILITY**

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

## **CHAPTER 9 – LICENSE AND BUSINESS REGULATIONS**

### **ARTICLE 2. REGULATING THE KEEPING OF DOGS**

#### **Section 9-2.1. DEFINITIONS**

1. Owner. Any person, firm, corporation, organization, or department owning, keeping, harboring or acting as custodian of a dog or dogs.
2. At Large. The dog is off the property of the person, firm, corporation, organization, or department owning, keeping, or harboring said animal, and the dog is not under restraint.
3. Dog. All dogs over six (6) months of age.
4. Under Restraint. The dog is on the premises of the person, firm, corporation, organization, or department owning, keeping, or harboring the animal, if it is at heel beside a person having custody of it, if it is obedient to that person's command, if it is within a private motor vehicle of a person, owning, keeping or harboring the animal, or if it is controlled by a leash not exceeding six (6) feet in length.
5. Animal Control Officer. That person appointed by the City Council to enforce this Chapter, and shall include any person serving as "Deputy Animal Control Officer."
6. Dog House. Dog house shall mean a dog house as defined in Minn. Stat. §343.40, as amended.

#### **Section 9-2.2. POSITION OF ANIMAL CONTROL OFFICER**

The position of Animal Control Officer is hereby established and the Chief of Police or designee shall serve as the Animal Control Officer. He or she shall be appointed by the City Council. Nothing contained herein shall prevent the City Council from contracting with a person to provide such services. The Animal Control Officer is hereby authorized and empowered to issue citations for violations of the Chapter.

#### **Section 9-2.3. DUTIES OF THE ANIMAL CONTROL OFFICER**

The Animal Control Officer shall perform the following duties:

1. Capture, seize and deliver to any designated pound any dog running at large within the City of Pequot Lakes.
2. Investigate all reported incidents wherein a dog has bitten a person and confirm that said animal is quarantined as required herein.

#### **Section 9-2.4. DOG HOUSES, FOOD AND WATER**

1. As to dog houses, Minnesota Statute §343.40, is adopted by reference as if fully set forth herein.
2. A dog must be provided with food and water of sufficient quantity and quality to satisfy the animal's needs.

**Section 9-2.5. ANIMALS RUNNING AT LARGE**

No dog shall be permitted to run at large within the limits of the City.

**Section 9-2.6. IMPOUNDING OF DOGS RUNNING AT LARGE**

The designated Animal Control Officer may take possession of any dog found running at large within the City of Pequot Lakes. Upon taking possession of any such dog, the designated Animal Control Officer shall make reasonable attempts to notify the dog's owner, and if the dog has the identification required by Section 9-2.7 showing proof of the rabies vaccination required by Section 9-2.12, the designated Animal Control Officer may return the dog to its owner. If the dog does not have the identification required by Section 9-2.7 showing proof of the rabies vaccination required by Section 9-2.12, or if it's not otherwise possible to return the dog to its owner, the designated Animal Control Officer shall have the dog impounded. A dog so impounded shall be held by the pound master for a maximum of seven (7) days, and may be reclaimed by its owner within that time by payment to the pound master of the impounding fees and providing proof of compliance with the identification and rabies vaccination requirements of this Chapter.

An impounded dog displaying a need for medical care may be taken to a veterinarian for emergency treatment. The owner of the animal is responsible for payment of expenses incurred as a result of the veterinarian's treatment.

If the owner of the dog refuses to pick up the impounded dog from the pound master, the owner shall be required to reimburse the City for any costs associated with the impoundment and housing of the dog.

**Section 9-2.7. IDENTIFICATION TAGS AND PROOF OF RABIES VACCINE**

The owner of any dog kept within the City of Pequot Lakes, six (6) months of age or older, shall securely attach to the dog's collar in such a manner that the tag may be easily seen by the officers of the City of Pequot Lakes (1) an identification tag or plate containing the owner's name and telephone number; and (2) a tag or plate evidencing the rabies vaccination required by Section 9-2.12. Alternatively, an owner may cause the dog to be micro chipped in such a manner that the identification and proof of rabies vaccine information required herein is retrievable electronically.

Any dog less than six (6) months of age must have an identifying tag or plate containing the owner's name and telephone number permanently affixed to the collar of the dog in such a manner that the tag may be easily seen by the officers of the City of Pequot Lakes.

**Section 9-2.8. DISPOSITION OF UNCLAIMED ANIMALS**

Any dog which is not claimed as provided in this Chapter after seven (7) days of impounding may be sold to anyone desiring to purchase the animal. The Animal Control Officer shall determine the price, which shall reflect the breed of dog and the impoundment cost. Any animal which is not claimed by the owner or sold may be euthanized and buried at the direction of the pound master.

### **Section 9-2.9. POUND**

The City Council may designate as the pound or animal shelter, a suitable kennel or other animal facility, either within or outside the City limits of the City of Pequot Lakes.

### **Section 9-2.10. DANGEROUS DOGS**

1. The provisions of Minn. Stat. §§ 347.50 to 347.565 are adopted by reference and govern dangerous dogs and potentially dangerous dogs in the City of Pequot Lakes, and the Chief of Police, or his/her designee, shall be responsible for enforcing those statutes, as the same may be amended from time to time.
2. The Chief of Police or his/her designee, upon concluding that a dog is a dangerous dog or potentially dangerous dog, shall proceed as follows:
  - A. Notify the owner by personal delivery or registered mail that the dog has been declared to be dangerous or potentially dangerous as defined in Minnesota Statutes and the factual basis for such determination. Notices of dangerous dog declaration shall advise the owner of the dog of any applicable registration requirements or other restrictions or requirements imposed by statute, and shall additionally advise the owner of the dog that he/she may request a hearing before the City Council to contest the declaration by requesting such a hearing in writing submitted to the City Clerk within fourteen (14) days after the owner's receipt of the notice.
  - B. If the owner does not request a hearing to contest a dangerous dog declaration, or any prior potentially dangerous dog declaration for the dog, as applicable, within fourteen (14) days after receipt of said notice, and does not otherwise comply with the registration and other requirements of Minn. Stat. §§ 347.50 to 347.565, as amended, then the Chief of Police or his/her designee shall immediately seize the dangerous dog and dispose of the same as authorized by law.
  - C. If the owner does request a hearing to contest a dangerous dog declaration pursuant to subparagraph A herein or any prior potentially dangerous dog declaration for the dog, as applicable, then the City Clerk shall place the matter before the City Council within fourteen (14) days after the City's receipt of such request. The owner may present evidence in opposition to the designation of his/her dog as dangerous. The Chief of Police or his/her designee shall present evidence to the City Council that supports his determination that the dog is dangerous or potentially dangerous. Following the hearing, the City Council shall make a determination of

facts and issue an order as to whether such dog is properly characterized as dangerous. If the City Council affirms the dangerous dog declaration, the owner shall comply with the registration and other requirements of Minn. Stat. §§ 347.50 to 347.565, as amended, within fourteen (14) days of such order.

### **Section 9-2.11. VARIOUS OFFENSES**

1. No person shall keep or harbor a dog which habitually barks, yelps, howls, cries or whimpers so as to unreasonably disturb the peace and quiet of any person in the vicinity. The phrase “unreasonably disturb the peace and quiet” shall include but is not limited to, the creation of any noise by a dog which can be heard by any person, including a law enforcement officer, from a location at least 75 feet from the building or premises where the dog is being kept, and such noise occurs over at least a five (5) minute period of time, with one (1) minute or less lapses of time between each dog noise during the said five (5) minute period.

2. It shall be considered a nuisance for any dog to frequent school grounds or parks; to chase vehicles; to worry, chase, or molest any persons, if such person is not on the property of the owner of the dog; to worry, chase, or molest any persons traveling peaceably on the public road; or to molest, defile or destroy any property, public or private. Failure on the part of the owner to prevent his/her dog from committing an act of nuisance shall be subject to the penalties hereinafter provided.

3. It is unlawful for any unauthorized person to break open the pound, to attempt to do so or to take or let out any dog therefrom, or to take or attempt to take from any officer any dog taken up by an officer in compliance with this Chapter, or in any manner to interfere with or hinder such officer in the discharge of duties under this Chapter.

4. It is unlawful to counterfeit or attempt to counterfeit the identification tags required in Section 9-2.7, or to take from any dog a tag legally placed upon it by its owner with the intention of placing it upon another dog.

5. Anyone walking their dog will be responsible for the prompt clean-up of the dogs’ excrement and for its proper disposal.

### **Section 9-2.12. VACCINATION; RABIES; PROCEDURE**

1. Vaccination Required. Every dog six (6) months of age and older, at the expense of the owner, shall maintain a current rabies vaccination at all times, and the owner shall comply with the identification and proof of rabies vaccine requirements of Section 9.2-7.

2. Rabies Proclamation. Whenever the prevalence of rabies renders such action necessary to protect the public’s health and safety, the City Council, upon advice of the Crow Wing County Health Officer, shall issue a proclamation declaring such emergency. Any dog running at large during the time fixed in the proclamation and suspected of being rabid, may be euthanized by the Pequot Lakes Police Department without notice to the owner.

3. Certification. Every owner of a dog shall obtain from the dog's veterinarian, at the time of vaccinating any dog, a certificate of rabies vaccination, which certificate shall include the following information:

- A. Owner's name and address;
- B. Description of the animal;
- C. Date of vaccination and vaccination expiration date; and
- D. Signature of the veterinarian.

4. Application; Temporary. This Chapter does not apply to dogs which:

- A. Are owned by a person temporarily remaining within the City of Pequot Lakes for less than thirty (30) days within any year;
- B. Are brought into the City for field trials or show purposes;  
or,
- C. Are used for hunting in the State of Minnesota for less than thirty (30) days, within any year.

5. Unvaccinated Dog Bites Person. Any dog suspected of being afflicted with rabies which has not been vaccinated in accordance with this Section that has bitten a person or caused an abrasion of the skin of such person, shall be seized and impounded for a period of not less than ten (10) days. If, upon examination by a veterinarian, the dog has no signs of rabies at the end of the impoundment, then it may be released to the owner. If the veterinarian determines that the dog is rabid, then said animal shall be euthanized.

6. Vaccinated Dog Bites Person. Any dog vaccinated in accordance with this Section which has bitten a person shall be confined by the owner or at the city pound for a period of ten (10) days, at which time the dog shall be examined by a licensed veterinarian, then the dog may be released from confinement to its owner. If the veterinarian determines that the dog is rabid, then said animal shall be euthanized.

7. Dog Bitten by a Rabid Animal. In the case of a dog that has been bitten by a rabid animal, the following rules shall apply:

- A. Unvaccinated Animals.
  - (1). In the case of dogs which have not been vaccinated in accordance with this Chapter which have been bitten by a known rabid animal, said bitten dog shall be euthanized upon written consent of the owner.

(2). If the owner is unwilling to have the bitten dog euthanized, strict isolation of the dog in a kennel under veterinarian supervision for a minimum of six (6) months shall be required. The owner of the dog shall be responsible for the expense thereof.

B. Vaccinated Animals. If the bitten dog is vaccinated in accordance with the provisions of this Section, the dog shall be held as follows:

(1). The dog shall immediately be revaccinated and confined at the owner's home for a period of thirty (30) days following revaccination; or,

(2). If the dog is not immediately revaccinated, the animal shall be confined in strict isolation in a kennel for six (6) months under the supervision of a veterinarian. The owner of the dog shall be responsible for the expense thereof.

#### **Section 9-2.13. PENALTY FOR VIOLATION**

1. Any person who is found to be in violation of this Article shall be guilty of a petty misdemeanor.

2. Any person who harbors a dangerous dog in violation to the provisions of this Article shall be guilty of a misdemeanor.

3. Alternatively the City may impose an administrative fine for violations of this Article. The administrative fine shall be established by the City annually through the Ordinance Establishing Fees and Charges, as amended from time to time by ordinance.

#### **Section 9-2.14. RIGHT OF ENTRY**

Authorized city personnel have the right to enter upon a premises at reasonable times for the purpose of discharging their duties imposed by this Chapter when there is reasonable belief that a violation of this Chapter has been committed.

## CHAPTER 9 – LICENSE AND BUSINESS REGULATIONS

### ARTICLE 3. LEGALIZED GAMBLING

#### Section 9-3.1. DEFINITIONS

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

1. Gambling Control Division. the state agency that licenses and regulates gambling.
2. Lawful Gambling. The operation, conduct, or sale of bingo, raffles, paddlewheels, tipboards, and pull-tabs.
3. Lawful purpose. Any expenditure by, or contribution to, a 501(c)(3) organization, provided that the organization and expenditure or contribution are in conformity with standards prescribed by the gambling control board under Minn. Stats. § 349.154.
4. Net Profit. The gross profit less reasonable sums actually expended for allowable expenses.
5. Organization. A religious, fraternal, veterans', or other nonprofit entity which has been in existence for at least three years, has at least 15 active members and is not in existence solely for the purpose of conducting gambling.
6. Premises Permit. A two-year permit granted by the state gambling control board for each premises where lawful gambling is to be conducted.
7. Trade Area. All cities and townships contiguous to the City of Pequot Lakes, including the City of Nisswa, the City of Jenkins, the City of Breezy Point, Ideal Township, Pelican Township, Jenkins Township and Loon Lake Township.

#### Section 9-3.2. PURPOSE

It is the stated policy of the city council that pursuant to Minn. Stat. §349.213, to the extent lawful regulated gambling is permitted within the City, the net profits and proceeds of gambling shall directly benefit the citizens of the city.

#### Section 9-3.3. LICENSES AND PERMITS

1. It shall be unlawful to operate lawful gambling without a license issued by the state gambling control division.
2. Licenses to operate gambling devices or to conduct raffles shall be issued only to organizations covered by Minn. Stat. § 349.16.

3. The gambling control division may not issue or renew a premises permit or bingo hall license unless the organization submits a resolution from the city council approving the premises permit or bingo hall license. The resolution must have been adopted within 60 days of the date of application for the new or renewed permit or license.

4. A premises permit issued by the gambling control division is valid for two years.

**Section 9-3.4. RESTRICTIONS ON ISSUANCE OF PREMISES PERMIT**

1. The city reserves the right to disapprove a premises permit application for individual bingo occasions, raffle games, and pull-tab operations for any of the following reasons:

- A. Violation by the applicant of any statute, rule, regulation, city code or ordinance relating to gambling.
- B. Failure to make reports required by any applicable ordinance, rule, regulation or statute.
- C. Any reason which would justify the state gambling control board in denying an application for a license.

2. No premises permit or renewal will be approved unless the organization is conducting the lawful gambling on the premises of a church or a fraternal, veterans', or other nonprofit organization, or on the premises of an on-sale liquor license of the city.

**Section 9-3.5. LAWFUL PURPOSE EXPENDITURES**

1. Any organization holding a premises permit to conduct lawful gambling within the city shall be required to expend 75 percent of its gross profits derived from lawful gambling within the city on lawful purposes conducted or located within the city's trade area.

2. An organization that conducts gambling on fewer than five days in a calendar year is exempt from the requirements of this section.

**CHAPTER 9 – LICENSE AND BUSINESS REGULATIONS**

**ARTICLE 4. REGULATING AND LICENSING THE SALE AND CONSUMPTION OF MALT LIQUOR, 3.2% MALT LIQUOR AND INTOXICATING LIQUOR**

**Section 9-4.1. ADOPTION OF STATE LAW BY REFERENCE**

The provisions of Chapter 340A of the Minnesota Statutes, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, restrictions on consumption, provisions relating to sales, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor and 3.2 percent malt liquor are hereby adopted by reference and are made a part of the Chapter as if set out in full. It is the intention of the City Council that all future amendments to Chapter 340A, of the Minnesota Statutes are hereby adopted by reference or referenced as if they had been in existence at the time this Chapter is adopted.

**Section 9-4.2. CITY MAY BE MORE RESTRICTIVE THAN STATE LAW**

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

**Section 9-4.3. DEFINITIONS**

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicated or requires a different meaning. These definitions are in addition to the definitions contained in Minnesota Statutes §340A.101, as it may be amended from time to time.

1. 3.2 Percent Liquor. Hereinafter referred to as beer, malt liquor containing not less than one-half of one percent alcohol by volume or more than 3.2 percent of alcohol by weight.
2. Applicant. Any person making an application for a license under this Chapter.
3. Application. A form with blanks or spaces thereon, to be filled in and completed by the applicant as his/her request for a license, furnished by the City and uniformly required as a prerequisite to the consideration of the issuance of a license for a business.
4. Church. A building, which is principally used as a place where persons of the same faith regularly assemble for the public worship of God.
5. City. The City of Pequot Lakes
6. Club. Any corporation duly organized under the laws of this State for civic, fraternal, social, or business purposes or for intellectual improvement or for the

promotion of sports, or a congressionally chartered veterans organization, which shall have more than fifty members, and shall, for more than a year, have owned, hired, or leased a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its' members, and whose affairs and management are conducted by a Board of Directors, executive Committee, or other similar body chosen by the members at a meeting held for that purpose, none of whose members, officers, agents or employees are paid directly or indirectly and compensations by way of profit for the distribution or sale of beverages to the members of the club, or to its' guests, beyond the amount of such reasonable salary or wagers as may be fixed and voted each year by the members or other governing body.

7. Council. The City Council of the City of Pequot Lakes

8. Exclusive Liquor Store. For purposes of this Chapter, shall be defined by Minnesota Statutes Section 340A.412, Subd. 14, as the same may be amended from time to time.

9. Fraternal Club. A club which serves only members and their guests and which uses any profits derived from liquor sales principally for sponsoring activities beneficial to the community and not for the profit of any individual and which has been in existence for fifteen years or more, or to congressionally chartered veterans organization which has been in existence for five years. Such club, either of which in order to be eligible, must be incorporated to come within this definition.

10. Hotel. An establishment, including a motel, having a resident proprietor or manager, where, in consideration of payment therefore, food and lodging are regularly furnished to transients, and which contains not less than ten guest rooms with bedding and other suitable and necessary furnishings in each room, and which is provided with a suitable lobby, desk and office for the registration of its' guests at the main entrance and on the ground floor, which employs and adequate staff to provide suitable and usual service, and which maintains under the same management and control as the rest of the establishment and has an integral part thereof a dining room with appropriate facilities for seating not less than thirty guests at one time, where the general public is, in consideration of payment therefore, served with meals at tables.

11. Intoxicating Liquor and Liquor. Ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2 percent of alcohol by weight.

12. License. A document, issued by the City, to an applicant permitting him/her to carry on and transact the business stated therein.

13. Licensee. An applicant who, pursuant to his/her approved application, holds a valid, current, unexpired license, which has neither been revoked nor suspended (during the period of such suspension), from the City of carrying on the business stated therein.

15. License Fee. The money paid to the City pursuant to an application and prior to issuance of a license to transact and carry on the business stated therein.

16. Manufacturer. Every person (except an on-sale licensee under this chapter) who, by any process of manufacture, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces liquors, wine or beer for sale.

17. Off-Sale. The retail sale of beer or liquor in original packages for consumption off or away from the premises where sold.

18. On-Sale. The retail sale of beer, wine or liquor by the glass or by the drink, for consumption on the premises where sold only.

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

20. Wholesaler. Any person engaged in the business of selling liquor, wine or beer to retail dealers.

21. Wine. Wine not exceeding 14 percent alcohol by volume.

**Section 9-4.4. NUDITY ON THE PREMISES OF LICENSED ESTABLISHMENTS PROHIBITED.**

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

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

the licensed premises when the person does not have his or her buttocks, anus, breasts and genitals covered with a non-transparent material.

3. A violation of this section is a misdemeanor punishable as provided by law, and is justification for revocation or suspension of any liquor, wine or beer license or the imposition of a civil penalty under the provisions of this Chapter.

**Section 9-4.5. CONSUMPTION IN PUBLIC PLACES**

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

**Section 9-4.6. NUMBER OF LICENSES WHICH MAY BE ISSUED**

State law establishes the number of liquor licenses that a city may issue. The Council in its sound discretion may issue on-sale intoxicating liquor licenses over the number permitted when authorized by the voters of the city at a general or special election held under the provisions of Minnesota Statute § 340A.413 Subd. 3, as amended. The Council is further not required to issue the full number of licenses it has available. Currently the City of Pequot Lakes has authorized the issuance of up to four (4) on-sale intoxicating liquor licenses and two (2) off-sale licenses. With respect to the maximum number of off-sale licenses, the City shall not consider amending the section of the City Code to authorize the issuance of additional off-sale licenses until such time that the population of the City, as defined in Minn. Stat. §10A.01, subd. 32, exceeds 5,000.

1. Exclusions From License Limits. On-sale intoxicating liquor licenses may be issued to the following entities in addition to the number authorized by this section:

- A. clubs, or congressionally chartered veterans organizations;
- B. restaurants;
- C. establishments that are issued licenses to sell wine under section 340A.404, subdivision 5;
- D. theaters that are issued licenses under section 340A.404;
- E. hotels; and
- F. bowling centers.

**Section 9-4.7. TERM AND EXPIRATION OF LICENSES**

Each license shall be issued for a maximum period of one year. All licenses, except temporary licenses, shall expire on June 30<sup>th</sup> of each year unless another date is provided by City Code. All licenses shall expire on the same date. Temporary licenses expire according to their terms.

Consumption and display permits issued by the Commissioner of Public Safety, and the accompanying city consent to the permit, shall expire on March 31 of each year.

**Section 9-4.8. KINDS OF LIQUOR LICENSES**

1. 3.2 Percent Malt Liquor On-Sale Licenses. May be issued only to restaurants, hotels, clubs, bowling centers and establishments used exclusively for the sale of 3.2 percent malt liquor with the incidental sale of tobacco and soft drinks.
2. 3.2 Percent Malt Liquor Off-Sale License.
3. Temporary 3.2 Percent Malt Liquor Licenses. May be issued only to a club, charitable, religious or nonprofit organization.
4. On-Sale Intoxicating Liquor Licenses. May be issued to the following establishments as defined by Minnesota Statute §340A.101, as it may be amended from time to time, and this Chapter: hotels, restaurants, bowling centers, clubs or congressionally chartered veterans organizations, and exclusive liquor stores. Club licenses may be issued only with the approval of the Commissioner of Public Safety. The fee for club licenses established by the Council under this Chapter shall not exceed the amounts provided for in Chapter 340A.404, subd. 4(b), of the Minnesota Statute, as it may be amended from time to time. The Council may in its' sound discretion authorize a retail on-sale licensee to dispense intoxicating liquor off the licensed premises at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports, convention, or cultural facility owned by the City, under the provisions of Minnesota Statute §340A.404, subd. 4(a), of the Minnesota Statute as it may be amended from time to time.
  - A. Temporary Expansion of Premises License. The City may authorize on-sale intoxicating liquor licensees to make sales off the license holder premises through the issuance of a temporary expansion of premises license. The City Council may allow for the issuance of a temporary expansion of premises license ("Temporary Expansion License") to a licensee with a valid and pre-existing on-sale intoxicating liquor license. The premises may only be expanded to an area that is compact and contiguous to the permanently licensed premises ("Expanded Premises"). The Temporary Expansion License may be obtained for a period of one to four days, in connection with a social event sponsored by the licensee and within the boundaries of the City of Pequot Lakes. The license fee shall be as established by resolution of the City Council. The Temporary Expansion License shall be subject to requirements set forth by Minnesota Statute 340A and by the following requirements:
    - (1). Application for a Temporary Expansion of Premises License. The licensee shall provide the following information on forms provided by the City Clerk.

- a. The name and addresses of the on-sale license holder and if the holder is a company, the name and addresses its owners, officers or partners.
  - b. A specific description and diagram of the area in which the temporary expansion activity is to occur. This area must be compact and contiguous to the permanently licensed premises, and be surrounded by physical enclosure devices. The diagram should indicate how the area will be physically enclosed, and show the location of tables, chairs, food and beverage stations, and any other important features.
  - c. The purpose for which the temporary expansion is sought, and a description of the planned activities including projected attendance, entertainment including any amplified music, food and beverage service, security plans, parking, and hours of operation.
  - d. Such other information as the City Council may deem necessary.
- (2). Sales and Consumption. No sales or consumption of alcoholic beverages shall be permitted beyond the Expanded Premises.
  - (3). Police Protection. If required by the City Council, the applicant shall provide, at the applicant's expense, policing of the licensed premises by security personnel approved by the Police Chief.
  - (4). Hours of Sale and Consumption. In addition to the provisions of this Chapter, the City Council may further restrict the sale and consumption of alcoholic beverages pursuant to a Temporary Expansion License to certain hours.
  - (5). Identification. The applicant shall require proof of legal age to consume at the time of sale of an alcoholic beverage. Furthermore, the City Council may require each person to whom a sale is made to wear a wrist band or an identification stamp on the person's hand to identify that the person is of legal age to consume alcoholic beverages.
  - (6). Proof of Insurance. The applicant shall file proof that the liability insurance required by this Code and by Minnesota Statutes Chapter 340A apply to the Expanded Premises.
  - (7). Amplified Music. All speakers used to amplify music, or any other activity, are to be set up at ground level. Any deviation from

ground level amplification must have prior approval by the City Council as part of the application process.

- (8). Decibel Level. Outdoor events associated with the Expanded Premises shall not exceed a decibel level of sixty-five decibels at a distance of 100 feet from the event site. In the event the maximum decibel level is exceeded, the Temporary Expansion License may be revoked and the licensee shall immediately discontinue the event.
- (9). Food Vendors. If food is served at the event and it is not prepared by the permanently licensed premises, all food vendors participating in the event must be properly licensed and abide by all Minnesota Department of Health regulations.
- (10). Tents. If the event or a portion of the event will be held under a tent, the licensee shall provide plans showing the proposed location of the tent, tent layout, number and size of exits and fire prevention measures. The tent shall be in compliance with the International Fire Code and shall be subject to inspection by the Pequot Lakes Fire Department.
- (11). Other Requirements. The City Council also may impose other requirements as it deems necessary to promote public safety.

5. Sunday On-Sale Intoxicating Liquor Licenses. Sunday on-sale intoxicating liquor licenses may be issued only to a restaurant, as defined in this Chapter, club, bowling center, or hotel which has a seating capacity of at least 30 persons, which holds an on-sale intoxicating liquor license, and which serves liquor only in conjunction with service of food. The maximum fee for the licenses which shall be established by the Council under provisions of this Chapter shall not exceed \$200.00, or the maximum amount provided by Chapter 340A.504 subd (3), of the Minnesota Statute, as it may be amended from time to time.

6. Temporary On-Sale Intoxicating Liquor Licenses. With the approval of the City Council, which may be issued only in connection with a social event sponsored by a club, charitable, religious or other nonprofit corporation that has existed for at least three years. No license shall be for longer than four consecutive days, and the city shall issue no more than 12 days worth of temporary licenses to anyone organization in one calendar year.

7. On-Sale Wine Licenses. With the approval of the Commissioner of Public Safety to: restaurants that have facilities for seating at least 25 guests at one time and meet the criteria of M. S. 340A.404, subd 5, as it may be amended from time to time, and which meet the definition of restaurant in this Chapter; and to licensed bed and breakfast facilities which meet the criteria in Minnesota Statutes §340A.401, subd 1 as it may be amended from time to time. The fee for an on-sale wine license established by the Council under the provisions of this Chapter shall not exceed one-half of the license fee charged for an on-sale intoxicating liquor license. The holder of an on-sale wine license

who also holds an on sale 3.2 percent malt liquor license is authorized to sell malt liquor with content over 3.2 percent (strong beer) without an additional license.

8. One Day Consumption And Display Permits. With the approval of the City Council to a nonprofit organization in conjunction with a social activity in the city sponsored by the organization.

9. Off-Sale Intoxicating Liquor Licenses. An Off-Sale License allows the sale of intoxicating liquor in its original container for consumption off the licensed premises only.

10. Approval Of The Issuance Of A Consumption And Display by the Commissioner of Public Safety. The maximum amount of the additional fee which may be imposed by the Council on a person who has been issued a consumption and display permit under the provisions of this Chapter shall not exceed \$300, or the maximum amount permitted by Minnesota Statutes §340A.414, subd. 6, as it may be amended from time to time. Consumption and display permits shall expire on March 31 of each year.

#### **Section 9-4.9. LICENSE FEES; PRO RATA**

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

2. The Council may establish from time to time by City Code, ordinance or resolution the fee for any of the liquor licenses it is authorized to issue. The license fee may not exceed the cost of issuing the license and other costs directly related to the enforcement of the liquor laws and this ordinance. No liquor license fee shall be increased without providing mailed notice of a hearing on the proposed increase to all affected licensees at least 30 days before the hearing.

3. The fee for all licenses, except temporary licenses, granted after the commencement of the license year shall be prorated on a quarterly basis.

4. All license fees shall be paid in full at the time the application is filed with the city. If the application is denied, the license fee shall be returned to the applicant.

5. A refund of a pro rata share of an annual license fee may occur only if authorized by Minnesota Statutes§ 340A.408, subd. 5, as amended.

#### **Section 9-4.10. COUNCIL DISCRETION TO GRANT OR DENY A LICENSE**

The Council in its sound discretion may either grant or deny the application for any license or for the transfer or renewal of any license. No applicant has a right to a license under this Chapter.

**Section 9-4.11. APPLICATION FOR LICENSE**

1. Form. Every application for a license issued under this Chapter shall be on a form provided by the City. Every application shall state the name of the applicant, the applicant's age, representations as to the applicant's character, with references as the Council may require, the type of license applied for, the business in connection with which the proposed license will operate and its' location, a description of the premises, whether the applicant is owner and operator of the business, how long the applicant has been in that business at that place, and other information as the Council may require from time to time. An application for a club license shall include the name of the club, date the club was incorporated, a sworn statement that the club has been in existence for more than five years, and the number of members. No person shall make a false statement in an application.

2. Financial Responsibility And Liability Insurance. Prior to the issuance of any license under this Chapter, the applicant shall demonstrate proof of financial responsibility as defined in Minnesota Statutes § 340A.409, as it may be amended from time to time, with regard to liability under Minnesota Statutes Chapter 340A.801, as it may be amended from time to time. This proof will be filed with the city and the Commissioner of Public Safety. Any liability insurance policy filed as proof of financial responsibility under this section shall conform to Minnesota Statutes §340A.409, as it may be amended from time to time. Operation of a business which is required to be licensed by this Chapter without having on file with the city at all times effective proof of financial responsibility is a cause for revocation of the license.

**Section 9-4.12. DESCRIPTION OF PREMISES**

The application shall specifically describe the compact and contiguous premises within which liquor may be dispensed and consumed. The description may not include any parking lot or sidewalk.

**Section 9-4.13. APPLICATION FOR RENEWAL**

At least 30 days before a license issued under this Chapter is to be renewed, an application for renewal shall be filed with the city. The decision whether or not to renew a license rests within the sound discretion of the Council. No licensee has a right to have the license renewed.

**Section 9-4.14. TRANSFER OF LICENSE**

No license issued under this Chapter may be transferred without the approval of the Council. Any transfer of stock of a corporate licensee is deemed to be a transfer of the license, and a transfer of stock without prior Council approval is a ground for revocation of the license. An application to transfer a license shall be treated the same as an application for a new license, and all of the provisions of this code applying to applications for a license shall apply.

### **Section 9-4.15. INVESTIGATION**

1. Preliminary Background And Financial Investigation. On an initial application for a license, on an application for transfer of a license and, in the sound discretion of the Council that it is in the public interest to do so, on an application for renewal of a license, the city shall conduct a preliminary background and financial investigation of the applicant or it may contract with the Commissioner of Public Safety for the investigation. The applicant shall pay with the application an investigation fee which shall be in addition to any license fee. Fees are established annually in a fee schedule by City Council Resolution. If the cost of the preliminary investigation is less than the current investigation fee, the unused balance shall be returned to the applicant. The results of the preliminary investigation shall be sent to the Commissioner of Public Safety if the application is for an on-sale intoxicating liquor license or an on-sale wine license.
2. Comprehensive Background And Financial Investigation. If the results of a preliminary investigation warrant, in the sound discretion of the Council, a comprehensive background and financial investigation, the Council may either conduct the investigation itself or contract with the Commissioner of Public Safety for the investigation. The investigation fee for this comprehensive background and financial investigation to be paid by the applicant shall be \$500, less any amount paid for the initial investigation if the investigation is to be conducted within the state, and \$10,000, less any amount paid for the initial investigation, if the investigation is required outside the state. The unused balance of the fee shall be returned to the applicant whether or not the application is denied. The fee shall be paid in advance of any investigation and the amount actually expended on the investigation shall not be refundable in the event the application is denied. The results of the comprehensive investigation shall be sent to the Commissioner of Public Safety if the application is for an on sale intoxicating liquor license or an on sale wine license.

### **Section 9-4.16. HEARING AND ISSUANCE**

The Council shall investigate all facts set out in the application and investigated in the preliminary or comprehensive background and financial investigations. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall in its sound discretion grant or deny the application. No license shall become effective until the proof of financial security has been approved by the Commissioner of Public Safety.

### **Section 9-4.17. RESTRICTIONS ON ISSUANCE**

1. Each license shall be issued only to the applicant for the premises described in the application.
2. Not more than one license shall be directly or indirectly issued within the city to anyone person.

3. No license shall be granted or renewed for operation on any premises on which taxes, assessments, utility charges, service charges or other financial claims of the city are delinquent and unpaid.
4. No license shall be issued for any place or any business ineligible for a license under state law.
5. No license shall be granted within 500 feet of any school or church. The distance is to be measured from the closest side of the church or school property to the closest side of the structure on the premises within which liquor is to be sold.
6. No off-sale license shall be granted and premises located within a 1/3 mile radius of another off-sale license premises. The distance is to be measured from the closest side of each licensed premises

#### **Section 9-4.18. CONDITIONS OF LICENSE**

The failure of a licensee to meet anyone of the conditions of the license specified below shall result in a suspension of the license until the condition is met.

1. Within 90 days after employment, every person selling or serving liquor in an establishment which has an "on-sale" license shall receive training regarding the selling or serving of liquor to customers. The training shall be provided by an organization approved by the Council. Proof of training shall be provided by the licensee. Proof of this shall be filed with the City at the time of renewal on the form supplied by the City.
2. Every licensee is responsible for the conduct of the place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this Chapter and the law equally with the employee.
3. Every licensee shall allow any peace officer, health officer, city employee, or any other person designated by the Council to conduct compliance checks and to otherwise enter, inspect and search the premises of the licensee during business hours and after business hours during the time when customers remain on the premises without a warrant.
4. No on-sale establishment shall display liquor to the public during hours when the sale of liquor is prohibited.
5. Compliance with financial responsibility requirements of State Law and of this Chapter is a continuing condition of any license.

#### **Section 9-4.19. HOURS AND DAYS OF SALE**

1. The hours of operation and days of sale shall be those set by Minnesota Statutes §340A. 504, as it may be amended from time to time.

2. No person shall consume nor shall any on-sale licensee permit any consumption of intoxicating liquor or 3.2 percent malt liquor in an on-sale licensed premise more than 30 minutes after the time when a sale can legally occur.

3. No on-sale licensee shall permit any glass, bottle, or other container containing intoxicating liquor or 3.2 percent malt liquor to remain upon any table, bar, stool or other place where customers are served, more than 30 minutes after the time when a sale can legally occur.

3. No person, other than the licensee and any employee, shall remain on the on-sale licensed premises more than 30 minutes after the time when a sale can legally occur.

4. Any violation of any condition of this section may be grounds for revocation or suspension of the license.

#### **Section 9-4.20. MINORS ON PREMISES**

1. No person under the age of 18 years shall be employed in any rooms constituting the place in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale, except that persons under the age of 18 may be employed as musicians or to perform the duties of a bus person or dishwashing services in places defined as a restaurant, hotel, motel or other multipurpose building serving food in rooms in which intoxicating liquors or 3.2 percent malt liquor are sold at retail on sale.

2. No person under the age of 21 years may enter a licensed establishment except to work, consume meals on premises that qualify as a restaurant, or attend social functions.

#### **Section 9-4.21. RESTRICTIONS ON PURCHASE AND CONSUMPTION**

No person shall mix or prepare liquor for consumption in any public place of business unless it has a license to sell on-sale, or a permit from the Commissioner of Public Safety under the provisions of Minnesota Statutes §3401.414, as it may be amended from time to time, which has been approved by the Council, and no person shall consume liquor in any such place.

#### **Section 9-4.22. SUSPENSION AND REVOCATION**

1. The Council shall either suspend for a period not to exceed 60 days or revoke any liquor license upon finding that the licensee has failed to comply with any applicable statute, regulation or provision of this Chapter relating to liquor. Except in cases of lapse of proof of financial responsibility, no suspension or revocation shall take effect until the licensee has been afforded an opportunity for a hearing pursuant to the Administrative Procedures Act, M. S. §§14.57 to 14.70, as it may be amended from time to time. The Council may act as the hearing body under that act, or it may contract with the Office of Hearing Examiners for a hearing officer.

2. The following are the minimum periods of suspension or revocation which shall be imposed by the Council for violations of the provisions of this Chapter or Chapter 340A of the Minnesota Statutes, as it may be amended from time to time or any rules

promulgated under that Chapter as they may be amended from time to time. Revocations shall occur within 60 days following a violation for which the revocation is imposed.

- A. For commission of a felony related to the licensed activity, sale of alcoholic beverages while the license is under suspension, or sale of intoxicating liquor where the only license is for 3.2 percent malt liquor, the license shall be revoked.
- B. The license shall be suspended by the Council after a finding under subdivision (A) that the licensee has failed to comply with any applicable statute, rule, or provision of this chapter for at least the minimum periods as follows:
  - (1). For the first violation within any three year period, at least one day suspension in addition to any criminal or civil penalties which may be imposed.
  - (2). For a second violation within any three year period, at least three consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
  - (3). For the third violation within any three year period, at least seven consecutive days suspension in addition to any criminal or civil penalties which may be imposed.
  - (4). For a fourth violation within any three year period, the license shall be revoked.
- C. The council shall select the day or days during which the license will be suspended.

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

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

#### **Section 9-4.22. PENALTIES**

1. Any person violating the provisions of this chapter or Chapter 340A, of the Minnesota Statutes, as it may be amended from time to time or any rules promulgated under that Chapter is guilty of a misdemeanor or as otherwise provided by Chapter 340A, of the Minnesota Statutes, as amended, and upon conviction shall be punished as provided by law.

2. The Council shall impose a civil penalty of up to \$2,000 for each violation of Chapter 340A, of the Minnesota Statutes, as amended, and of this Chapter as provided by the minimum schedule of presumptive civil penalties. These civil penalties shall be in addition to any criminal penalties imposed under (A) or any suspension or revocation imposed under Section 21. Conviction of a violation in a court of law is not required in order for the Council to impose the civil penalty. A hearing under the Administrative Procedures Act, Minn. Stat. § 14.57 to 14.70, as it may be amended from time to time, is not required before the penalty is imposed, but the Council shall hold a hearing on the proposed violation and the proposed penalty and hear any person who wishes to speak. Non-payment of the penalty is grounds for suspension or revocation of the license. The following is the minimum schedule of presumptive civil penalties in addition to any suspensions which must be imposed unless the license is revoked:

- A. For the first violation within any three year period, \$500.
- B. For the second violation within any three year period, \$1,000.
- C. For the third and subsequent violations within any three year period, \$2,000 for each violation.

3. The term "violation" as used in this section and in the entire Chapter includes any and all violations of the provisions of this chapter, or of Chapter 340A of the Minnesota Statutes, as it may be amended from time to time or any rules promulgated under that Chapter as they may be amended from time to time. The number of violations shall be determined on the basis of the history of violations for the preceding three year period.

## CHAPTER 9 – LICENSE AND BUSINESS REGULATIONS

### ARTICLE 5. TOBACCO REGULATIONS

#### Section 9-5.1. PURPOSE AND INTENT.

Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess and use tobacco, tobacco products, and tobacco related devices, and the sales, possession, and use are violations of both state and federal laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this chapter shall be intended to regulate the sale, possession and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco related devices, and to further the official public policy of the state in regard to preventing young people from starting to smoke as stated in Minnesota Statutes §144.391, as it may be amended from time to time.

#### Section 9-5.2. DEFINITIONS

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

1. Compliance Checks. The system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of this chapter. Compliance Checks shall involve the use of minors as authorized by this chapter. Compliance Checks shall also mean the use of minors who attempt to purchase tobacco, tobacco products, or tobacco related devices for educational, research and training purposes as authorized by state and federal laws. Compliance Checks may also be conducted by other units of government for the purpose of enforcing appropriate federal, state or local laws and regulations relating to tobacco, tobacco products, and tobacco related devices.
2. Individually Packaged. The practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include but not be limited to single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this definition shall not be considered individually packaged.
3. Loosies. The common term used to refer to a single or individually packaged cigarette.
4. Minor. Any natural person who has not yet reached the age of 18 years.

5. Moveable Place of Business. Any form of business operated out of a truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.
6. Retail Establishment. Any place of business where tobacco, tobacco products or tobacco related devices are available for sale to the general public. The phrase shall include but not be limited to grocery stores, convenience stores and restaurants.
7. Sale. Any transfer of goods for money, trade, barter or other consideration.
8. Self-Service Merchandising. Open displays of tobacco, tobacco products or tobacco related devices in any manner where any person shall have access to the tobacco, tobacco products, or tobacco related devices, without the assistance or intervention of the licensee or the licensee's employee. The assistance or intervention shall entail the actual physical exchange of the tobacco, tobacco product, or tobacco related device between the customer and the licensee or employee. The phrase shall not include vending machines. Self-service sales are interpreted as being any sale where there is not an actual physical exchange of the tobacco between the clerk and the customer.
9. Tobacco or Tobacco Products. Any substance or item containing tobacco leaf including but not limited to cigarettes, cigars, pipe tobacco, snuff, fine cut or other chewing tobacco, cheroots, stogies, perique, granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco, snuff flowers, cavendish, shorts, plug and twist tobaccos, dipping tobaccos, refuse scraps, clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco leaf prepared in a manner as to be suitable for chewing, sniffing or smoking.
10. Tobacco Related Devices. Any tobacco product as well as a pipe, rolling papers or other device intentionally designed or intended to be used in a manner which enables the chewing, sniffing or smoking of tobacco or tobacco products.
11. Vending Machine. Any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products or tobacco related devices upon the insertion of money, tokens or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product or tobacco related device.

### **Section 9-5.3. LICENSE**

1. License required. No person shall sell or offer to sell any tobacco, tobacco products, or tobacco related device without first having obtained a license to do so from the City.
2. Application. An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the City. The application shall contain the full name of the applicant, the applicant's residential and business addresses and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a

completed application, the City Clerk shall forward the application to the City Council for action at its next regularly scheduled City Council meeting. If the City Clerk shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

3. Action. The City Council may either approve or deny the license, or it may delay action for a reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the City Council shall approve the license, the City Clerk shall issue the license to the applicant. If the City Council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant's right to appeal the City Council's decision.

4. Term. All licenses issued under this chapter shall fall under the licensing year of July 1, to June 30. License fees are not pro-rated if issued at any time other than July 1.

5. Revocation or Suspension. Any license issued under this chapter may be revoked or suspended.

6. Transfers. All licenses issued under this chapter shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the City Council.

7. Moveable Place of Business. No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this chapter.

8. Display. All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

9. Renewals. The renewal of a license issued under this section shall be handled in the same manner as the original application. The request for a renewal shall be made at least 30 days but no more than 60 days before the expiration of the current license.

10. Issuance as Privilege and Not a Right. The issuance of a license issued under this chapter shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

#### **Section 9-5.4. FEES.**

No license shall be issued under this chapter until the appropriate license fee shall be paid in full. The fee for a license under this chapter shall be established in the city's Ordinance Establishing Fees and Charges, as it may be amended by resolution from time to time.

#### **Section 9-5.5. BASIS FOR DENIAL OF LICENSE.**

Grounds for denying the issuance or renewal of a license under this chapter includes but is not limited to the following:

1. The applicant is under the age of 18 years.
2. The applicant has been convicted within the past five years of any violation of a federal, state, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.
3. The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding 12 months of the date of application,
4. The applicant fails to provide any information required on the application, or provides false or misleading information.
5. The applicant is prohibited by federal, state, or other local law, ordinance, or regulation from holding a license.
6. However, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license.
7. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this chapter.

**Section 9-5.6. PROHIBITED SALES.**

It shall be a violation of this chapter for any person to sell or offer to sell any tobacco, tobacco product, or tobacco related device:

1. To any person under the age of 18 years.
2. By means of any type of vending machine, except as may otherwise be provided in this Chapter.
3. By means of self-service methods whereby the customer does not need to make a verbal written request to an employee of the licensed premise in order to receive the tobacco, tobacco product or tobacco related device and whereby there is not a physical exchange of the tobacco, tobacco product, or tobacco related device between the licensee, or the licensee's employee, and the customer.
4. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other deleterious, hallucinogenic, toxic or controlled substances except nicotine and other substances found naturally in tobacco or added as part of an otherwise lawful manufacturing process. It is not the intention of this provision to ban the sale of lawfully manufactured cigarettes or other tobacco products.
5. By any other means, to any other person, in any other manner or form prohibited by federal, state or other local law, ordinance provision, or other regulation.

### **Section 9-5.7. VENDING MACHINES**

It shall be unlawful for any person licensed under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by the means of a vending machine unless minors are at all times prohibited from entering the licensed establishment or the licensed establishment derives at least ninety (90) percent of its revenue from the sale of tobacco.

### **Section 9-5.8. SELF-SERVICE SALES**

It shall be unlawful for a licensee under this chapter to allow the sale of tobacco, tobacco products, or tobacco related devices by any means where by the customer may have access to those items without having to request the item from the licensee or the licensee's employee and whereby there is not a physical exchange of the tobacco, tobacco product, or the tobacco related device between the licensee or his or her clerk and the customer. All tobacco, tobacco products, and tobacco related devices shall either be stored behind a counter or other area not freely accessible to customers, or in a case or other storage unit not left open and accessible to the general public. Any retailer selling tobacco, tobacco products, or tobacco related devices at the time this chapter is adopted shall comply with this section within 90 days following the effective date of this chapter.

### **Section 9-5.9. RESPONSIBILITY**

All licensees under this chapter shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco related devices on the licensed premises, and the sale of an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the city from also subjecting the clerk to whatever penalties are appropriate under this chapter, state or federal law, or other applicable law or regulation.

### **Section 9-5.10. COMPLIANCE CHECKS AND INSPECTIONS**

All licensed premises shall be open to inspection by the city police or other authorized city official during regular business hours. From time to time, but at least once per year, the city shall conduct compliance checks by engaging, with the written consent of their parents or guardians, minors over the age of 15 years but less than 18 years to enter the licensed premise to attempt to purchase tobacco, tobacco products, or tobacco related devices. Minors used for the purpose of compliance checks shall be supervised by city designated law enforcement officers or other designated city personnel. Minors used for compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when those items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minor's age asked by the licensee or his or her employee and shall produce any identification, if any exists, for which he or she is asked. Nothing in this section shall prohibit compliance checks authorized by state or federal laws for educational, research, or training purposes, or required for the enforcement of a particular state or federal law.

### **Section 9-5.11. OTHER ILLEGAL ACTS**

Unless otherwise provided, the following acts shall be a violation of this chapter:

1. Illegal Sales. It shall be a violation of this chapter for any person to sell or otherwise provide any tobacco, tobacco product, or tobacco related device to any minor.
2. Illegal Possession. It shall be a violation of this chapter for any minor to have in his or her possession any tobacco, tobacco product, or tobacco related device. This division (B) shall not apply to minors lawfully involved in a compliance check.
3. Illegal Use. It shall be a violation of this chapter for any minor to smoke, chew, snuff or otherwise use any tobacco, tobacco product, or tobacco related device.
4. Illegal Procurement. It shall be a violation of this chapter for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco product or tobacco related device, and it shall be a violation of this chapter for any person to purchase or otherwise obtain those items on behalf of a minor. It shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco product, or tobacco related device. This Section (4) shall not apply to minors lawfully involved in a compliance check.
5. Use of False Identification. It shall be a violation of this chapter for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

### **Section 9-5.12. EXCEPTIONS AND DEFENSES**

Nothing in this chapter shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this chapter for a person to have reasonably relied on proof of age as described by state law.

### **Section 9-5.13. VIOLATIONS AND PENALTY**

1. Violations.
  - A. Notice. Upon discovery of a suspected violation, the alleged violator shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator of his or her right to be heard on the accusation.
  - B. Hearings. If a person accused of violating this chapter so requests, a hearing shall be scheduled, the time and place of which shall be published and provided to the accused violator.

- C. Hearing Officer/Hearing Panel. The city official or panel designated by the City Council shall serve as the hearing Officer.
- D. Decision. If the hearing officer determines that a violation of this Chapter did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed under Section 7-17.14 (2), shall be recorded in writing, a copy of which shall be provided to the accused violator. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, those findings shall be recorded and a copy provided to the acquitted accused violator.
- E. Appeals. Appeals of any decision made by the hearing officer shall be filed in the district court for the city in which the alleged violation occurred.
- F. Misdemeanor Prosecution. Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any alleged violation of this Chapter.
- G. Continued Violation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense.

2. Administrative Penalties.

- A. Licenses. Pursuant to Minnesota Statute § 461.12, as amended, any licensee found to have violated this chapter, or whose employee shall have violated this chapter, shall be charged an administrative fine of \$75 for a first violation of this chapter; \$200 for a second offense at the same licensed premises within a 24-month period; and \$250 for a third or subsequent offense at the same location within a 24-month period. In addition, after the third offense, the license shall be suspended for not less than seven days. No suspension or penalty may take effect until the licensee has received notice, served personally or by mail or the alleged violation and an opportunity for a hearing, before a person authorized by the licensing authority to conduct the hearing. A decision that a violation had occurred must be in writing.
- B. Other Individuals. Other individuals, other than minors regulated by division (2)(C) of this section, found to be in violation of this chapter shall be charged an administrative fine of \$50.
- C. Minors. Minors found in unlawful possession of or who unlawfully purchase or attempt to purchase, tobacco, tobacco products, or tobacco related devices, shall be subject to an administrative fine, or may be subject to tobacco related education classes, diversion programs, community services, or another penalty that the city believes will be appropriate and effective. The administrative fine or other penalty shall be established by the City Council upon the City Council's consultation with

interested parties of the courts, educators, parents and children to determine an appropriate penalty for minors in the city. This administrative fine or other penalty may also be established from time to time by the Ordinance Establishing Fees and Charges and amended from time to time by ordinance.

- D. Misdemeanor. Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this Chapter.

## CHAPTER 9 – LICENSE AND BUSINESS REGULATIONS

### ARTICLE 6. LICENSING AND REGULATIONS OF PAWNBROKERS

#### Section 9-6.1. PURPOSE

For the purposes of promoting the public health, safety, morals, and welfare this Chapter is hereby enacted for the purposes of licensing and regulating pawnbrokers and pawn transactions.

#### Section 9-6.2. DEFINITIONS

For purposes of this Chapter the following words and terms when used herein shall have the following meanings unless the context clearly indicates otherwise.

1. Pawnbrokers. A person engaged, in whole or in part, in the business of lending money on the security of pledged goods left in pawn, or in the business of purchasing tangible personal property to be left in pawn, on the condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time. Except that the following are exempt from the definition of pawnbroker: a) Any bank regulated by the State of Minnesota, the comptroller of currency of the United States, the Federal Deposit Insurance Corporation, the board of governors of the Federal Reserve System or any other federal or state authority and their affiliates; b) any bank or savings association whose deposits or accounts are eligible for insurance by the Federal Deposit Insurance Corporation or any successor to it and all affiliates of those banks and savings associations; and c) any state or federally chartered credit union: and any industrial loan and thrift company or regulated lender subject to licensing and regulation by the department of commerce.
2. Pawnshop. The location at which, or premises in which, a Pawnbroker regularly conducts business.
3. Pawn Transaction. Any loan on the security, of pledged goods or any purchase of pledged goods on the condition that the pledged goods are left with the pawnbroker and may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.
4. Person. Any individual, partnership, corporation, limited liability Company, joint venture, trust, association, or any other legal entity, however organized.
5. Pledged Goods. Tangible personal property other than choses in action, securities, bank drafts, or printed evidence of indebtedness, that are purchased by, deposited with, or otherwise actually delivered into the possession of a pawnbroker in connection with a pawn transaction.
6. Municipality. Any town, home, rule charter, or statutory city, or county that elects to regulate and license pawnbrokers within its jurisdiction pursuant to local

ordinance or City Code.

7. Appropriate Law Enforcement Agency. The attorney general of the State of Minnesota, the sheriff of each county in which a pawnbroker maintains an office, the police chief of the municipality or law enforcement officers of the municipality in which a pawnbroker maintains an office.

### **Section 9-6.3. LICENSE REQUIREMENT**

1. No person may engage in the business of a pawnbroker or otherwise portray the person as a pawnbroker, unless the person has a valid license authorizing engagement in the business. Any transaction made without the benefit of a license is void.

2. A separate license is required for each place of business. More than one license may be issued to a person if that person complies with this Chapter and Minnesota Statute 325J for each license and location.

3. Each license shall remain in full force and effect until surrendered, suspended, revoked, or expired. A license may be suspended or revoked for failure to comply with this Chapter and Chapter 325J of the Minnesota Statutes.

4. No expiration, revocation, suspension, or surrender of any license shall impair or effect the obligation of any preexisting lawful contract between the licensee or any pledgor.

5. The appropriate law enforcement agency shall be notified by the municipality of any licensee whose license has expired or been surrendered, suspended, or revoked as provided by this chapter.

### **Section 9-6.4. LICENSE ELIGIBILITY**

1. To be eligible for or to maintain a pawnbroker license, a person must operate lawfully and fairly within the purposes of Chapter 325J of the Minnesota Statutes and this Chapter. No license under this Chapter shall be issued to a person if:

- A. The person is a minor at the time the application is filed.
- B. The person has been convicted of any crime directly related to the occupation licensed as prescribed by Section 364.03, subd. 2, unless the person has shown competent evidence of sufficient rehabilitation and present fitness to perform the duties of a licensee under Chapter 325J of the Minnesota Statutes, this Chapter and as prescribed by Minnesota Statute 364.03, subd. 3.
- C. The person is not a citizen of the United States or a resident alien.
- D. The person is not of good moral character and repute.

2. Each license issued under this Chapter shall be issued to the applicant only and shall not be transferred to any other person. No licensee shall loan, sell, give or in any other way convey, nor give permission for the use of, a license issued under this Chapter to any other person. Any change, directly or beneficially, in ownership of any licensed pawnshop shall require the application for a new license and the new owner must satisfy all current eligibility requirements.

3. No license under this Chapter shall be issued to an applicant that is a partnership if such applicant has any general partner or managing partner in violation of, or who is non-qualifying under this Chapter.

4. No license under this Chapter shall be issued to an applicant that is a corporation or other business organization if such application has a manager, proprietor, or agent in charge of the organization/business to be licensed if said agent is in violation of, or is not qualified for, licensing under this Chapter.

#### **Section 9-6.5. LICENSE AND APPLICATION FEES**

1. License Fees.

A. Fixing Fees: Except as otherwise specifically provided, all fees for licenses provided for in this Chapter, including but not limited to, license fees, investigation and administration fees, shall be fixed and determined by the Council, adopted by ordinance, and uniformly enforced. Such fees may, from time to time, be amended by resolution of the Council.

B. Fee Increases: Notwithstanding other provisions of this Chapter, no license fee shall be increased except after notice and hearing on the proposed increase. Notice of the proposed increase shall be mailed to all affected licensees at least thirty (30) days before the date set for hearing.

C. In any case where any payment for any license is not made when due, a ten (10) percent penalty shall be added to the fee.

D. Nonpayment of fees shall constitute good cause for suspension or revocation of any license.

2. License fee shall be paid in full when the application is filed. Said fee shall be refunded if the application is withdrawn before council approval or if the council rejects the application, except, however, in the instance where the rejection is for willful misstatement in the license application.

3. License fee shall be paid annually, the initial fee to be prorated from the date of issuance.

#### **Section 9-6.6. APPLICATION PROCESS**

1. A person seeking licensing under this Chapter shall submit an application together

with the appropriate application fee as set by the municipality. An application shall be provided to all applicants who shall be required to provide all information requested therein as fully, completely, and accurately as possible. All applications for license under this Chapter shall be signed and sworn to. If the applicant is of natural person it shall be signed and sworn by such person. If the applicant is a corporation, by an officer thereof; if that of a partnership, by one of the general partners; if that of an unincorporated association, by the manager or managing officer thereof.

2. The license application fee shall be paid in full before the application for a licensee shall be accepted. Upon rejection of any application for a license or upon withdrawal of any application the license fee shall be refunded in full to the applicant except where rejection is for a willful misstatement in their licensing application.

3. The municipality shall establish an investigation fee, which shall be separate from any application fee. The fee shall cover the costs involved in verifying the license application and to cover the expense of any investigation needed to assure compliance with this Chapter.

4. Any falsification of a license application shall result in the denial of a license.

#### **Section 9-6.7. RENEWAL**

1. All licenses issued under this Chapter shall be effective for a period of one year from the date of issuance. An application for the renewal of an existing license must be made prior to the expiration day of the license and shall be made in such form as the municipality requires. The appropriate renewal fee shall be paid in full before the renewal application is accepted. If, in the judgment of the municipality, good and sufficient cause is shown for failure to submit a renewal application before the expiration of the existing license, the municipality may, if the other provisions of this Chapter are complied with, grant a renewal of the license.

2. A license under this article will not be renewed if the municipality determines that the licensee has failed to comply with the provisions of this Chapter and Chapter 325J of the Minnesota Statutes.

#### **Section 9-6.8. APPLICATION VERIFICATION**

All applications whether for initial licensing or renewals, shall be referred to the appropriate law enforcement agency for verification and investigation of the facts set forth in the application. The issuing authority shall make a written report and recommendation to the municipality as to the issuance or non issuance of a license. The municipality may order and conduct such additional investigation as it deems necessary.

#### **Section 9-6.9. RECORDKEEPING**

1. Entries of Pawn Tickets. At the time of making the pawn or purchase transaction, the pawnbroker shall immediately and legibly record in English the following information by using ink or other indelible medium on forms or in a computerized record

approved by the municipality:

- A. A complete and accurate description of the property, including model and serial number if indicated on the property.
- B. The full name, residence address, residence telephone number, and date of birth of the pledgor or seller.
- C. Date and time of pawn purchase transaction.
- D. The identification number and state of issue from one of the following forms of identification of the seller or pledgor, current valid Minnesota drivers license, current valid Minnesota identification card; or current valid photo identification card issued by another state or a province of Canada.
- E. Description of the pledgor including approximate height, sex, and race.
- F. Amount advanced or paid.
- G. Maturity date of the pawn transaction and the amount due.
- H. The monthly and annual interest rates, including all pawn fees and charges.

2. Pawn Ticket. The following shall be printed on all pawn tickets:

- A. The name, street address, mailing address, if different from the street address, and phone number of the pawnbroker.
- B. The statement that "Any personal property pledged to a pawnbroker within this state is subject to sale or disposal when there has been no payment on the account for a period of not less than 60 days past the date of the pawn transaction, renewal, or extension; no further notice is necessary. There is no obligation for the pledgor to redeem pledged goods."
- C. The statement that "The pledgor of this item attests that it is not stolen, it has no liens or encumbrances against it, and the pledgor has the right to sell or pawn the item."
- D. The statement that "This item is redeemable only by the pledgor to whom the receipt was issued, or any person identified in a written and notarized authorization to redeem the property identified in the receipt, or a person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor. Written authorization for release of property to persons other than the original pledgor must be maintained along with the original transaction records."

- E. A blank line for the pledgor's signature.
- F. The pledgor shall sign the pawn ticket and receive an exact copy of the same.

**Section 9-6.10. RECORDS; RETENTION**

A pawnbroker shall maintain on the premises a record of all transactions of pledged or purchased goods for a period of three years. These records shall be a correct copy of the entries made of the pawn transactions. A pawnbroker shall upon request provide to the appropriate law enforcement agency a complete record of any pawn items.

**Section 9-6.11. RECORDS; PROHIBITIONS**

A pawnbroker and any clerk, agent or employee of a pawnbroker shall not:

1. Make any false entry in the records of pawn transactions.
2. Falsify, obliterate, destroy, or remove from the place of business the records, books, or accounts relating to the licensee's pawn transactions.
3. Refuse to allow the appropriate law enforcement agency, the attorney general, or any other duly authorized state or federal law enforcement officer to inspect the pawn records or any pawn goods in the person's possession during the ordinary hours of business or other times acceptable to both parties.
4. Fail to maintain a record of each pawn transaction for three years.
5. Accept a pledge or purchase property from a person under the age of 18 years.
6. Make any agreement requiring the personal liability of a pledgor or seller, or waiving any provision of this Chapter or Chapter 325J of the Minnesota Statutes, or providing for a maturity date less than six days after the date of the pawn transaction.
7. Fail to return pledged goods to a pledgor or seller, or provide compensation as set forth in this Chapter or in Chapter 325 J of the Minnesota Statutes, upon payment of the full amount due the pawnbroker unless either the date of redemption is more than 60 days past the date of the pawn transaction, renewal, or extension and the pawnbroker has sold the pledged goods pursuant to this Chapter or Chapter 325J of the Minnesota Statutes, or the pledged goods have been taken into custody by a court or a law enforcement officer or agency.
8. Sell or lease, or agree to sell or lease, pledge or purchased goods back to the pledgor or seller in the same, or a related, transaction.
9. Sell or otherwise charge for insurance in connection with a pawn transaction.

10. Remove pledged goods from the pawnshop premises or other storage place approved by a municipality at any time before unredeemed, pledged goods are sold pursuant to this Chapter or Chapter 325J of the Minnesota Statutes.

**Section 9-6.12. DAILY REPORTS TO LAW ENFORCEMENT AGENCIES**

For the following items, pawnbrokers shall complete forms approved by the municipality, or issue an authority and submit the forms daily by mail or courier to the appropriate law enforcement agency:

1. Any item with a serial number identification number or operation identification number.
2. Cameras.
3. Electronic audio or video equipment.
4. Precious jewelry, gems, or metals.
5. Artist signed or artist attributed works of art.
6. Guns.
7. Computers, computer printer, software, computer equipment or accessories.
8. Any item not included in 1-6 above except furniture and kitchen or laundry appliances in which the pawnbroker intends to sell for more than \$200.

The day the report forms are submitted shall contain all information required by this Chapter to be collected by the pawnbroker for all pawn transactions. Any such item received by the pawnbroker shall not be disposed of, sold, or otherwise transferred for 60 calendar days after the date of the report to law enforcement. However, an individual may redeem the item pawned 72 hours after the item was received on deposit by the pawnbroker, excluding Sundays and legal holidays.

**Section 9-6.13. REDEMPTION**

1. The date by which an item of property has been pawned must be redeemed by the pledgor without risk that the item will be sold and must be a day in which the pawnbroker is opened for regular business.
2. Pledgors shall have no obligation to redeem pledged goods or make any payment on a pawn transaction. Pledged goods not redeemed within at least 60 days of the date of the pawn transaction, renewal or extension shall automatically be forfeited to the pawnbroker, and qualified right, title and interest in and to the goods shall automatically vest in the pawnbroker.
3. The pawnbroker's right, title, and interest in the pledged goods under Section 9, subd. 2, is qualified only by the pledgor's right, while the pledged goods remain in the possession of the pawnbroker and not sold to a third party, to redeem the goods by paying the loan plus fees and/or interest accrued up to the date of redemption.
4. A pawn transaction that involves holding only the title to property is subject to Chapters 168A and 336 of the Minnesota Statutes.

#### **Section 9-6.14. PERMITTED CHARGES**

1. Notwithstanding any other Chapter, state statute, rule, regulation, or Chapter 325J of the Minnesota Statutes, a pawnbroker may contract for and receive a pawnshop charge not to exceed 3 percent per month of the principal amount advanced to the pawn transaction plus a reasonable fee for storage and services. A fee for storage and services may not exceed \$20 if the property is not in the possession of the pawnbroker.
2. The pawnshop charge allowed under paragraph 1 above shall be deemed earned, due, and owing as of the date of the pawn transaction and alike some shall be deemed earned, due, and owing on the same day of the succeeding month. However, if full payment is made more than two weeks before the next succeeding date the pawnbroker shall remit one half of the pawnshop charge for that month to the pledgor.
3. Interest shall not be deducted in advance, nor shall any loan be divided or split so as to yield greater interest's or fees than would be permitted upon a single, consolidated loan, or for otherwise evading any provisions of this Chapter or Chapter 325J of the Minnesota Statutes.
4. Any interest, charge, or fees contracted for or received directly or indirectly, in excess of the amount permitted under this Chapter or Chapter 325J of the Minnesota Statutes, shall be uncollectible and the pawn transaction shall be void.
5. A schedule of charges permitted by this Chapter and Chapter 325J of the Minnesota Statutes, shall be posted on the pawnshop premises in a place clearly visible to the general public.

#### **Section 9-6.15. RISK OF LOSS**

Any person to whom the receipt for pledged goods was issued, or any person identified in a written and notarized authorization to redeem the pledged goods identified in the receipt, or any person identified in writing by the pledgor at the time of the initial transaction and signed by the pledgor shall be entitled to redeem or repurchase the pledged goods described on the ticket. In the event the goods are lost or damaged while in possession of the pawnbroker, the pawnbroker shall compensate the pledgor, in cash or replacement goods acceptable to the pledgor, for the fair market value of the lost or damaged goods. Proof of compensation shall be a defense to any prosecution or civil action.

#### **Section 9-6.16. PAWNSHOP LOCATION AND HOURS OF OPERATION**

1. No pawnshop shall be located within ten driving miles of any gambling casino. No pawnshop, lawfully operating as of the date of the enactment of this Chapter 325J of the Minnesota Statutes, shall be required to relocate or close as a result of this Chapter. (City may also include other limitations for example churches and schools)
2. No pawnshop shall be opened for the transaction of business on any day of the week before 7:00 a.m., or after 10:00 p.m., and shall be open for the transaction of business on Sunday.

3. A license issued under this Chapter must be posted in a conspicuous place in the premises for which it is issued. The license issued is only effective for the compact and contiguous space specified in the approved license application.

4. A licensee under this subdivision shall be responsible for the conduct of the business being operated and shall maintain conditions of order.

**Section 9-6.17. MISCELLANEOUS**

1. Motor Vehicles. In addition to the other requirements of this Chapter, a pawnbroker who holds the title to a motor vehicle as part of a pawn transaction shall:

- A. Be licensed as a used motor vehicle dealer under Minn. Stat. §168.27 and post such license on the pawnshop premises.
- B. Verify that there are no liens or encumbrances against the motor vehicle with the Department of Public Safety.
- C. Verify that the pledgor has automobile insurance on the motor vehicle as required by law.

Pawnbrokers shall not sell a motor vehicle covered by a pawn transaction until 90 days after recovery of the motor vehicle.

2. No licensee under this Chapter shall accept any item of property which contains an altered or obliterated serial number or "operation identification" number or any item of property whose serial number has been removed.

3. Gambling. No licensee under this division may keep, possess, or operate, or permit the keeping, possession, or operation on the license premises of dice, slot machines, roulette wheels, punch boards, blackjack tables, or pinball machines which return coins or slugs, chips, or tokens of any kind, which are redeemable in merchandise or cash. No gambling equipment authorized under Minn. Stat. §§349.11 - 349.60, may be kept or operated and no raffles may be conducted on the licensed premises and/or adjoining rooms. The purchase of lottery tickets may take place on the licensed premises as authorized by the director of the lottery pursuant to Minn. Stat. §§349.01 - 349.15.

4. Prohibited Acts. No pawnbroker licensed under this division shall:

- A. Lend money on a pledge at a rate of interest above that allowed by law.
- C. Possess stolen goods and refuses to permit a law enforcement officer to examine them during usual business hours.
- D. Sell pledged goods before the time to redeem has expired.
- E. Refuse to disclose to the pledgor, after having sold pledged goods, the

name of the purchaser or the price for which the item sold.

- F. Make a loan on a pledge to a person under lawful age, without the written consent of the person's parent or guardian.

**Section 9-6.18. VIOLATION**

1. The municipality may suspend or revoke a license issued under this Chapter upon findings of a violation of: (1) any of the provisions of this subdivision; (2) any state statute regulating pawnbrokers; (3) any state or local law relating to moral character and repute.
2. Any conviction by a pawnbroker, for theft, receiving stolen property, or any other crime or violation involving stolen property, shall result in immediate suspension of the license pending hearing on revocation of any license issued hereunder.
3. Except in the case of a suspension pending a hearing on revocation, a revocation or suspension by the municipality shall be preceded by written notice to licensee of a hearing. The written notice shall give at least eight days notice of the time and place of the hearing and shall state the nature of the charges against the pawnbroker. The municipality may, without notice, suspend any license pending a hearing on revocation for a period not exceeding thirty days. The notice may be served upon the licensee by United States Mail addressed to the most recent address of the licensee in the license application.
4. In addition to the above, any violation of this Chapter by a pawnbroker or any clerk, agent, or employee of a pawnbroker, or by a pledgor, agent, or assign of a pledgor is a misdemeanor.

## CHAPTER 9 – LICENSE AND BUSINESS REGULATIONS

### ARTICLE 7. REGULATING THE SELLING, GIVING AWAY, OWNING, POSSESSING AND DISCHARGE OF WEAPONS AND EXPLOSIVES WITHIN THE CITY OF PEQUOT LAKES

#### Section 9-7.1. DEFINITIONS.

For purposes of this Chapter, the following terms shall have the following meaning:

1. Arrow. A slender shaft, pointed at one end, or designed to have a pointed head or tip attached, and feathered at the other end.
2. Assault Weapon. Any weapon other than a firearm or military-type weapon having the personal assault characteristics of any sap, numchucks, blackjack, slingshot, sand club, chain club, police type baton, metal knuckles, or shurikens, dirk, dagger, stiletto, switch-blade knife, spring blade knife, push button knife or butterfly knife.
3. Bow. A flexible, curved strip of wood, metal, fiberglass, plastic, or other material, with a cord connecting the two ends, designed to shoot arrows. This definition shall include a device popularly known as a crossbow. A bow and arrow is also defined as a bowed shaft of material such as metal, wood or plastic, the ends of which are pulled into bow formation by a string, cord, wire or any other type of material and used for the purpose of propelling an arrow by means of the power developed in pulling the string against the tension of the bow, provided that, such bow is rated at more than ten (10) pounds pull, and further provided that, the arrow used is pointed or is equipped with a pointed head of metal, plastic or other material capable of penetrating an object when propelled by the bow.
4. Concealed Manner. Having the object on the person in such a manner so as to conceal it from the view of any other person. For purposes of this Chapter, a knife carried in a sheath on a person's belt shall not be considered to be carried in a concealed manner if covered by a coat, jacket or other out garment worn by such person.
5. Knife. A folding knife with a blade in excess of four and one-half (4 1/2) inches, machete sword bayonet, or any fixed-blade knife not meeting the criteria set forth for an assault weapon.
6. Military-type weapon. Any destructive device having firepower, mass, explosive or incendiary characteristics of weapons such as cannons having a bore diameter larger than one-half (1/2) inch, bazookas, machine guns, fully automatic weapons, mortars, grenades, Molotov cocktails, but not including shotguns, rifles, pistols or revolvers.
7. Numchucks. Any device constructed of two (2) cylindrical objects joined together on one end by a chain, rope, thong or other such material.

8. Park Zone. An area within the City of Pequot Lakes that has been designated as a public park.
9. Public Building. Any building, together with the immediate grounds upon which it is located, owned or occupied by a public or governmental entity, including, but not limited to, the City of Pequot Lakes, County of Crow Wing, State of Minnesota and the federal government.
10. Public Event. An activity that is sponsored by a governmental entity, or an activity for which a permit is issued by the city, including, but not limited to, block parties, neighborhood festivals, parades or dances.
11. Secured Container. A fastened case having no mechanical features designed for immediate weapons removal or use. A secured container may mean a weapon case, such as a leather, fiber, canvas or plastic, secured with a zipper, clasp or buckle.
12. Shurikens. Any metal device that has the shape of a multiple-pointed star, each point being sharpened and primarily designed to be thrown.
13. School Zone. Pursuant to Minn. Stat. §152.01, subd. 14a, as amended, school zone means:
  - A. Any property owned, leased, or controlled by a school district or an organization operating a nonpublic school, as defined in section 123B.41, subdivision 9, where an elementary, middle, secondary school, secondary vocational center or other school providing educational services in grade one through grade 12 is located, or used for educational purposes, or where extracurricular or cocurricular activities are regularly provided;
  - B. The area surrounding school property as described in clause (1) to a distance of 300 feet or one city block, whichever distance is greater, beyond the school property; and
  - C. The area within a school bus when that bus is being used to transport one or more elementary or secondary school students.
14. Weapon. Any weapon or knife covered by this Chapter.

**Section 9-7.2. EXEMPTIONS.**

This article shall not apply to police officers or other authorized personnel when using firearms or other weapons in the regular course of performing their duties.

This article shall not apply to a licensed firearms dealer testing a weapon in a controlled situation, such as a “snail” or other appliance designed to accept the discharge of a firearm.

### **Section 9-7.3. DISCHARGE OF FIREARMS**

This section includes air or gas propelled guns, possession or detonation of explosives, fireworks, etc.

It shall be unlawful for any person to shoot or discharge any gun, revolver, pistol or firearms of any kind or description, including BB guns, pellet and air guns, spring guns, or air or gas propelled guns, including CO2 guns within the city, whether the same be loaded with power and ball, live ammunition or blank cartridges or any kind of explosive or propellant capable of throwing or projecting any missile, including bullets, pellets, BB's, artillery shells, rockets or other missiles.

It shall be unlawful for any person in the city to have in his possession or to shoot, discharge or explode any preparation of potash, mixture of sulfur and saltpeter, nitroglycerin, dynamite, plastic explosive, fireworks; or any other kind of explosive material and all such acts are hereby prohibited, unless specifically authorized by permit issued by the department of public safety or by permit issued by the stated department of conservation.

It shall be unlawful for any person to shoot or discharge any gun, revolver, pistol or firearm of any kind or description within the city whether the same be loaded with powder and ball, any kind of explosive or blank cartridges, with the exception of Track and Field events and Military Ceremonies.

It shall be unlawful for any person to have in his possession or to shoot, discharge or explode any preparation of potash, mixture of sulfur and saltpeter, nitroglycerin, dynamite, plastic explosive, fireworks, or any other kind of explosive material, and all such acts are hereby prohibited unless specifically authorized by permit issued by the department of public safety or by permit issued by the state department of conservation.

### **Section 9-7.4. CONCEALED WEAPONS**

It shall be unlawful for any person within the city to carry or wear concealed about his person any pistol, BB, air or CO2 gun, dagger, switchblade knife, metal knuckles, blow gun, bowie knife, razor or other dangerous or deadly weapon.

### **Section 9-7.5. CONFISCATION OF WEAPONS AND EXPLOSIVES**

Any weapons or explosive materials duly adjudged by a court of competent jurisdiction to have been discharged, worn or carried in the city in violation of any ordinance, law or regulation shall be confiscated by the city and such weapons or explosive materials shall be turned over to the director of public safety to be kept, sold or disposed of in the matter herein provided in this section.

Any weapons or materials confiscated pursuant to this section may be kept and used by the department of public safety if the same are adaptable to police purposes. Such weapons and materials which would be dangerous to reintroduce into channels of private sale or use, may in the discretion of the director of public safety be destroyed. Such weapons or materials which may be safely placed into the hands of private owners may be sold by the director of public

safety at public auction a sealed bid sale pursuant to at least two (2) weeks' published notice of such sale.

**Section 9-7.6. BOWS AND ARROWS, AIMING, DISCHARGING IN PUBLIC PLACES, POSSESSION BY MINOR UNDER FOURTEEN, DEFINITION, ETC.**

Every person in the city who shall aim any bow and arrow, as defined in this section, at or toward any human being, or who shall willfully discharge an arrow from a bow in any public place, or in any place where there is any person to be endangered, although no injury actually results, shall be guilty of a misdemeanor.

No minor in the city under the age of fourteen (14) years shall handle or have in his possession, or under his control, except while accompanied by or under the immediate charge of his parent or guardian any bow and arrow as defined in this section for hunting or target practice, or any other purpose. Every person violating any of the provisions of this subsection or aiding or knowingly permitting any such minor to violate the same, shall be guilty of a misdemeanor.

**Section 9-7.7. WEAPONS PROHIBITED**

No person except military personnel or peace officers engaged in the course of their duties shall keep, carry or have in his or her possession on any public street, or being a trespasser upon the premises of another, or in a public place, or in any school zone, or at any public event in the City of Pequot Lakes any assault weapon, unless he or she holds a permit to possess the same as a collector's item or for use in officially recognized competition.

1. Knives Prohibited. No person except military personnel or peace officers engaged in the course of their duties shall keep, carry or have a knife in his or her possession in any public building, at any public event, in any park zone, or in any school zone, unless he or she holds a permit to possess the same as a collector's item or for use in officially recognized competition.
2. Transportation of Assault Weapons or Knives.
  - A. No person except military personnel or peace officers engaged in the course of their duties shall transport assault weapons in a motor vehicle within the City of Pequot Lakes unless the assault weapon is placed in the trunk of the vehicle; except if there is not a trunk, the assault weapon must be placed in a secured container and placed in the farthest rear portion of the vehicle.
  - B. No person except military personnel or peace officers engaged in the course of their duties shall carry any assault weapons on their person in the City of Pequot Lakes unless the assault weapon is in a secured container and is being carried between the home or business of the owner and a motor vehicle, weapons dealer, hunting area or an officially recognized competition.

- C. No person except military personnel or peace officers engaged in the course of their duties shall carry any knife on their person or transport any knife in a motor vehicle in the City of Pequot Lakes unless the knife is in a case or sheath and is not carried in a concealed manner.
- D. The provisions of this section shall not apply to transport by person lawfully engaged in the business of making, selling or repairing firearms, assault weapons or knives nor to persons holding permits to carry such weapons.

#### **Section 9-7.8. PERMITS**

Permits required hereunder shall be obtained in the following manner: Any person not prohibited from purchasing, owning or possessing a handgun under Minnesota Statutes may obtain a permit to possess a military-type assault weapon as a collector's item or to possess a military-type weapon for participation in officially recognized competition upon application therefore to the Chief of Police. Such application shall be in a form determined by the Pequot Lakes Police Department and shall include a description in detail of the use to which the weapon is to be put. The Chief of Police shall issue such permit, if he concludes the applicant has met the requirements of the application and intends to use the weapon for a lawful purpose.

#### **Section 9-7.9. STOPPING OF PERSONS AND SEARCHING FOR WEAPONS**

A peace officer may stop any person abroad on any public street or other public space in the City of Pequot Lakes whom the peace officer has reasonable grounds to believe is committing, has committed or is about to commit a felony or any crime or offense involving the use of a weapon of any kind, and may demand such person's name, address and an explanation of his or her actions. When a peace officer has stopped a person for questioning pursuant to this section and has reasonable grounds to believe that he or she or anyone else is in danger of life or limb, the peace officer may search such person for a weapon. If a peace officer finds a weapon or any other thing the possession of which may constitute a crime or offense, the peace officer may take and keep it until the completion of the questioning, at which time it shall either be returned, if lawfully possessed, or retained in custody.

#### **Section 9-7.10. PENALTIES**

Violation of any provision of this Chapter shall constitute a misdemeanor. In addition, any assault weapon or knife in possession of such person or used or possessed in violation of statute or ordinance shall be confiscated and sold, destroyed or otherwise disposed of by the Pequot Lakes Police Department. Conviction of any violation shall work an automatic revocation of all permits and licenses held hereunder by the violator.

## CHAPTER 9 – LICENSE AND BUSINESS REGULATIONS

### ARTICLE 8. REGULATIONS FOR TRANSIENT MERCHANTS, PEDDLERS, AND SOLICITORS

#### Section 9-8.1. PURPOSE AND INTENT

The purpose and intent of this Chapter is to regulate the issuance of permits to Transient Merchants, Peddlers and Solicitors within the City of Pequot Lakes.

#### Section 9-8.2. DEFINITIONS.

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

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

### **Section 9-8.3. EXCEPTIONS TO DEFINITIONS**

1. For the purpose of the requirements of this chapter, the terms *PEDDLER*, *SOLICITOR*, and *TRANSIENT MERCHANT* shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

2. In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of *PEDDLERS*, *SOLICITORS*, and *TRANSIENT MERCHANTS*, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance or City Code.

### **Section 9-8.4. LICENSING**

1. City License Required. Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the City.

2. Application. Application for a City license to conduct business as a peddler or transient merchant shall be made at least fourteen (14) regular business days before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the office of the City Clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- A. Applicant's full legal name, driver's license number, and date of birth.
- B. All other names under which the applicant conducts business or to which applicant officially answers.
- C. A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like).
- D. Full address of applicant's permanent residence.
- E. Telephone number of applicant's permanent residence.
- F. Full address and telephone number of applicant's regular place of business (if any).

- G. The type of business for which the applicant is applying for a license.
- H. The dates during which the applicant intends to conduct business in the City (maximum 14 consecutive days).
- I. Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the City, including the location where a transient merchant intends to set up business.
- J. A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance or City Code, other than traffic offenses.
- K. Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.
- L. A general description of the items to be sold or services to be provided.
- M. The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

3. Fee. All applications for a license under this chapter shall be accompanied by the fee established by Council Resolution which may be amended from time to time.

4. Procedure. Upon receipt of the completed application and payment of the license fee, the City Clerk, within two (2) regular business days, shall determine if the application is complete. An application is determined to be complete only if all required information is provided. If the City Clerk determines that the application is incomplete, the City Clerk shall inform the applicant of the required necessary information that is missing. If the application is complete, the City Clerk shall order any investigation, including background checks, necessary to verify the information provided with the application. If the City denies the license, based upon Section 9-8.6 or Section 9-8.8, the applicant shall be notified in writing of the decision, the reason for denial, and the applicant's right to appeal the denial by requesting, within twenty (20) days of receiving notice of rejection, a public hearing before the City Council. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

5. Operation on Private Property. No transient merchant shall sell or offer for sale any goods, wares, or merchandise within the city from a stationary location on private property at any location without first obtaining the written consent of the property owner or occupant. The written consent must accompany the license application.

6. Signs. No signage shall violate the provisions of the City Code relating to size and number of business signs.

7. Off-street Parking Required. No license for a transient merchant shall be issued for sales from any location which does not have sufficient parking for customers and for areas where customer parking would interfere with normal traffic flow.
8. Duration of Sales. No transient merchant license shall be issued for more than 365 days, during which sales shall be limited to 30 days per year and no more than 14 consecutive days.
9. Granting, Denying, or Renewing a License. The following shall be considered in granting, denying or renewing a license: any reasonable facts or circumstances relating to public health, safety, and welfare, including but not limited to the following:
  - A. The character and suitability of the area or neighborhood in which the proposed activity is to be located.
  - B. The proximity of the proposed activities to churches, schools, playgrounds, parks, or other community facilities which might be adversely affected.
  - C. The proximity of the proposed activities in relation to traffic congestion and parking which causes interference with normal traffic flow, congestion, or inconvenience to the public.

#### **Section 9-8.5. LICENSE EXEMPTIONS**

1. No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product of the farm or garden occupied or cultivated by themselves.
2. No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person's State or Federal Constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity.
3. Professional fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.
4. All vendors involved in any community event the City Council deems exempt. A main license will be required by the director of the community event. All other vendors must contact the director of the community event.
5. No license shall be required for the sale of goods or merchandise on behalf of a bonified charitable, religious, civic, educational or political organization.

**Section 9-8.6. LICENSE INELIGIBILITY.**

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

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

**Section 9-8.7. PROHIBITED SALES.**

No Transient Merchant or seller at a Flea Market, except an authorized manufacturers representative, shall offer for sale any of the following items:

1. Infant formula or other food intended primarily for consumption by a child under the age of two (2) years;
2. Over the counter drugs, medical devices, and cosmetics;

**Section 9-8.8. SUSPENSION AND REVOCATION.**

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

C. Violation of any provision of this chapter.

2. Multiple Persons Under One License. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.
3. Notice. Prior to revoking or suspending any license issued under this chapter, the City shall provide the license holder with written notice of the alleged violations and inform the licensee of his/her right to a hearing on the alleged violation.
4. Public Hearing. Upon receiving the notice provided in paragraph 3 of this section, the licensee shall have the right to request a public hearing. If no request for hearing is received by the City Clerk within ten (10) regular business days following the service of the notice, the City may proceed with the suspension or revocation. If a public hearing is requested within the stated timeframe, a hearing shall be scheduled. Following the hearing the City Council shall notify the licensee of its decision.
5. Emergency. If, in the discretion of the Chief of Police, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this chapter, the Chief of Police may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in paragraph 4 of this section.

#### **Section 9-8.9. TRANSFERABILITY**

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

#### **Section 9-8.10. PROHIBITED ACTIVITIES**

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

1. Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
2. Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right-of-way.
3. Conducting business in a way as to create a threat to the health, safety and welfare of any individual or the general public.
4. Door to door solicitations shall not be conducted before 8:00 a.m. or after 8:00 p.m.

5. Failing to provide proof of license and identification, when requested; or using the license or registration of another person.

6. Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler or transient merchant shall claim to have the endorsement of the City solely based on the City having issued a license to that person.

7. Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive.

**Section 9-8.11. EXCLUSION BY PLACARD.**

No peddler, solicitor or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor or transient merchant when the property is marked with a sign or placard at least four inches long and four inches wide with print of at least 48 point in size stating “No Peddlers, Solicitors or Transient Merchants,” or “Peddlers, Solicitors, and Transient Merchants Prohibited” or other comparable statement. No person other than the property owner or tenant shall remove, deface or otherwise tamper with any sign or placard under this section.

**Section 9-8.12. GENERAL PENALTY.**

1. Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided, shall, upon conviction, be guilty of a misdemeanor.

2. Any person, firm or corporation who violates any provision of this code, including Minnesota Statutes specifically adopted by reference, which is designated to be a petty misdemeanor shall, upon conviction be guilty of a petty misdemeanor.

3. In either the case of a misdemeanor or a petty misdemeanor, the costs of prosecution may be added. A separate offense shall be deemed committed upon each day during which a violation occurs or continues.

4. The failure of any officer or employee of the City to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for a violation.

**Section 9-8.13. DUTIES OF POLICE**

It shall be the duty of any police officer of the City to require any person seen peddling or engaging in like activities, and who is not known to such officer to be duly licensed, to produce his license and to enforce the provisions of this article against any person when in violation of this Chapter.

## CHAPTER 9 – LICENSE AND BUSINESS REGULATIONS

### ARTICLE 9. RULES, REGULATIONS AND LICENSING RELATING TO SOLID WASTE AND RECYCLABLE MATERIALS COLLECTION AND DISPOSAL

#### Section 9-9.1. DEFINITIONS

The following terms, as used in this Section, shall have the meanings stated:

1. *Collection* is the aggregation of mixed municipal solid waste, yard waste and/or separate waste streams from the place at which it is generated and includes all activities up to the time the mixed municipal solid waste, yard waste and/or separate waste stream is delivered to a waste facility.
2. *Compostable materials* include but are not limited to kitchen wastes, food wastes, paper wastes, and other clean organic wastes, but not including yard waste.
3. *Garbage* is discarded material resulting from the handling, processing, storage, preparation, serving and consumption of food.
4. *Mixed municipal solid waste* shall mean garbage, refuse and other solid waste from residential, commercial, industrial, and community activities which is generated and collected in aggregate, but does not include recyclable materials, auto hulks, street sweepings, ash, construction debris, mining waste, sludge, tires, lead acid batteries, used oil, infectious waste and other materials collected, processed and disposed of as separate waste streams.
5. *Recyclable materials* shall mean materials that are separated from mixed municipal solid waste for the purpose of recycling, including, but not limited to, paper, glass bottles, metal, plastic containers, and other materials.
6. *Recycling* is the process of collecting and preparing recyclable materials and reusing them in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.
7. *Refuse* is putrescible and nonputrescible solid waste, except body wastes, and includes garbage and rubbish.
8. *Separate waste streams* are materials that are collected, processed or disposed of separately from mixed municipal solid waste, including, but not limited to, compostable materials, auto hulks, street sweepings, ash, earthen fill, boulders, rocks and other material normally handled in construction operations, mining waste, tree and agricultural wastes, yard waste, tires, lead acid batteries, used motor oil and major appliances.
9. *Yard waste* shall mean lawn cuttings, leaves, weeds, garden wastes and soft bodied plants.

## Section 9-9.2. LICENSE REQUIRED

1. Haulers License Required. No person shall engage in the business of mixed municipal solid waste, garbage, refuse, compostable materials or recyclable materials collection or conveyance in the City of Pequot Lakes unless such person shall first secure from the City, annually, a haulers license to do so and pay the license fee pursuant to the provisions contained in this article. The license is non-transferable, unless approved by the City Council.

2. Application for Haulers License. An applicant for a haulers license shall make application to the City Clerk on a form prepared by the City Clerk and in accordance with those procedures prescribed by the City Clerk. All applications shall be complete or shall be rejected. An applicant denied a license by the City Clerk may have the decision reviewed by the City Council. The applicant shall request review by the City Council in writing within ten days after denial of the license.

The application shall accurately state at a minimum:

- A. The name, telephone number and current address of the applicant;
- B. A description of each motor vehicle to be used for hauling, including the license number thereof; and
- C. Such other information as the City Clerk may require or as required by this article.
- D. A copy of the current D.O.T. inspection report.

3. Insurance. No license shall be issued until the applicant files with the City Clerk a valid certificate of insurance protecting the licensee from claims for damages and bodily injuries, including accidental death, as well as for claims for property damage which may arise from operations involving all phases of mixed municipal solid waste or disposal operations, as herein defined and evidencing the following minimum insurance coverages:

- A. Commercial general liability insurance coverage in an amount of not less than \$1,000,000.00 for injury to any one or more persons or property damage resulting from any one accident;
- B. Automobile liability coverage with a combined single limit of \$1,000,000.00 covering all owned, hired and non-owned vehicles; and
- C. Statutory workers' compensation insurance.

All obligations and costs regarding required insurance shall be the responsibility of the applicant. Such insurance shall be kept in force during the term of the license. Any

license issued under this Section shall automatically be revoked upon notice of termination or cancellation of such insurance.

4. Fee; Term. The annual license fee shall be duly set by the City Council by resolution. Such license shall expire December 31 of each year. The license fee will not be prorated. The license fee shall be paid at the time of application for such license. The licensee shall not be entitled to refund of any license fee upon suspension, revocation or voluntarily ceasing to carry on the license activity.

5. Indemnification. The licensed hauler shall hold the City harmless from all damages and claims of damages that may arise by reason of any negligence of the licensed hauler or the licensee's agents or employees while engaged in the performance of the work and services covered by the license and shall indemnify the City against all claims, liens, expenses and claims for liens for work, tools, machinery, materials or insurance premiums or equipment or supplies and against all loss by reason of failure of the licensee in any respect to fully perform all obligations outlined in the license, or by law, regulation, ordinance or contract regarding solid waste collection.

### **Section 9-9.3. COLLECTION AND TRANSPORTATION OF RECYCLABLES**

1. All haulers licensed to do business in the City of Pequot Lakes must offer collection of recyclable materials to residential dwelling units.

2. Collection of recyclable materials shall be made at least twice per month.

3. The recyclable materials collection shall be from a location at or near the customer's mixed municipal solid waste, garbage and/or refuse collection site or other location mutually agreeable to the hauler and the customer.

4. Nothing herein shall be construed to prevent a licensee from offering curbside collection for other recyclable materials, in addition to those defined in this article.

5. The licensed hauler shall be deemed the owner of the recyclable materials upon collection and may market and sell the same.

6. The appropriation of SCORE funding, if any, shall be paid on a quarterly basis to licensed haulers pursuant to such laws, regulations or contractual agreements pertaining to such SCORE funding. Payment of the SCORE funds shall be based on the weight of the recyclable materials collected. There is no guarantee of or obligation by the City to apply for or use SCORE funding for this or any other program and such SCORE funding will be used only to the extent it is available to the City.

7. All licensed haulers are required to provide SCORE reports to the City, at least on a quarterly basis, showing the number of residential dwelling units served and the weight of recycling materials collected.

8. The licensed hauler shall not impose a greater charge on residential customers who recycle than those who do not recycle.

**Section 9-9.4. SERVICE REQUIREMENTS FOR LICENSED HAULERS**

1. Frequency of service. Licensed haulers must offer collection service at least once per week with the exception of recyclable materials collection which shall be offered at least twice monthly.
2. Compliance with law. The licensed hauler shall comply with all state, county, local laws and regulations.

**Section 9-9.5. TRANSPORTATION OF WASTE AND RECYCLABLE MATERIALS**

1. A licensed hauler shall transport mixed municipal solid waste, recyclable materials, compostable materials, yard waste, garbage and refuse in the City only in a covered vehicle having a watertight body which prevents scattering, dripping or removal of the contents from the vehicle during collection and transportation of the same to a disposal facility. The body of each such vehicle shall be designed for complete emptying at the disposal site.
2. Each such vehicle shall be maintained in a reasonably clean condition. The city council may revoke or suspend the license of the hauler for failure to comply with this subsection. Permitting mixed municipal solid waste, recyclable materials, compostable materials, yard waste, garbage or refuse to scatter, drip, fall, spill, blow or otherwise be removed from the licensee's vehicle during transportation of its contents is prohibited and is declared a public nuisance.

**Section 9-9.6. REQUIRED COLLECTION AND DISPOSAL**

1. The owner and/or occupant of any premises, business establishment or industry in the City shall be responsible for the sanitary storage of all mixed municipal solid waste, garbage, refuse and/or separate waste streams accumulated or stored at that premises, business establishment or industry.
2. No commercial or industrial mixed municipal solid waste, garbage, refuse and/or separate waste streams shall be collected or disposed of except by a duly licensed hauler.

**Section 9-9.7. SOLID WASTE STORAGE**

1. The owner, occupant and/or the person in control of any residential property, business establishment or industry, shall be responsible for the satisfactory storage of all mixed municipal solid waste and separate waste streams accumulated at the premises, business establishment or industry.
2. Mixed municipal solid waste shall be stored in durable, rust-resistant, non-absorbent, watertight, rodent-proof and easily cleanable containers, with close-fitting, fly-tight covers and/or disposable plastic bags with tightly sealed openings.
3. All containers for the storage of mixed municipal solid waste shall be maintained in a manner as to prevent the creation of a nuisance or menace to public health.

Containers that are broken or otherwise fail to meet requirements of this chapter shall be replaced with acceptable containers.

**Section 9-9.8. ENFORCEMENT**

1. Revocation or suspension of license. The city council may suspend or revoke any license when the licensed hauler neglects or fails to comply with the provisions of applicable law, regulations or ordinances.
2. Inspection. Inspection may be made of any premises, facilities or equipment in connection with the storage, collection, transportation, treatment, handling, utilization, processing and final disposal of mixed municipal solid waste and/or separate waste streams at any reasonable time upon showing proper identification. Inspection may be made by authorized personnel from the department of public works, Crow Wing County, the state pollution control agency, as appropriate, or any peace officer.
3. Violations. Whenever it is found that a violation of the provisions of this article exists, the department of public works, police department and/or the city clerk may take action to correct the conditions by serving a written order or notice upon the person responsible therefor directing him to discontinue the illegal action or correct the condition which is in violation of the provisions and regulations of this chapter. Any violation of this chapter is a misdemeanor, unless otherwise specified. The penalty provided herein may be imposed in addition to suspension or revocation of the license.

**CHAPTER 10 – [RESERVED FOR EXPANSION]**

## CHAPTER 11 – TRAFFIC AND VEHICLES

### ARTICLE 1. RESTRICTING PARKING FOR SNOW REMOVAL

#### Section 11-1.1. SNOW REMOVAL

Public safety requires the rapid and efficient removal of snow or ice from city streets, public highways or other thoroughfares. The presence of motor vehicles or other vehicles in the street and adjacent parking areas limits the ability of snow removal crews to evacuate snow in an efficient manner.

#### Section 11-1.2. PARKING RESTRICTIONS

No person shall stop, stand, or park any vehicle or permit it to stand on any street in the city between the hours of 2:00 a.m. and 6:00 a.m. on any day between November 1 and March 31.

1. Exceptions. Police cars, hearses, ambulances, and fire department vehicles and vehicles responding to emergency calls are exempt from the prohibition of subsection (a) of this section. Vehicles called out for emergency repairs to electric light and power lines, telephone lines, natural gas and sewer and water systems are also exceptions.
2. Removal of Vehicles. The police department or authorized representative of the city is hereby authorized to remove such vehicle from the street or public parking lot and to store the vehicles for the owner thereof. The removal and storage charge shall be paid by the owner of such vehicle. The City of Pequot Lakes shall not be liable for any damage to the vehicles caused by the towing of the vehicle.

#### Section 11-1.3. PENALTY FOR VIOLATION

A violation of any section of this Chapter shall be punishable by payment of a fine, to be set by Ordinance. The fine shall be doubled if the fine is not paid within seven days, and/or if the violator has received a parking violation within the last 30 days.

1. Owner of Vehicle Presumed Responsible for Violations. The presence of any motor vehicle on any street when standing or parked in violation of this Chapter is prima facie evidence that the registered owner or current owner of the vehicle committed or authorized the commission of the violation.
2. Impoundment of Vehicles. Any police officer may remove a vehicle from a street or public parking lot to a garage or other place of safety when the vehicle is left unattended and constitutes an obstruction to traffic or hinders snow removal or street improvement or maintenance operations. Such vehicle shall not be released until the fees for towing and storage are paid, in addition to any fine imposed for violation of this chapter.

## CHAPTER 11 – TRAFFIC AND VEHICLES

### ARTICLE 2. ROAD RESTRICTIONS AND LOAD LIMITS

#### Section 11-2.1. PURPOSE

To preserve the condition of the public streets within the City of Pequot Lakes from serious damage or destruction by the excessive use of these streets by trucks and other heavily laden vehicles and to reduce the amount of cost and expense to the taxpayers of the City of Pequot Lakes for street maintenance.

#### Section 11-2.2. RESTRICTIONS

The City Council shall set by resolution, road restrictions, including weight limitations for all municipally owned and maintained streets, whenever by reason of deterioration, rain, snow, or other climatic conditions said streets will be damaged or destroyed.

#### Section 11-2.3. POSTING

Any street affected by said resolution shall be posted with signs plainly indicating the restriction at each end of the portion of street affected.

#### Section 11-2.4. EXEMPTIONS

School buses, refuse haulers, and heating fuel trucks are given special permission to proceed with normal operation on their regularly established routes at regularly established hours.

#### Section 11-2.5. PENALTY

Any person, party or firm who violates any provision of the above Chapter shall be guilty of a misdemeanor.

## CHAPTER 11 – TRAFFIC AND VEHICLES

### ARTICLE 3. REGULATION OF SNOWMOBILES AND RECREATIONAL MOTOR VEHICLES

#### Section 11-3.1. PURPOSE

The purpose of this section of City Code is to provide reasonable regulations for the use of snowmobiles and recreational motor vehicles on public and private property in the City of Pequot Lakes. This Chapter is not intended to allow what Minnesota Statutes prohibit nor to prohibit what Minnesota Statutes expressly allow. It is intended to ensure the public safety and prevent a public nuisance.

#### Section 11-3.2. DEFINITIONS

1. Recreational Motor Vehicle. Any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational purposes, including but not limited to trail bikes or other all-terrain vehicles, motorized go-carts, Hovercraft, motorized bicycle, snowmobile, or motor vehicle licensed for highway operation which is being used for off-road recreational purposes.
2. Snowmobile. A self-propelled vehicle designed for travel on snow or ice or natural terrain steered by wheels, skis, runners or power-driven drum or tracks.
3. Motorized Bicycle. Bicycle with fully operable pedals which may be propelled by human power or a motor, or by both, with a motor of capacity of less than 50 cubic centimeters piston displacement, and a maximum of two break horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface with nor more than one percent grade in any direction when the motor is engaged.
4. All-Terrain Vehicle or "ATV". Trail bikes, amphibious vehicles and similar devices, other than snowmobiles, used at least partially for travel on natural terrain, but not "special mobile equipment" defined in Minn. Stat. §168.011, Subdivision 22, as amended, which is hereby incorporated herein by reference.
5. Operate. To control the operation of a snowmobile, motorized bicycle, all-terrain vehicle recreational motor vehicle.
6. Operator. A person who operates or is in control of a snowmobile, motorized bicycle, all-terrain vehicle or recreational motor vehicle.
7. Snowmobile Trail. Property designated for use by snowmobiles in the City of Pequot Lakes, including the Paul Bunyan Trail.

### **Section 11-3.3. RECREATIONAL MOTOR VEHICLE OPERATING**

1. Restrictions. It is unlawful for any person to operate a recreational motor vehicle as follows:
  - A. On a public sidewalk or walkway provided or used for pedestrian travel, or to park a recreational motor vehicle on any public sidewalk.
  - B. On private property of another without the express permission to do so by the owner or occupant of said property.
  - C. On public school grounds, park property, skating rinks, sliding areas, cemetery, playgrounds or recreational areas without express permission to do so by the property public authority. Provided however, that the City Council may, by resolution, specifically permit use on City property, in which event the shortest route to and from areas permitted shall be used.
  - D. While the operator is under the influence of alcohol or controlled substances, as defined in Minn. Stat. §169A.20, as amended, which is hereby incorporated herein by reference.
  - E. Upon any public street within the city limits of the City of Pequot Lakes at any speed in excess of 15 miles per hour.
  - F. In a careless, reckless or negligent manner so as to endanger the person or property of another or cause injury or damage thereto.
  - G. Towing any person or thing on a public street highway except through the use of a rigid tow bar attached to the rear of an automobile.
  - H. In a manner so as to create a loud, unnecessary or unusual noise which disturbs, annoys or interferes with the peace and quiet of other persons.
  - I. Chasing, running over, or killing an animal, wild or domestic.
  - J. Without having such recreational motor vehicle registered as provided for in Minnesota Statutes.

### **Section 11-3.4. CHAPTER COMPLIANCE**

City traffic ordinances shall apply to the operation of snowmobiles and recreational motor vehicles upon street and highways, except for those relating to required equipment and speed and except those which by their nature have no application.

### **Section 11-3.5. STREET CROSSINGS**

A snowmobile or recreational motor vehicles may make a direct crossing of a street or highway provided:

1. The crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing; and
2. the snowmobile or recreational motor vehicle is brought to a complete stop before crossing the shoulder or main traveled way of the highway; and
3. the operator yields the right-of-way to all pedestrians and oncoming traffic which constitutes an immediate hazard; and
4. in crossing a divided highway, the crossing is made only at an intersection of such divided highway with another public street or highway.

### **Section 11-3.6. PERSONS UNDER 18 YEARS OF AGE**

No person under 14 years of age shall operate on City streets or make a direct crossing of a City street as the operator of snowmobile, or a recreational motor vehicle. A person 14 years of age or older, but less than 18 years of age, may operate a snowmobile or recreational motor vehicle on streets as permitted by this Chapter and make a direct crossing of such streets only if he has in his immediate possession a valid snowmobile safety certificate or ATV safety permit issued by the Commissioner of Natural Resources as provided by Minnesota Statute 84.86.

### **Section 11-3.7. DESIGNATED TRAIL**

The designated trail from the City of Breezy Point to the Paul Bunyan Trail shall be from the intersection of CSAH 11 and C.R. 112 going South on C.R. 112 to E. Butler Street, then West on E. Butler Street to the Paul Bunyan Trail.

### **Section 11-3.8. MINIMUM EQUIPMENT REQUIREMENTS**

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

4. A safety or so-called "deadman" throttle in operating condition; a safety or deadman throttle is defined as a device which, when pressure is removed from the accelerator or throttle, the motor is disengaged from the driving track.

**Section 11-3.9. MOTOR RUNNING**

It is unlawful for the owner or operator to leave a snowmobile to be or remain unattended on public property while the motor is running or with the keys to start same in the ignition switch.

**Section 11-3.10. IGNITION LOCK**

Every person leaving a snowmobile or recreational motor vehicle on a public place shall lock the ignition, remove the key, and take the same with them.

**Section 11-3.11. COUNCIL RULES**

The City Council may by resolution prohibit the operation of snowmobiles or recreational motor vehicles within the right-of-way of the public roads or streets or other public property within the City, when in the opinion of the Council the public safety and welfare so requires.

**Section 11-3.12. PENALTY**

Any person violating the terms of this Chapter shall be guilty of a misdemeanor.

**CHAPTER 12 – [RESERVED FOR EXPANSION]**

## **CHAPTER 13 – STREETS, SIDEWALKS, RIGHTS-OF-WAY, AND PUBLIC PLACES**

### **ARTICLE 1. BIRCH LANE CARTWAY**

#### **Section 13-1.1. PURPOSE**

This section of the City Code is intended to promote the health, general welfare and safety of the residents of Pequot Lakes and the motoring public upon the local road system.

#### **Section 7-1.2. RULES AND REGULATIONS FOR THE BIRCH LANE CARTWAY**

1. The cartway is open from 10:00 a.m. to 10:00 p.m. daily
2. No alcoholic beverages are allowed in the cartway area.
3. All litter and garbage must be placed in garbage cans.
4. No dogs or pets are allowed on the cartway.
5. No parking shall obstruct traffic or interfere with private property or private driveways.
6. No fires are allowed on the cartway.
7. No watercraft, snowmobiles, or motorized off-road vehicles are allowed on the cartway or cartway shore.
8. Any person using the cartway area must act in a peaceful and orderly manner. Loud or disruptive behavior or loud amplification which would constitute a nuisance is hereby expressly prohibited.
9. No camping is allowed on the cartway.

#### **Section 13-1.3. ENFORCEMENT**

Failure to comply with any provisions listed in this Chapter shall constitute a misdemeanor.

## **CHAPTER 13 – STREETS, SIDEWALKS, RIGHTS-OF-WAY, AND PUBLIC PLACES**

### **ARTICLE 2. SIDEWALKS AND SIDEWALK REPAIR**

#### **Section 13-2.1. PUBLIC NUISANCE**

All snow, ice, dirt and rubbish remaining on a public sidewalk more than 12 hours after its deposit thereon is hereby declared to be a public nuisance. The owner and the occupant of any property adjacent to such a public sidewalk shall use due diligence to keep such walk safe for pedestrians. No such owner or occupant of any property adjacent to such public sidewalk shall allow snow, ice, dirt or rubbish to remain on the walk longer than 12 hours after its deposit thereon.

#### **Section 13-2.2. REMOVAL OF SNOW, ICE, ETC. FROM SIDEWALKS**

The City of Pequot Lakes, through a designated official, shall remove from such public sidewalks, all snow, ice, dirt and rubbish as soon as possible, beginning 12 hours after any such matter has been deposited thereon, or after the snow has ceased to fall.

#### **Section 13-2.3. INSPECTION**

It shall be the duty of a designated official to make such inspections as are necessary to determine that public sidewalks within this municipality are kept in repair and safe for pedestrians. If he finds that any sidewalk abutting on private property is unsafe and in need of repairs, he shall cause a notice to be served, by registered mail, upon the record owner of the property and the occupant, if the owner does not reside within the municipality or cannot be found therein, ordering such owner to have the sidewalk repaired and made safe within 30 days, and stating that if the owner fails to do so, an official will do so on behalf of this municipality and that the expense thereof must be paid by the owner, and that if unpaid, it will be made a special assessment against the property concerned.

#### **Section 13-2.4. COST**

Such costs of all snow and ice removal may be recovered, at the discretion of the City Council, either by a civil suit against the owner of the property so charged, or by certifying the cost of such removal to be collected with taxes in the same manner as special assessments are certified to the County Auditor for collection.

#### **Section 13-2.5. HANDICAPPED ACCESSIBLE ACCESS**

Any new construction of sidewalk after the passage of this Chapter shall at intersections have handicapped access ramps.

#### **Section 13-2.6. PENALTY**

Any person who maintains a nuisance in violation of this Chapter, or any person who interferes with a City employee or otherwise authorized person in the performance of these services

provided by this Chapter, or any person who violates any terms or sections thereof, is guilty of a misdemeanor.

**CHAPTER 13 – STREETS, SIDEWALKS, RIGHTS-OF-WAY, AND PUBLIC PLACES**

**ARTICLE 3. CAMPING REGULATIONS IN PUBLIC PARKS**

**Section 13-3.1. RULES AND REGULATIONS**

It shall be unlawful for any person, in any manner, to camp overnight in any public park within the corporate limits of the City of Pequot Lakes.

**Section 13-3.2. PENALTY**

Any person violating any of the provisions of this Chapter shall, on conviction thereof, be deemed guilty of a misdemeanor.

Each day of the violation of the provisions of this Chapter shall constitute a separate offense.

## CHAPTER 13 – STREETS, SIDEWALKS, RIGHTS-OF-WAY, AND PUBLIC PLACES

### ARTICLE 4. REGULATING THE USE OF SKATEBOARDS, ROLLER BLADES, ROLLER SKATES AND ROLLER SKIS ON CERTAIN CITY STREETS AND SIDEWALKS AND CERTAIN PUBLIC PROPERTY

#### Section 13-4.1. PURPOSE

The purpose of this section of the City Code is to protect the public health and safety arising out of the use of skateboards, roller blades, roller skates, and roller skis within the City of Pequot Lakes. The City Council of the City of Pequot Lakes finds that there are certain public streets and public property wherein the operation and use of skateboards, roller blades, roller skates and roller skis create an unnecessary potential danger to either the user of such devices or the general public; and that the use of said devices in an improper manner may cause destruction of property.

#### Section 13-4.2. DEFINITIONS

Unless the context clearly indicates otherwise, the following words shall have these meanings:

1. Roller Skates and Roller Blades. A shoe with wheels attached or a device with wheels which is designed to be attached to a shoe.
2. Skateboard. A wheeled self-propelled and manually propelled device to transport a rider which device is not otherwise secured to the rider's feet or shoes.
3. Roller Skis. A pair of skis platformed with wheels attached which is intended to simulate skiing.
4. Operate. To ride on or upon or control the operation of a skateboard, roller skates or roller skis.
5. Operator. Every person who operates or is in actual physical control of a skateboard, roller skates or roller skis.

#### Section 13-4.3. PROHIBITED ACTS

It shall be unlawful for any person to ride or operate a self-propelled or manually propelled wheeled device under any of the following conditions:

1. On any public sidewalk, on any street that runs east and west, on Main Street, County Road 11, the downtown business area and on South Oak Street.
2. On any public or private parking lot without the express written permission of the property owner.
3. Upon any property containing facilities designed to invite public pedestrian shopping traffic, unless written permission has been obtained from the owner, occupant, or person in charge of the property.

4. In any area within the City while being pushed, pulled or in anyway propelled by any motorized vehicle or by a person on a bicycle.
5. In a careless, reckless, or negligent manner in disregard for the rights or safety of property or any other person.
6. Contrary to the rights and duties applicable to the driver of any vehicle pursuant to Minnesota Statutes, Chapter 169, except in respect to those provisions therein which by their nature cannot reasonably be applied to such devices.
7. Upon the roadway of any State or County State Aid Highway.

**Section 13-4.4. RESPONSIBILITY OF PARENT**

No parent, guardian, or other adult having custody and control of a minor under 18 years of age shall knowingly permit the minor to violate the provisions of this Chapter.

**Section 13-4.5. VIOLATIONS**

Any person who violates any provision of this Chapter shall be guilty of a petty misdemeanor.

In addition, any police officer who observes any person violating this Chapter is authorized to seize the offender's skateboard, roller skates, roller blades or roller skis and hold the same at the Pequot Lakes Police Department. In the event of such a seizure, the offender, if an adult, may secure the return of the article seized after twenty-four (24) hours have elapsed since the seizure. In the case of a minor, the article seized shall be returned only to the parent or guardian of such minor offender after twenty-four (24) hours have elapsed since the seizure.

**CHAPTER 13 – STREETS, SIDEWALKS, RIGHTS-OF-WAY, AND PUBLIC PLACES**

**ARTICLE 5. RIGHT-OF-WAY MANAGEMENT**

(RESERVED)

**CHAPTER 14 – [RESERVED FOR EXPANSION]**

## CHAPTER 15 – UTILITIES

### ARTICLE 1. SEWER USE REGULATIONS

#### Section 15-1.1. PURPOSE

The purpose of this section of the City Code is to regulate the use of public and private sewers and drains, private wastewater disposal, the installation and connection of building sewers, and the discharge of waters and wastes into the public sewer system(s); and providing penalties for violations thereof.

#### Section 15-1.2. DEFINITIONS

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

1. Act. The Federal Water Pollution Control Act also referred to as the Clean Water Act, as amended, 33. U.S.C. 1251, et seq.,
2. ASTM. American Society for Testing Materials.
3. Authority. The City of Pequot Lakes, Minnesota or its representative thereof.
4. BODS or Biochemical Oxygen Demand. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees Centigrade in terms of milligrams per liter (mg/l).
5. Building Drain. That part of the lowest horizontal piping of a drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside the building wall.
6. Building Sewer. The extension from the building drain to the public sewer or other place of disposal, also referred to as a house connection or service connection.
7. City. The area within the corporate boundaries of the City of Pequot Lakes as presently established or as amended by ordinance or other legal actions at a future time. The term “City” when used herein may also be used to refer to the City Council and its authorized representative.
8. Chemical Oxygen Demand (COD).The quantity of oxygen utilized in the chemical oxidation of organic matter as determined by standard laboratory procedures, and as expressed in terms of milligrams per liter (mg/l).
9. Compatible Pollutant. Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the MPDES/SDS Permit if

the treatment facilities are designed to treat such pollutants to a degree which complies with effluent concentration limits imposed by the permit.

10. Control Manhold. A structure specially constructed for the purpose of measuring flow and sampling of wastes.

11. Easement. An acquired legal right for the specific use of land owned by others.

11a. ERC. Equivalent Residential Connection – A building, or portion thereof, servicing a primary individual dwelling unit. Examples include single-family homes, apartments, attached homes, townhouses, cooperative housing, condominiums, and manufactured homes. This does not include uses such as motels/hotels, camps, nursing homes, assisted living, or prisons. The concentration of sewage shall be normal domestic strength wastewater.

12. Fecal Coliform. Any number of organisms common to the intestinal tract of man and animals whose presence in sanitary sewage is an indicator of pollution.

13. Floatable Oil. Oil, fat or grease in a physical state, such that it will separate by gravity from wastewater.

14. Garbage. Animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

15. Incompatible Pollutant. Any pollutant that is not defined as a compatible pollutant (Sec. 9) including non-biodegradable dissolved solids.

16. Industry. Any non-governmental or non-residential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual, latest edition, which is categorized in Divisions A, B, D, E and I.

17. Industrial Waste. Gaseous, liquid and solid wastes resulting from industrial or manufacturing processes, trade or business, or from the development, recovery and processing of natural resources, as distinct from residential or domestic strength wastes.

18. Infiltration. Water entering the sewage system (including building drains and pipes) from the ground through such means as defective pipes, pipe joints, connections and manhole walls.

19. Infiltration/Inflow – (I/I). The total quantity of water from both infiltration and inflow.

20. Inflow. Water other than wastewater that enters a sewer system (including building drains) from sources such as, but not limited to, roof leaders, cellar drains, yard and area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers, catch basins, surface runoff, street wash waters or drainage.

21. Interference. The inhibition or disruption of the City's wastewater disposal system processes or operations which cause or significantly contributes to a violation of any requirement of the City's NPDES and/or SDS Permit. The term includes of sewage sludge use or disposal by the City in accordance with published regulations providing guidelines under Section 405 of the Act or any regulations developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria applicable to the method of disposal or use employed by the City.
22. MPCA. Minnesota Pollution Control Agency.
23. National Categorical Pretreatment Standards. Federal regulations establishing pretreatment standards for introduction of pollutants in publicly-owned wastewater treatment facilities which are determined to be not susceptible to treatment by such treatment facilities or would interfere with the operation of such treatment facilities, pursuant to Section 307(b) of the Act.
24. National Pollutant Discharge Elimination System (NPDES). A permit issued by the MPCA, setting limits on pollutants that a permittee may legally discharge into navigable waters of the United States pursuant to Sections 402 and 405 of the Act.
25. Natural Outlet. Any outlet, including storm sewers and combined sewers, which overflow into a watercourse, pond, ditch, lake or other body of surface water or ground water.
26. Non-Contact Cooling Water. The water discharged from any use such as air conditioning, cooling or refrigeration, or during which the only pollutant added, is heat.
27. Normal Domestic Strength Waste. Wastewater that is primarily introduced by residential users with a BODs concentration not greater than 250 mg/l and a suspended solids (TSS) concentration not greater than 302mg/l.
28. Person. Any individual, firm, company, association, society, corporation, or group.
29. "pH" The logarithm of the reciprocal of the concentration of hydrogen ions in terms of grams per liter of solution.
30. Pretreatment. The treatment of wastewater from industrial sources prior to the introduction of the waste effluent into a publicly owned treatment works. (See Sec. 23.)
31. Properly Shredded Garbage. The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than ½ inch (1.27 cm) in any dimension.
32. Sewage. The spent water of a community. The preferred term is wastewater.
33. Sewer. A pipe or conduit that carries wastewater or drainage water.

- A. Collection Sewer. A sewer whose primary purpose is to collect wastewaters from individual point source discharges and connections.
  - B. Combined Sewer. A sewer intended to serve as a sanitary sewer and a storm sewer.
  - C. Force Main. A pipe in which wastewater is carried under pressure.
  - D. Interceptor Sewer. A sewer whose primary purpose is to transport wastewater from collection sewers to a treatment facility.
  - E. Private Sewer. A sewer which is not owned and maintained by a public authority.
  - F. Public Sewer. A sewer owned, maintained and controlled by a public authority.
  - G. Sanitary Sewer. A sewer intended to carry only liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm, and surface waters which are not admitted intentionally.
  - H. Storm Sewer or Storm Drain. A drain or sewer intended to carry storm waters, surface runoff, ground water, sub-surface water, street wash water, drainage and unpolluted water from any source.
- 33a. Sewer Availability Charge. The charge as determined by the City pursuant to Minn. Stat. Sec. 444.075 for availability of and connection to the public sewer.
34. Shall. Is mandatory; “MAY” is permissive.
35. Significant Industrial User. Any industrial user of the wastewater treatment facility which has a discharge flow (1) in excess of 25,000 gallons per average work day, or (2) has exceeded five percent (5%) of the total flow received at the treatment facility, of (3) whose waste contains a toxic pollutant in toxic amounts pursuant to Section 307(s) of the Act, or (4) whose discharge has a significant effect, either singly or in combination with other contributing industries, on the wastewater disposal system, the quality of sludge, the system’s effluent quality, or emissions generated by the treatment system.
36. Slug. Any discharge of water or wastewater which in concentration of any given constituent, or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average 24-hour concentration of flows during normal operation, and shall adversely affect the collection and/or performance of the wastewater treatment works.

37. State Disposal System (SDS) Permit. Any permit (including any terms, conditions and requirements thereof) issued by the MPCA pursuant to Minnesota Statutes 115.07 for a disposal system as defined by Minnesota Statutes 115.01, Subdivision 8.
38. Suspended Solids (SS) or Total Suspended Solids (TSS). The total suspended matter that either floats on the surface of, or is in suspension in water, wastewater or other liquids, and is removable by laboratory filtering as prescribed in “Standard Methods for the Examination of Water Wastewater”, latest edition, and referred to as non-filterable residue.
39. Toxic Pollutant. The concentration of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse affects as defined in standards issued pursuant to Section 307(a) of the Act.
40. Unpolluted Water. Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards, and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities. (See “Non contact Cooling Water”, Sec. 26.).
41. User. Any person who discharges or causes or permits the discharge of wastewater into the City’s wastewater disposal system.
42. Wastewater. The spent water of a community and referred to as sewage. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with any ground water, surface water and storm water that may be present.
43. Wastewater Treatment Works or Treatment Works. An arrangement of any devices, facilities, structures, equipment, or processes owned or used by the City for the purpose of the transmission, storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage or industrial wastewater, or structures necessary to recycle or reuse water including interceptor sewers, outfall sewers, collection sewers, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled water supply such as standby treatment units and clearwell facilities; and any works including land which is an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.
44. Watercourse. A natural or artificial channel for the passage of water, either continuously or intermittently.
45. WPCF. The Water Pollution Control Federation.

### Section 15-1.3. CONTROL BY THE PUBLIC WORKS SUPERVISOR

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

#### Section 15-1.4. UNLAWFUL ACTS

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under jurisdiction, any human or animal excrement, garbage or objectionable waste.
2. It shall be unlawful to discharge to any natural outlet any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Chapter and the City's NPDES/SDS Permit.
3. Except as provided hereinafter, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.
4. Requirement to Connect to Public Sanitary Sewer. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes from which wastewater is discharged, and which is situated within the City and adjacent to any street, alley, or right-of-way in which there is now located, or may in the future be located, a public sanitary sewer of the City, shall be required at the owner(s) expense to install a suitable service connection to the public sewer in accordance with provisions of this Code, within ninety (90) days of the date said public sewer is operational, provided said public sewer is within 100 feet of the structure generating the wastewater. All future buildings constructed on property adjacent to the public sewer shall be required to immediately connect to the public sewer. If sewer connections are not made pursuant to this section, an official thirty (30) day notice shall be served instructing the affected property owner to make said connection. Notwithstanding the foregoing all properties that meet the requirement to connect to Public Sanitary Sewer must connect when the real estate is conveyed or when the existing system fails inspection.
5. Failure to connect to public sanitary sewer. In the event an owner shall fail to connect to a public sanitary sewer in compliance with a notice given under this Chapter, it shall be deemed a public nuisance and a misdemeanor and shall be punishable upon conviction thereof in accordance with the laws of the State of Minnesota. The City may make the connection as a means of abating the nuisance and charge the cost back to the offending landowner with such cost to be collected as a user fee and shall assess the cost thereof against the benefited property. Such assessment, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the Auditor of the County of Crow Wing, Minnesota, and shall be collected and remitted to the City in the same manner as assessments for local improvements. The rights of the City shall be in addition to any remedial or enforcement provisions of this Chapter.
6. The City may also petition the District Court for a Court Order requiring the owner to connect to the public sanitary sewer system and ordering the owner to connect within a reasonable amount of time to be established by the Court, or for an Order authorizing the City to make the connection. In the event the City petitions the Court for an Order directing the connection, either by the owner or the City, the owner shall be

liable for all costs of enforcement including court costs and reasonable attorney's fees related to said action.

7. Violation of any provision of this Ordinance, including an owner's failure to connect to the public sanitary sewer system, shall constitute a misdemeanor offense, and shall be punishable upon the conviction thereof in accordance with the laws of the State of Minnesota thereunto appertaining. An owner found in violation shall be liable for the City's legal fees and expenses incurred therein.

**Section 15-1.5. RESPONSIBILITIES AND OWNERSHIP**

1. City Responsibility. The City shall maintain ownership of the sewer main and keep it in good working order.

2. Property Owners Responsibility. Property owners shall bear responsibility for their sewer system service connection beginning at the saddle of the sewer main facing their property line and ending with their residential pipes. The cost of installation, maintenance, repair, replacement or abandonment is a part of that responsibility.

**Section 15-1.6. PRIVATE WASTEWATER DISPOSAL**

1. Where a public sewer is not available under the provisions of this Chapter, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this Article.

2. Prior to commencement of construction of a private wastewater disposal system, the owner(s) shall first obtain a written permit signed by the City. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary to the City.

3. A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the City or its authorized representative. The City or its representative shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the City when work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 24 hours of the receipt of notice.

4. The type, capacities, location and layout of a private wastewater disposal system shall comply with all requirements of Chapter 7080 of the Minnesota Pollution Control Agency Individual Sewage Treatment Systems Programs. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

5. At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within sixty (60) days in compliance with the Chapter, and within ninety (90) days any septic tanks, cesspools, and similar private wastewater disposal systems shall be cleaned

of sludge. The bottom shall be broken to permit drainage, and the tank or pit filled with suitable material.

6. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times at no expense to the City.

7. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the MPCA or the Department of Health of the State of Minnesota.

#### Section 15-1.7. BUILDING SEWERS AND CONNECTIONS

1. Any new connection(s) to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities including, but not limited to capacity for flow, BODs, and Suspended Solids, as determined by the Public Works Supervisor.

2. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City.

3. Applications for permits shall be made by the owner or authorized agent and the party employed to do the work, and shall state the location, name of owner, street number of the building to be connected, and how occupied. No person shall extend any private building drain beyond the limits of the building or property for which the service connection permit has been given.

4. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the application shall be supplemented by any plans, specifications, or any other information considered pertinent in the judgment of the City. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics, and type of activity.

5. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may be directly or indirectly occasioned by the installation of the building sewer.

6. Repair required on abandonment of sewer service by a property owner must be performed by a licensed contractor approved hired by the City. The cost shall be borne by the property owner.

7. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway. The building sewer from the front building may be extended to the rear building and the whole considered one building sewer. The City does not and

will not assume any obligation or responsibility for damage caused by or resulting from any such connection aforementioned.

8. Old building sanitary sewers may be used in connection with new buildings only when they are found, on examination and tested by the Public Works Supervisor or his representative, to meet all requirements of this Chapter.

9. The size, slopes, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling of the trench, shall all conform to the requirements of the State of Minnesota Building and Plumbing Code or other applicable rules and regulations of the City. In the absence of code provisions or in the amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9, shall apply.

10. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

11. No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or indirectly to the wastewater disposal system.

12. The connection of the building sewer into the public sewer shall conform to the requirements of the State of Minnesota Building and Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight, and verified by proper testing to prevent the inclusion of infiltration/inflow. Any deviation from the prescribed procedures and materials must be approved by the City prior to installation.

13. The applicant for the building sewer permit shall notify the City when the building sewer is ready for inspection and connection to the public sewer. The connection and inspection shall be made under the supervision of the Public Works Supervisor or authorized representative thereof.

14. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work, shall be restored in a manner satisfactory to the City.

#### **Section 15-1.8. USE OF PUBLIC SERVICES**

1. No person(s) shall discharge or cause to be discharged any unpolluted water such as storm water, groundwater, roof runoff, surface drainage, or non-contact cooling water to any sanitary sewer.

2. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designed as storm sewers or to a natural outlet approved by the City and other regulatory agencies. Industrial cooling water or unpolluted process waters may be discharged to a storm sewer or natural outlet on approval of the City and upon approval and the issuance of a discharge permit by the MPCA.

3. No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- A. Any liquids, solids or gases which by reason of their nature or quantity are or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the wastewater disposal system or to the operation of the system. Prohibited materials include, but are not limited to: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.
- B. Solid or viscous substances which will cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, grease, garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.
- C. Any wastewater having a pH of less than 5.0 or greater than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater disposal system.
- D. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to inhibit or disrupt any wastewater treatment process, constitute a hazard to humans or animals, or create a toxic effect in the receiving waters of the wastewater disposal system. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.

4. The following described substances, materials, water or wastes shall be limited to discharges to municipal system to concentrations or quantities which will not harm either sewers, the wastewater treatment works treatment process or equipment, will not have an adverse effect on the receiving stream and/or soil, vegetation and ground water, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Public Works Supervisor may set limitations lower than limitations established in the regulations below if, in his opinion, such more severe limitations are necessary to meet the above objectives. In forming his opinion as to the acceptability of wastes, the Public Works Supervisor will give consideration to such factors as the quantity of subject waste in reaction to flows and velocities in the sewers, materials of construction of the sewers,

nature of the sewage treatment process, the City's NPDES and/or SDS permit, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the Public Works Supervisor are as follows:

- A. Any wastewater having a temperature greater than 150 degrees F (65.5 degrees C), or causing, individually or in combination with other wastewater, the influent at the wastewater treatment plant to have a temperature exceeding 105 degrees F (40 degrees C), or having heat in amounts which will inhibit biological activity in the wastewater treatment works resulting in interference therein.
- B. Any wastewater containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/1 or containing substances which may solidify or become viscous at temperatures between 32 degrees F and 150 degrees F (0 degrees C and 65.5 degrees C); and any wastewater containing oil and grease concentrations of mineral origin of greater than 100 mg/1, whether emulsified or not.
- C. Any quantities of flow, concentrations, or both which constitute a "slug" as defined herein. (See Article 1, Section 37).
- D. Any garbage not properly shredded, as defined in Article 1, Section 32. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food on the premises or when served by caterers.
- E. Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are capable of creating a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for their maintenance and repair.
- F. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to dye wastes and vegetable tanning solutions.
- G. Wastewater containing inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate) in such quantities that would cause disruption with the wastewater disposal system.
- H. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Public Works Supervisor in compliance with applicable state or federal regulations.

- I. Any waters or wastes containing the following substances to such degree that any such material received in the composite wastewater at the wastewater treatment works in excess of limits established by the utilities Public Works Supervisor for such materials: arsenic, cadmium, copper, cyanide, lead, mercury, nickel, silver, total chromium, zinc, phenolic compounds, which cannot be removed by City's wastewater treatment system.
  - J. Any wastewater which creates conditions at or near the wastewater disposal system which violates any statute, rule, regulation, or ordinance of any regulatory agency, or state or federal regulatory body.
  - K. Any waters or wastes containing BODs or suspended solids of such Character and quantity that unusual attention or expense is required to handle such materials at the wastewater treatment works, except as may be permitted by specific written agreement subject to the provision of this Chapter.
5. If any waters or wastes are discharged or are proposed to be discharged to the public sewers which contain substances or possess the characteristics enumerated in this Chapter of this Article, and/or which in the judgment of the Public Works Supervisor or City Engineer, may have a deleterious effect upon the wastewater treatment facilities, processes or equipment; receiving waters and/or soil, vegetation, and ground water; or which otherwise create a hazard to life or constitute a public nuisance, the City may:
- A. Reject the wastes;
  - B. Require pretreatment to an acceptable condition for discharge to the public sewers, pursuant to Section 307(b) of the Act and all addendums thereof,
  - C. Require control over the quantities and rates of discharge, and/or,
  - D. Require payment to cover the added costs of handling, treating and disposing of wastes not covered by existing taxes or sewer service charges.
  - E. If the City permits the pretreatment or equalization of waste flows, the design, installation and maintenance of the facilities and equipment shall be made at the owners' expense, and shall be subject to the review and approval of the City pursuant to the requirements of the MPCA.
6. No user shall increase the use of process water or, in any manner, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in Sections 3 and 4 of this Article, or contained in the National Categorical Pretreatment Standards or any state requirements.

7. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation at the expense of the owner(s).

8. Grease, oil and sand interceptors shall be provided when, in the opinion of the Public Works Supervisor, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in Section 4(b), any flammable wastes as specified in Section 3(a), sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of the type to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal of the captured materials by appropriate means, and shall maintain a record of dates and means of disposal which are subject to review by the Public Works Supervisor. Any removal and hauling of the collecting materials not performed by the owner's personnel, must be performed by a currently licensed waste disposal firm.

9. Where required by the City, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure, or control manhole, with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of wastes. Such structure shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City. The structure shall be installed by the owner at his expense and shall be maintained by the owner to be safe and accessible at all times.

10. The owner of any property serviced by a building sewer carrying industrial wastes may, at the discretion of the City, be required to provide laboratory measurements, tests, or analyses of waters or wastes to illustrate compliance with this Chapter and any special condition for discharge established by the City or regulatory agencies having jurisdiction over the discharge. The number, type and frequency of sampling and laboratory analyses to be performed by the owner shall be as stipulated by the City. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with Federal, State and local standards are being met. The owner shall report the results of measurements and laboratory analysis to the City at such times and in such manner as prescribed by the City. The owner shall bear the expense of all measurements, analyses, and reporting required by the City. At such times as deemed necessary, the City reserves the right to take measurements and samples for analysis by an independent laboratory.

11. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this Chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association. Sampling methods, location, times, duration and frequencies are to be determined on an individual basis subject to approval by the Public Works Supervisor.

12. Where required by the City, the owner of any property serviced by a sanitary sewer shall provide protection from an accidental discharge of prohibited materials or

other substances regulated by this Chapter. Where necessary, facilities to prevent accidental discharges or prohibited materials shall be provided and maintained at the owner's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Public Works Supervisor for review and approval prior to construction of the facility. Review and approval of such plans and operating procedures shall not relieve any user from the responsibility to modify the user's facility as necessary to meet the requirements of this Chapter. Users shall notify the Public Works Supervisor immediately upon having a slug or accidental discharge of substances of wastewater in violation of this Chapter to enable countermeasures to be taken by the Public Works Supervisor to minimize damage to the wastewater treatment works. Such notification will not relieve any user of any liability for any expense, loss or damage to the wastewater treatment system or treatment process, or for any fines imposed on the City on account thereof under any State and Federal law. Employees shall insure that all employees who may cause or discover such a discharge, are advised of the emergency notification procedure.

13. No person, having charge of any building or other premises which drains into the public sewer, shall permit any substance or matter which may form a deposit or obstruction to flow or pass into the public sewer. Within sixty (60) days after receipt of written notice from the City, the owner shall install a suitable and sufficient catch basin or waste trap, or if one already exists, shall clean out, repair or alter the same, and perform such other work as the Public Works Supervisor may deem necessary. Upon the owner's refusal or neglect to install a catch basin or waste trap or to clean out, repair, or alter the same after the period of sixty (60) days, the Public Works Supervisor may cause such work to be completed at the expense of the owner or representative thereof.

14. Whenever any service connection becomes clogged, obstructed, broken or out of order, or detrimental to the use of the public sewer, or unfit for the purpose of drainage, the owner shall repair or cause such work to be done as the Public Works Supervisor may direct. Each day after thirty (30) days that a person neglects or fails to so act shall constitute a separate violation of this section, and the Public Works Supervisor may then cause the work to be done, and recover from such owner or agent the expense thereof by an action in the name of the City.

15. The owner or operator of any motor vehicle washing or servicing facility shall provide and maintain in serviceable condition at all times, a catch basin or waste trap in the building drain system to prevent grease, oil, dirt or any mineral deposit from entering the public sewer system.

16. In addition to any penalties that may be imposed for violation of any provision of this chapter, the City may assess against any person the cost of repairing or restoring sewers or associated facilities damaged as a result of the discharge of prohibited wastes by such person, and may collect such assessment as an additional charge for the use of the public sewer system or in any other manner deemed appropriate by the City.

17. No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the City of Pequot Lakes and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City

for treatment, subject to payment therefore by the industrial concern, providing that National Categorical Pretreatment Standards and the City's NPDES and/or State Disposal System Permit limitations are not violated.

**Section 15-1.9. TAMPERING WITH EQUIPMENT**

No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is part of the wastewater facilities. Any person violating this provision shall be subject to immediate arrest under the charge of a misdemeanor.

**Section 15-1.10. USER RATE SCHEDULE FOR CHARGES**

Each user of sewer service shall pay the charge(s) applicable to the type of service, and in accordance with the provisions set forth in the fee schedule approved by the City Council as adopted by ordinance.

**Section 15-1.11. POWERS AND AUTHORITY OF INSPECTORS**

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

with the terms of the duly negotiated easement pertaining to the private property involved.

**Section 15-1.12. PENALTIES**

1. Any person found to be violating any provision of this Chapter, shall be served the period of time stated in such notice, permanently cease all violations.
2. Any person who shall continue any violation beyond the time limit provided for in this Chapter, shall be guilty of a misdemeanor.

**Section 15-1.13. SEWER AVAILABILITY CHARGE (SAC)**

1. Charge Established. For the purpose of providing funds for the city's wastewater treatment, force mains, lift stations, and sewage collection systems, and the plant and facilities connected therewith, and the payment of capital charges represented by bonds, certificates of indebtedness, or otherwise, which may be used to finance the costs of additions or expansions to the facilities, and the payment of reasonable requirements or reserves for replacement in obsolescence thereof, there is hereby imposed upon each lot, parcel of land, building or premises having any connection with the City's public sewer system a sewer availability charge (SAC) as hereinafter provided. Said charge shall be in addition to any other previous or future charge or assessment levied against the property.

2. Determination and Administration of Charge. The availability charge as hereinabove authorized shall be imposed in addition to the user charges for sewer service and shall be determined and administered as follows:

A. Payment Required:

- (1) Payment Required Prior to Connection: Before connecting to the City's sewer system, a City sewer availability charge as hereinafter provided shall be paid.
- (2) Additional Land Use Permit: If, after the initial availability charge is paid, an additional land use permit is issued, the use of the property changes, or new sewer connection is made, the availability charge shall be recalculated and any additional charges shall be paid.
- (3) Change by Ordinance: Any change in the City sewer availability charge amount, as hereinafter set forth shall be by Ordinance Amendment.

B. Determination of Charge. The amount of the availability charge shall be determined by the City by first determining the number of Equivalent Residential Connections (ERC's) applicable to the particular property. The number of ERC's shall be calculated in accordance with the Sewer Availability Charge (SAC) Procedural Manual (using the most current

edition) from the Environmental Services division of the Metropolitan Council (located in St. Paul). The number of ERC's shall equal the number of SAC units from this document. All residential units are 1 ERC or 1 SAC, except for apartments with a minimum of 4 units. For apartments with a minimum of 4 units, with no plumbing for individual laundry facilities in any of the units, each unit is counted as 0.8 ERC, or 0.8 SAC. For various non-residential types of establishments, this document includes an Appendix A: SAC Criteria for Commercial Properties. Once the appropriate number of ERC's are determined in this manner, the availability charge shall be calculated using the most recent ordinance establishing the availability charge.

- C. Determination of ERC's. The City shall determine the number of ERC's.
- D. Transfer of ERC's. Once established, the number of ERC's shall remain the same on the property. An ERC can be transferred on the property from a structure being removed to a structure being constructed.
- E. Uses Not in the Reference Document. Any use not represented in the above SAC Reference Document shall be subject to determination of the appropriate number of ERC's by the City based on estimated flows.

## CHAPTER 15 – UTILITIES

### ARTICLE 2. WATER REGULATIONS

#### **Section 15-2.1. PURPOSE**

There is hereby established a water department which shall be under the supervision of the City Council. The department shall be responsible for the management, maintenance and operation of the water system of the City of Pequot Lakes.

A Public Works Supervisor shall be hired by the City Council to carry out duties of the water department.

The City Clerk shall work with the Supervisor to assure proper billing, fees, and deposits are collected as prescribed by the department.

#### **Section 15-2.2. WATER DEPARTMENT DEFINED**

The water department controls the Water Treatment Facility, all wells, and pumps and associated piping to deliver water to the customer. This shall include hydrants, service pipes, valves, meters and some customer piping. This also includes the structures and buildings which house the water department equipment.

#### **Section 15-2.3. DUTIES OF THE SUPERVISOR**

1. Operate the department in accordance with the Minnesota Health Department regulations.
2. Maintain reports necessary to fulfill the information required by the Minnesota Health Department and the City Council. Assure necessary reports are sent in a properly and timely manner.
3. Keep all equipment of the water department in proper repair to assure constant and trouble free service to the customer.
4. Work with the City Clerk regarding service to customers as changes become necessary.
5. Assist City Clerk with collection of late or overdue accounts.
6. Notify the City Clerk of any irregularities or City Code violations.

#### **Section 15-2.4. RULES**

All provisions of this Chapter, where the term customer is used, shall be construed as including the owner of the premises served. This provides that any delinquencies in the payment of water bills on the said premises shall be a lien and charges against the premises so served regardless of

whether the same be homestead or not. Said lien in the case of delinquency, shall be reported to the County Auditor by the City Clerk at the same time and in the same manner as special assessment on real estate and shall be collected in the same manner as taxes against real estate provided, however; that nothing herein shall change the provisions of this Chapter with reference to shutting off water for nonpayment of charges.

**Section 15-2.5. APPLICATION**

In addition to Section 4, this application will include intended use and estimated volume thereof for purposes of regulating water consumption. A copy of this Chapter and rate structure will be provided upon request. No individual or contractor will be permitted to tap into the city water supply unless under the supervision of the Public Works Supervisor or its designee. Any municipal connection fees will be due at this time.

**Section 15-2.6. RATES, FEES AND BILLING**

No water will be supplied to any customer without receipt of a meter fee as set by the City Council.

The City Council shall adopt by ordinance a schedule of water rates, fees and meter fee. Said ordinance shall be published once in the official newspaper of the City. The City may make an annual revision of said schedule based upon annual reports together with a working budget to determine any needs for changes in this schedule.

**Section 15-2.7. BILLING**

All bills for water service furnished and supplied by the city shall be payable monthly, by the last day of each month. Meter readings will be taken and billings sent to customers on or about the first week of each month.

1. **Landlords and Tenants** – Landlords who are owners of property shall be responsible for tenants’ utility charges. Utility bills will be sent to the Landlord. The Landlord, as owner of the property, will be responsible for all aspects of the utility account including setting up the account, requesting to have the water turned on or off, requesting changes to the account, and responsible for paying the City for said charges.

**Section 15-2.8. SHUT OFF FOR NON-PAYMENT UTILITY BILL**

1. The City shall endeavor to collect delinquent utilities accounts promptly. Partial payment on water accounts will be accepted at any time during the billing cycle. In the event that full payment cannot be made by the due date, arrangements for a payment schedule can be made through the City Clerk’s office. In any case where satisfactory arrangements for payment has not been made, the city may, after the procedural requirements of this Chapter have been complied with, order the appropriate city department to disconnect the utility service to the delinquent customer. When water service to any premises has been disconnected, service shall not be restored except upon the payment of all delinquent amounts plus a reconnection charge. The city shall not be

liable for any damage to persons or property caused in whole or part by the discontinuance of water service.

2. Disconnect Policy

- A. A customer who is two months delinquent on the customer's account shall receive a disconnect letter with the customer's third month utility billing statement. The disconnect letter shall state, among other things, that the entire three months of billings must be paid by the close of business on the last business day of such third month.
- B. The customer shall have until the close of business on the last business day of such third month to pay the past due amount plus the amount due for the third month.
- C. If the account is not paid in full by the close of business on the last business day of such third month, the customer's utility service shall be disconnected on the second business day of the fourth month; except disconnections shall not occur on Fridays or holidays.
- D. If a customer receives a disconnection notice and desires to make payment arrangements, the property owner shall call City Hall to make such request prior to the disconnection date. A one month extension may be considered if the account will be paid in full by the close of business on the last business day of the fourth month. If an extension is granted, but the account is not paid in full, the customer's utility service shall be disconnected on the second business day of the fifth month; except disconnections shall not occur on Fridays or holidays.
- E. If a customer's utility service is disconnected, service shall be restored when the customer pays the entire unpaid utility billings, plus a \$50.00 disconnect/reconnect fee.
- F. One week prior to the disconnection day, the Water Department shall hang a red disconnect notice in at least one conspicuous location in or on the customer's building.
- G. If the customer's premises constitute a rental "single-metered residential building" within the meaning of Minn. Stat. §504B.215, additional notice shall be given to the residents of the pending disconnection by posting the building. The posting shall be placed in at least one conspicuous location in or on the building and provide tenants with, at a minimum, the following information:
  - (1) the date the service will be disconnected
  - (2) the telephone number to call at the utility to obtain additional information

- (3) a brief description of the tenants' rights pursuant to Minn. Stat. §504B.215
  - (a) a tenant has the right to continue or restore service;
  - (b) a tenant has a continuing right to pay the current charges, which do not include late payment fees or reconnection fee incurred by the landlord, for the most recent billing period and retain service;
  - (c) a tenant has the same amount of time provided by this Chapter within which to pay the charges;
  - (d) a tenant is not subject to any deposit requirements;
  - (e) a tenant may deduct documented payments from rent obligations; and
  - (f) a tenant may consider seeking assistance from legal aid, a private attorney, or housing organization in exercising the rights of the tenant under Minnesota Law to maintain utility service.

3. Certification for collection with taxes.

- A. Unpaid charges on sewer and water accounts shall not be certified to the county auditor until notice and an opportunity for a hearing have been provided to the owner of the premises involved. The notice shall be sent by first class mail and shall state that if payment is not made before the date for certification, the entire amount unpaid plus penalties will be certified to the county auditor for collection as other taxes are collected. The notice shall also state that the occupant may, before such certification date, attend or schedule a hearing on the matter to object to certification of unpaid utility charges.

In addition to any penalties provided for in this ordinance if any person, firm or corporation fails to comply with any provision of this ordinance, the Council or any city official designated by it, may institute appropriate proceedings at law or at equity to procure payment.

- B. The owner of the property shall have the option of paying the balance due on the account until the date the notice of the certification hearing is mailed. After the date the notice of certification hearing is mailed, payments will still be accepted but will include unpaid penalties.
- C. A hearing shall be held on the matter by the City Council. Property

owners with unpaid utility charges shall have the opportunity to object to the certification of unpaid charges to be collected as taxes are collected. If, after the hearing, the City Council finds that the amounts claimed as delinquent are actually due and unpaid and that there is no legal reason why the unpaid charges should not be certified for collection with taxes in accordance with this ordinance, the City may certify the unpaid charges to the county auditor for collection as other taxes are collected.

- D. For each certification sustained, the property owner shall have the following options after the hearing:
- (1) To pay the delinquent amount listed on the preliminary roll, but without additional interest after the hearing, within ten days of the hearing date.
  - (2) To pay the certified delinquent amount after the hearing date, but before the county certification deadline, with interest at the rate set in the adopted rate schedule, accrued beginning on eleventh day following the hearing date through the date of payment.
  - (3) To pay the certified charges as billed to them by Crow Wing County on their property tax statement with a collection term of one year.
- E. After the hearing, the certified roll, minus any payments, shall be delivered to Crow Wing County.

4. In addition to any procedures or penalties provided by this ordinance, if any person, firm or corporation fails to comply with any provision of this ordinance, the council or any city official designated by it may institute appropriate proceedings at law or at equity to procure payment and or enforce the provisions of this ordinance.

#### **Section 15-2.9. INSTALLATION AND CONSTRUCTION REQUIREMENTS AND SPECIFICATIONS**

1. Supervision. All work performed within the limits of the City shall comply with all requirements of the Minnesota Plumbing Code as amended and the Ten States Standards and shall be under the direct supervision of the Public Works Supervisor.
2. Authority to Do Work. Only persons authorized by this Chapter shall tap any distributing main or pipe of the water system, or insert stopcocks or ferrule therein.
3. Excavations. If the installation is to be in a surfaced street, the location of the water main shall be ascertained from the City Engineer and, upon completion, such installation shall be inspected by the Public Works Department. Prior to construction within the street, notice shall be given to the Roads and Streets Manager, School District,

United States Post Office, Police and Fire Departments, the County and/or State Highway Department, and City Public Works Director. Such notice must be given at least (3) days prior to the excavation for laying of the service pipe, and the connection must be made before three o'clock (3:00) P.M. After approval by the Roads and Streets Manager, the street shall be restored to its previously existing condition as directed and approved by the Public Works Department. The expense of such construction and restoration shall be borne by the applicant.

4. Separate Connections and Meters. No more than one housing unit or building shall be supplied from one service connection except by special permission of the City Council. Whenever two (2) or more parties are supplied from one pipe, connecting with the distribution main, each building or part of the building must have a separate stop box and a separate meter.

#### **Section 15-2.10. SERVICE PIPES**

1. Maintenance and Repair. It shall be the responsibility of the property owner to maintain the service pipe from the curb box into the structure. In the case of failure upon the part of the property owner to repair any leak occurring in his pipe within twenty four (24) hours after verbal or written notice thereof, the water will be shut off and will not be turned on until the service charge, as established by resolution of the Council, has been paid and the leak repaired. When the waste of water is great, or when damage is likely to result from the leak, water may be turned off immediately pending repairs.

2. Abandoned Service Installations. All service installations that have not been used for one year, or for any reason have become useless for further service, shall be shut off at the curb stop. Any expense of the City shall be charged to the property and, if not paid within thirty (30) days, shall be treated as a delinquent account pursuant to this Chapter.

#### **Section 15-2.11. METERS**

1. Meter Use Required. Except for extinguishing of fire, no person except authorized City employees shall use water from the water supply system or permit water to be drawn therefrom unless the same be metered by passing through a meter supplied by the City.

2. Maintenance Repair and Replacement.

A. Replacement of Meter. All water meters shall be and remains the property of the City and may be removed or replaced or changed as to size and type by the City whenever deemed necessary.

B. Maintenance and Repair. The City shall maintain and repair all meters when rendered unserviceable through ordinary wear and tear and shall replace them if necessary. However, where any replacement or repair or adjustment of any meter is necessary because of damage from hot water backup, damage from freezing water, or damage from any act,

carelessness or negligence of the owner or occupants of any premises, any expense incurred by the City to repair said damage shall be charged against and collected from the property owner, and water service may be disconnected until the cause is corrected and the amount charged collected.

### **Section 15-2.12. RESPONSIBILITY OF OWNERS**

1. The city shall own the water line up to the designated curb stop. In the event that there is no curb stop on the property, the city shall own the water line up to the edge of the dedicated street. All of the service line from the meter to the designated curb stop, or edge of dedicated street, and all valves, boxes and parts thereof are owned by the customer and are to be maintained by them. Only the meter is owned by the city and shall be so maintained. Any damage through malicious mischief, neglect, freezing or whatever to destroy the meter shall be the liability of the customer, whether it is an owner or the renter of the property.

2. The Supervisor or designated employees shall have free access at all reasonable hours to any premises to ascertain the location or condition of all water equipment. Any person desiring to discontinue the use of city water shall notify the city in writing and the inspection and shutoff work must be done by a duly authorized city representative. The city shall have the right of access on the home owner's property in order to dig to the curb stop and the right of access on the home owner's property for access to said curb stop.

3. When a customer complains that the bill for any past service period is excessive, the city shall have the meter reread upon request. If the customer remains dissatisfied, and he may, upon written request and a deposit of \$20.00, have the meter removed and tested. If the tests show an error in the city's favor exceeding five (5) percent of the water consumed, the deposit shall be refunded, an accurate meter shall be installed, and the bill shall be adjusted accordingly. Such adjustment shall not extend back more than one service period (one month) from the date of the written request.

4. When time warrants and the city finds water rationing necessary to protect the city supply, and after sufficient notice has been given to this rationing, a customer is found in violation, the water department will shut off the water to that customer and will not be resupplied until the customer has a hearing with the City Council. Sufficient notice will be a publication in the official newspaper if time permits or on short notice, notification over the local radio station and City website.

### **Section 15-2.13. DISCLAIMER OF LIABILITY**

The City shall not be liable for any deficiency or failure in the supply of water to property owners or users, whether occasioned by shutting the water off for the purpose of making repairs or connections, or from any other cause whatever.

**Section 15-2.14. HYDRANT USE**

Hydrant use shall be restricted to the water department and fire department personnel only (for city use only). Any other use must be approved by the Public Works Supervisor. Anyone wishing to obtain water from a hydrant for any purpose shall make application through the City Clerk or Public Works Supervisor for such service.

**Section 15-2.15. CITY RESPONSIBILITY**

The city reserves the right to restrict use to anyone for reasons they feel exceed the purpose of the water department.

The City reserves the right to inspect any water service at any reasonable hour for violations or just to ascertain the proper operation thereof. If this inspection finds a violation of water use in any way or leaks in the customer line and failure to repair or correct any violation upon reasonable notice, the city may discontinue the service until the line is repaired and a reconnection fee is paid. The City shall also, at its discretion, be able to shut the water off immediately, repair the damage either on its own, or through a subcontractor, and bill the landowner for the cost of repair.

**Section 15-2.16. TAMPERING WITH A WATER METER**

Any person convicted of tampering with a water meter is guilty of a misdemeanor.

**Section 15-2.17. WATER AVAILABILITY CHARGE (WAC)**

1. Charge Established. For the purpose of providing funds for the city's wells, water treatment, water storage, and water distribution systems, and the plant and facilities connected therewith, and the payment of capital charges represented by bonds, certificates of indebtedness, or otherwise, which may be used to finance the costs of additions or expansions to the facilities, and the payment of reasonable requirements or reserves for replacement in obsolescence thereof, there is hereby imposed upon each lot, parcel of land, building or premises having any connection with the City's public water system a water availability charge (WAC) as hereinafter provided and pursuant to Minn. Stat. Sec. 444.075. Said charge shall be in addition to any other previous or future charge or assessment levied against the property.

2. Determination and Administration of Charge. The availability charge as hereinabove authorized shall be imposed in addition to the user charges for water service and shall be determined and administered as follows:

A. Payment Required:

- (1) Payment Required Prior to Connection: Before connecting to the City's water system, a City water availability charge as hereinafter provided shall be paid.

- (2) Additional Land Use Permit: If, after the initial availability charge is paid, an additional land use permit is issued, the use of the property changes, or new water connection is made, the availability charge shall be recalculated and any additional charges shall be paid.
  - (3) Change by Ordinance: Any change in the City water availability charge amount, as hereinafter set forth shall be by Ordinance Amendment.
- B. Determination of Charge. The amount of the availability charge shall be determined by the City by first determining the number of Equivalent Residential Connections (ERC's) applicable to the particular property. The number of ERC's shall be calculated in accordance with the Sewer Availability Charge (SAC) Procedural Manual (using the most current edition) from the Environmental Services Division of the Metropolitan Council (located in St. Paul). The number of ERC's shall equal the number of SAC units from this document. All residential units are 1 ERC or 1 WAC, except for apartments with a minimum of 4 units. For apartments with a minimum of 4 units, with no plumbing for individual laundry facilities in any of the units, each unit is counted as 0.8 ERC, or 0.8 WAC. For various non-residential types of establishments, this document includes an Appendix A: SAC Criteria for Commercial Properties. Once the appropriate number of ERC's are determined in this manner, the availability charge shall be calculated using the most recent ordinance establishing the availability charge.
  - C. Determination of ERC's. The City shall determine the number of ERC's.
  - D. Transfer of ERC's. Once established, the number of ERC's shall remain the same on the property. An ERC can be transferred on the property from a structure being removed to a structure being constructed.
  - E. Uses Not in the Reference Document. Any use not represented in the above SAC Reference Document shall be subject to determination of the appropriate number of ERC's by the City based on estimated flows.

**Section 15-2.18. UNLAWFUL ACTS**

- 1. Requirement to Connect to Public Water Utility. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes from which wastewater is discharged, and which is situated within the City and adjacent to any street, alley, or right-of-way in which there is now located, or may in the future be located, a public water utility of the City, shall be required at the owner(s) expense to install a suitable service connection to the public water utility in accordance with provisions of this Code, within ninety (90) days of the date said public water utility is operational, provided said public water utility is within 100 feet of the structure

generating the wastewater. All future buildings constructed on property adjacent to the public water utility shall be required to immediately connect to the public water utility. If water utility connections are not made pursuant to this section, an official thirty (30) day notice shall be served instructing the affected property owner to make said connection. Notwithstanding the foregoing all properties that meet the requirement to connect to the public water utility must connect when the real estate is conveyed.

2. Failure to connect to public water utility. In the event an owner shall fail to connect to a public water utility in compliance with a notice given under this Chapter, the City must undertake to have said connection made and shall assess the cost thereof against the benefited property. Such assessment, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the Auditor of the County of Crow Wing, Minnesota, and shall be collected and remitted to the City in the same manner as assessments for local improvements. The rights of the City shall be in addition to any remedial or enforcement provisions of this Chapter.

3. Failure of an owner to voluntarily connect to a public water utility in compliance with a notice given under this Chapter shall be deemed a public nuisance and a misdemeanor and shall be punishable upon conviction thereof in accordance with the laws of the State of Minnesota. The City may make the connection as a means of abating the nuisance and charge the cost back to the offending landowner with such cost to be collected and shall assess the cost thereof against the benefited property. Such assessment, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the Auditor of the County of Crow Wing, Minnesota, and shall be collected and remitted to the City in the same manner as assessments for local improvements. The rights of the City shall be in addition to any remedial or enforcement provisions of this Chapter.

4. The City may also petition the District Court for a Court Order requiring the owner to connect to the public water utility and ordering the owner to connect within a reasonable amount of time to be established by the Court, or for an Order authorizing the City to make the connection. In the event the City petitions the Court for an Order directing the connection, either by the owner or the City, the owner shall be liable for all costs of enforcement including court costs and reasonable attorney's fees related to said action.

5. Violation of any provision of this Ordinance, including an owner's failure to connect to the public water utility, shall constitute a misdemeanor offense, and shall be punishable upon the conviction thereof in accordance with the laws of the State of Minnesota thereunto appertaining. An owner found in violation shall be liable for the City's legal fees and expenses incurred therein.

## **ARTICLE 3. SUBSURFACE SEWAGE TREATMENT SYSTEMS**

### **Section 15-3.1. PURPOSE AND AUTHORITY**

The purpose of this Article regulating Subsurface Sewage Treatment Systems (SSTS), as defined in Minnesota Rule 7080.1100, is to provide minimum standards for and regulation of Individual Sewage Treatment Systems (ISTS) ), as defined in Minnesota Rule 7080.1100, and Midsized Sewage Treatment Systems (MSTS) ), as defined in Minnesota Rule 7081.0020, including the proper location, design and construction; their necessary modification and reconstruction; their operation, maintenance and repair to protect surface water and groundwater from contamination by human sewage and waterborne household and commercial wastes; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under Minnesota Statutes, Sections 115.55, 145A.05, 375.51, 394.21-394.37, and 471.82, the Pequot Lakes Comprehensive Plan and the Pequot Lakes Land Use (Zoning) Ordinance, City Code Chapter 17.

### **Section 15-3.2. INTENT**

**The City intends that this Article will promote the following:**

1. The protection of lakes, rivers and streams, wetlands, and groundwater in the City of Pequot Lakes essential to the promotion of public health, safety, welfare, socioeconomic growth and development of the City;
2. The regulation of proper SSTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby protecting the degradation of surface water and groundwater quality;
3. The establishment of minimum standards for SSTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration; and
4. The appropriate utilization of privy vaults and other non-water carried sewage collection and storage facilities.

### **Section 15-3.3. JURISDICTION**

The jurisdiction of this Article shall include all property within the municipal boundaries of the City of Pequot Lakes, Minnesota.

### **Section 15-3.4. SCOPE**

This Article regulates the siting, design, installation, alterations, operation, maintenance, monitoring, and management of all SSTS within the City's jurisdiction including, but not necessarily limited to individual SSTS and cluster or community SSTS, privy vaults, and other non-water carried SSTS. All sewage generated in unsewered areas of the City shall be treated and dispersed by an approved SSTS that is sited, designed, installed, operated, and maintained in

accordance with the provisions of this Article or by a system that has been permitted by the MPCA.

### **Section 15-3.5. ADMINISTRATION**

1. The Pequot Lakes Planning and Zoning Department shall administer the SSTS program and all provisions of this Article.
2. The City's duties and responsibilities include, but are not be limited to, the following:
  - A. Review all applications for SSTS;
  - B. Issue all permits required in this Article;
  - C. Inspect all work regulated in this Article;
  - D. Investigate all complaints regarding SSTS;
  - E. Issue certificates of installation, certificates of compliance or notices of noncompliance where applicable;
  - F. Enact enforcement provisions of this Article as necessary;
  - G. Refer unresolved violations of this Article to the City Attorney;
  - H. Maintain current records for each permitted SSTS including all site evaluation documents, design documents, inspection documents, and other applicable documents;
  - I. The City shall employ or retain under contract qualified and appropriately licensed professionals to administer and operate the SSTS program; and
  - J. Submit annual reports to MPCA as required.

### **Section 15-3.6. STATE ADMINISTRATION**

The owner or owners of a single SSTS or a group of SSTS under common ownership must obtain an SDS permit from the agency according to chapter 7001 when all or part of proposed or existing soil dispersal components are within one-half mile of each other and the combined flow from all proposed and existing SSTS is greater than 10,000 gallons per day. For proposed SSTS, the flow must be determined according 7081.0110. For existing SSTS, the flow is determined by the greater of the average maximum seven-day measured flow or flow amounts according to part [7081.0110](#). The highest calculated value of the various methods in Table I under part [7081.0130](#), subpart 1, must be used to make this determination, with no reduction allowed. An SDS permit is not required if a factor of safety is added to the design flow that results in a design flow that is in excess of the SDS permit threshold.

### **Section 15-3.7. LIABILITY**

The City's involvement in administration of this Article does not create a special duty to any person and, further liability or responsibility shall not be imposed upon the City or any of its officials, employees, or other contract agents, for damage resulting from the defective construction, operation, or abandonment of any onsite or cluster SSTS regulated under this Article or by reason of any standards, requirements, or inspections authorized by this Article hereunder.

### **Section 15-3.8. ALL SSTS**

Except as explicitly set forth in Section 15-3.10, all provisions of this Article shall apply to any SSTS regardless of the date it was originally permitted.

### **Section 15-3.9. EXISTING PERMITS**

Unexpired permits which were issued prior to the effective date of this Article shall remain valid under the terms and conditions of the original permit until the original expiration date or until a change in system design, whichever is earlier.

### **Section 15-3.10. SSTS ON LOTS CREATED AFTER JANUARY 23, 1996**

All lots created after January 23, 1996, must have a minimum of two soil treatment and dispersal areas that can support Type 1 systems as defined by Minnesota Rule 7080.2200.

### **Section 15-3.11. UPGRADE, REPAIR, REPLACEMENT AND ABANDONMENT**

1. **SSTS Capacity Expansions:** Expansion of an existing SSTS must include any system upgrades that are necessary to bring the entire system into compliance with the prevailing provisions of this Article at the time of the expansion.
2. **Bedroom Addition:** Any addition to a structure that includes bedroom(s) that requires a land use permit from the City shall require that the SSTS meet the required design flow according to Minnesota Rule 7080.1860 or be upgraded to meet Class I sizing for both the septic tanks and soil absorption area. Any required upgrades shall be completed within two years.
3. **Failure to Protect Groundwater:** An SSTS that is determined not to be protective of groundwater in accordance with Minnesota Rule 7080.1500, Subp.4(B) shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the provisions of this Article within 10 months upon receipt of a Notice of Noncompliance and must meet Class I sizing requirements according to Minnesota Rule 7080.1860.
4. **Imminent Threat to Public Health or Safety:** An SSTS posing an imminent threat to public health or safety shall be pumped within 24 hours and managed as a holding tank in accordance with Minnesota Rule 7080.1500, Subp. 4(A) and said SSTS shall be upgraded, repaired, replaced or abandoned by the owner in accordance with the

provisions of this Article within 10 months upon receipt of a Notice of Noncompliance and must meet Class I sizing requirements according to Minnesota Rule 7080.1860.

5. Abandonment: Any SSTS, or any component thereof, which is no longer intended to be used, must be abandoned in accordance with Minnesota Rule 7080.2500.

### **Section 15-3.12. SSTS IN FLOODPLAINS**

SSTS shall not be located in a floodway and wherever possible, location within any part of a floodplain should be avoided. If no option exists to locate a SSTS outside of a floodplain, location within the flood fringe is allowed if the requirements in Minnesota Rule 7080.2270 and all relevant local requirements are met.

### **Section 15-3.13. CLASS V INJECTION WELLS**

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

### **Section 15-3.14. SSTS PRACTITIONER LICENSING**

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

2. An MPCA license is not required of an individual who is constructing a SSTS on land that is owned by the individual and functions solely as a dwelling for that individual pursuant to Minnesota Rule 7083.0700. Installation of the system shall be based upon a design by a licensed designer. The system shall be inspected before it is covered and a 24-hour notification to the City before such inspection occurs is required.

### **Section 15-3.15. PROHIBITIONS**

1. Occupancy or Use of a Building without a Compliant SSTS: It is unlawful for any person to maintain, occupy, or use any building intended for habitation or that contains plumbing fixtures that is not provided with a wastewater treatment system or that disposes of wastewater in a manner that does not comply with the provisions of this Article.

2. Sewage Discharge to Ground Surface or Surface Water: It is unlawful for any person to construct, maintain, or use any SSTS system regulated under this Article that results in raw or partially treated wastewater seeping to the ground surface or flowing into any surface water. Any surface discharging system must be permitted under the National Pollutant Discharge Elimination System program by the MPCA.

3. Sewage Discharge to a Well or Boring: It is unlawful for any person to discharge raw or treated wastewater into any well or boring as described in Minnesota Rule 4725.2050, or any other excavation in the ground that is not in compliance with this Article.

4. Discharge of Hazardous or Deleterious Materials: It is unlawful for any person to discharge into any treatment system regulated under this Article any hazardous or deleterious material that adversely affects the treatment or dispersal performance of the system or groundwater quality.

### **Section 15-3.16. ALTERNATIVE LOCAL STANDARDS ADOPTED BY REFERENCE**

1. Adoption of Rule by Reference:

A. The City hereby adopts by reference the provisions of Minnesota Rules Chapters 7080 -7083 in their entirety except as referenced under Section 2.17(B), except as otherwise expressly modified by this Article.

B. When “2006 version of Minnesota Rules Chapter 7080” is utilized, the reference is to the rules effective April 3, 2006, otherwise the City is referencing the current rules in effect.

C. All new construction or replacement of SSTS shall employ sewage tanks, distribution media and treatment products which have been registered by the Minnesota Pollution Control Agency.

2. Alternative Local Standards for New and Existing SSTS: The City hereby adopts the 2006 version of Minnesota Rules Chapter 7080 for all new and existing residential Type I, Type II and Type III SSTS and SSTS that serve any Food, Beverage and Lodging Establishment under 2,500 gallons per day provided the effluent discharge does not exceed the standards in Minnesota Rule 7080.2150, Subp. 3(K).

### **Section 15-3.17. MINIMUM STANDARDS**

The following is a list of minimum standards applicable to SSTS:

1. In no land use district shall a land use permit, shoreline alteration permit, minor subdivision, plat, conditional use permit or variance be issued without a current Certificate of Compliance or Certificate of Installation that has not expired according to Section 15-3.24(3).

2. At least one cleanout at or above finished grade shall be installed between the structure and the septic tank with additional clean outs at intervals not more than 100 feet.

3. Class I sizing is required on all new construction. New construction will be defined as placement of a new structure or replacement structure that is served by pressurized water.

4. Minimum septic tank sizing shall be 1,500 gallons. This can be accomplished through a compartmentalized tank, multiple tanks in series, or a single existing 1,500 gallon tank with the use of an effluent filter for the last baffle. The filter must be of such a design that when the filter is removed from the filter housing, the flow of water leaving the tank is not allowed. The first tank or compartment shall be no less than 1,000 gallons in size and applies to new and replacement SSTS. Any additional septic tanks shall be a minimum of 1,000 gallons. All other tank sizing shall follow Minnesota Rule 7080.1930.

5. Pump tank sizing shall follow Minnesota Rule 7080.2100.

6. Soil pits shall be required during the construction inspection. The soil pit shall be excavated at the time of the inspection. The soil pit shall be dug by a backhoe or other acceptable method and be excavated to a depth that will allow the verification of redoximorphic features and the three feet of vertical separation as required. Location of soil pits shall be adjacent to the lowest trench or next to the down slope side of an elevated treatment area. The pit shall not impact the hydraulic performance of the ISTS. A certificate of installation will not be issued until the soils are verified.

7. All dwellings or buildings that contain plumbing fixtures shall meet the required setbacks to the septic tank and soil absorption area. Accessory structures, including but not limited to, decks, screen decks, porches, sheds, garages and pole buildings shall not be required to meet said setbacks provided that the tank(s) can be maintained properly and that the structure does not negatively impact the function of the system.

#### **Section 15-3.18. COMPLIANCE CRITERIA FOR EXISTING SSTS**

For an SSTS built before April 1, 1996, and outside of areas designated as “SWF” – Systems in shoreland areas, wellhead protection areas, or systems serving food, beverage, or lodging establishments – there must be at least two feet of vertical separation between the bottom of the dispersal system and seasonal saturation or bedrock.

#### **Section 15-3.19. HOLDING TANKS**

Holding tanks may be allowed for the following applications: as replacements for existing failing SSTS and SSTS that pose an imminent threat to public health or safety, on lots with limitations that will not allow for the installation of a Type 1 SSTS or for uses that are seasonal or intermittent in nature and will not use more than 150 gallons of water per day.

#### **Section 15-3.20. VARIANCE**

A property owner may request a variance from the standards as specified in this Article pursuant to Article 11 of the City’s Land Use (Zoning) Ordinance.

#### **Section 15-3.21. STATE AGENCY VARIANCE REQUESTS**

Variations that pertain to the standards and requirements of the State of Minnesota must be approved by the affected State Agency pursuant to the requirements of the State Agency. No permits will be issued by the City until all required State Agency variations have been approved.

### **Section 15-3.22. PERMIT REQUIREMENTS**

1. **Activities Not Requiring a SSTS Permit:** A SSTS permit is not required for minor repairs or replacements of system components that do not alter the original function of the system; change the treatment capacity of the system; change the location of the system; or otherwise change the original system design, layout, or function. Examples are, but not limited to, pumps, baffles, and effluent filters.
2. **Activities Requiring a SSTS Permit:** A SSTS permit shall be obtained by the property owner or an agent of the property owner from the City prior to the installation, construction, replacement, modification, alteration, or capacity expansion including the use of advanced treatment components of a SSTS. It is unlawful for any person to construct, install, modify or replace a SSTS without the appropriate permit from the SSTS including repair or replacement of components that will alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system's design, layout, or function. The issuing of any permit, variance, or conditional use under the provisions of this Article shall not absolve the applicant of responsibility to obtain any other required permit.
3. **Permit Requirements:** SSTS Permit applications shall be made on forms provided by the City and signed by the applicant or applicant's agent, and must include the following information and documentation:
  - A. Applicant name, mailing address, telephone number, and email address;
  - B. Property Identification Number, property address and legal description of property location;
  - C. Site Evaluation Report, which shall be made on forms provided by Crow Wing County;
  - D. Design Report, which shall be made on forms provided by Crow Wing County;
  - E. A management plan, as defined by Minnesota Rule 7082.0600; and
  - F. Any additional information that may be required by the City to assure compliance with this Article.
4. **Application Review and Response:** The City shall review a permit application and supporting documents according to Article 11 of the City's Land Use (Zoning) Ordinance.

5. Appeal: The applicant may appeal any decision of the City in accordance with Article 11 of the City's Land Use (Zoning) Ordinance.
6. Permit Expiration: A SSTS Permit for a new SSTS is valid for a period of no more than two years from its date of issue. A SSTS Permit for the replacement of SSTS failing to protect groundwater is valid for 10 months. A SSTS Permit for the replacement of SSTS that are imminent threats to public health is valid for 10 months. Satisfactory completion of construction shall be determined by as-built drawings and a signed certification that the construction and installation of the system was completed in reasonable conformance with the approved design documents by a qualified employee of the City or a licensed inspection business, which is authorized by the City and independent of the owner and the SSTS installer.
7. Transferability: A SSTS Permit may be transferred to a new owner provided there are no proposed changes to the SSTS design.
8. Suspension or Revocation: The City may suspend or revoke a SSTS Permit issued under this section for any false statements, misrepresentations of facts on which the SSTS Permit was issued, or unauthorized changes to the system design that alter the original function of the system, change the treatment capacity of the system, change the location of the system, or otherwise change the original system design, layout, or function. A notice of suspension or revocation and the reasons for the suspension or revocation shall be conveyed in writing to the permit holder. If suspended or revoked, installation or modification of a treatment system may not commence or continue until a valid SSTS Permit is obtained.
9. SSTS Assessment Requirements: For those SSTS without a management plan or operating permit according to the provisions of this Article, the following provisions apply:
  - A. The owner of an ISTS or the owner's agent shall regularly, but in no case less frequently than every three years, assess whether sewage tanks leak below the designed operating depth and whether sewage tank tops, riser joints, and riser connections leak through visual evidence of major defects and measure or remove the accumulations of scum, grease, and other floating materials at the top of each septic tank and compartment, along with the sludge, which consists of the solids denser than water.
  - B. All solids and liquids must be removed by pumping from all tanks or compartments in which the top of the sludge layer is less than 12 inches from the bottom of the outlet baffle or transfer hole or whenever the bottom of the scum layer is less than three inches above the bottom of the outlet baffle or transfer hole. Total sludge and scum volume must not be greater than 25 percent of the tank's liquid capacity. Removal of accumulated sludge, scum, and liquids from septic tanks and pump tanks must be through the maintenance hole. The removal of solids from any location other than the maintenance hole is not a compliant method of solids removal from a sewage tank, and this method does not fulfill the

solids removal requirement of this part or a management plan. Liquid and solids removal from clean-out pipes is allowed for holding tanks.

**Section 15-3.23. OPERATING PERMIT**

1. An Operating Permit shall be required for the following SSTS:
  - A. SSTS with high strength waste effluent standards that exceed Minnesota Rule 7080.2150, Subp. 3(K);
  - B. Holding Tanks;
  - C. SSTS serving three or more connections;
  - D. Type 4 and Type 5 SSTS;
  - E. SSTS that exceed a daily flow of 2,500 gallons per day; or,
  - F. MSTs designed under Minnesota Rules Chapter 7081.
2. Operating Permits shall be a signed agreement between the City and the property owner and shall include monitoring, performance, mitigation, and reporting requirements.
3. A valid Operating Permit shall be considered a certificate of compliance if that system is in compliance with the requirements of the Operating Permit.
4. Owners of holding tanks shall provide the City upon request a copy of a valid monitoring and disposal contract executed between the owner and a licensed maintenance business, which guarantees the removal of the holding tank contents in a timely manner and prevents an illegal discharge in accordance with Minnesota Rule 7082.0100, Subp. 3(G). This requirement is waived if the owner is a farmer who is exempt from licensing under Minn. Stat., § 115.56, subd. 3(b)(3).
5. Operating Permits shall be valid for the specific term stated on the permit as determined by the Department.
6. An Operating Permit must be renewed prior to its expiration. If not renewed, the City may require the system to be removed from service or operated as a holding tank until the permit is renewed. If not renewed within 90 calendar days of the expiration date, the Department may require that the system be abandoned in accordance with Section 15-3.11(5).
7. Operating Permits do not transfer to new property owners. New owners shall apply for an Operating Permit in accordance with this section. The City shall not terminate the current permit until 90 calendar days after the date of sale unless an imminent threat to public health and safety exists. To consider the new owner's application, the City may require a performance inspection of the treatment system certified by a licensed inspector or qualified employee.

8. A report shall be prepared and certified by the licensed inspection business or licensed service provider. The report shall be submitted to the City on or before the compliance reporting date stipulated in the operating permit as required. The report shall contain a description of all maintenance and servicing activities performed since the last compliance monitoring report as described in the operating permit.
9. The City may suspend or revoke any Operating Permit issued under this section for any false statements or misrepresentations of facts on which the Operating Permit was issued.
10. If suspended or revoked, the Department may require that the treatment system be removed from service, operated as a holding tank, or abandoned.
11. At the Department's sole discretion, the operating permit may be reinstated or renewed upon the owner taking appropriate corrective actions.

#### **Section 15-3.24. COMPLIANCE INSPECTION PROGRAM**

1. Department Responsibility: It is the responsibility of the City, or its agent, to perform installation inspections of new SSTS or upgrades of SSTS to assure that the requirements of this Article are met.
  - A. All compliance inspections must be performed and signed by licensed inspection businesses or qualified employees certified as inspectors.
  - B. The City shall be given access to enter a property at any reasonable time to inspect and/or monitor the SSTS system. As used in this paragraph, "property" does not include a residence or private building.
  - C. No person shall hinder or otherwise interfere with the City's employees or agents in the performance of their duties and responsibilities pursuant to this Article. Refusal to allow reasonable access to the property by the City shall be deemed a separate and distinct offense.
  - D. A signed winter agreement may be accepted in lieu of a compliance inspection for property transfers, permit applications and designs to the City between November 1 and April 30, at the City's sole discretion, provided the required information is submitted to the City by June 1 of the subsequent year. Failure to fulfill all of the obligations of the winter agreement shall be a violation of this Article.
2. New Construction or Replacement:
  - A. New installation inspections must be performed on new or replacement SSTS to determine compliance with Minnesota Rules, Chapters 7080 or 7081, respectively, according to this section. SSTS found to be

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

- B. It is the responsibility of the SSTS owner or the owner's agent to notify the City 24 hours prior to the installation inspection.
- C. If the installer provides proper notice and the City does not provide an inspection within one hour after an inspection time was set, the installer may complete the construction per the following: The installer shall submit photographs of the entire uncovered system and an as-built drawing with a certified statement that the installation of the SSTS met the appropriate standards of this Article within five working days of the installation.
- D. A Certificate of Installation for new SSTS construction or replacement shall be issued by the City within 30 days of inspection if the City has reasonable assurance that the system was built in accordance with the applicable requirements as specified in the construction permit.
- E. The Certificate of Installation must include a certified statement by the certified inspector or qualified employee who conducted the inspection that the SSTS is or is not in compliance with requirements of this Article. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must be issued to the owner which includes a statement specifying those ordinance provisions with which the SSTS does not comply.
- F. No SSTS shall be placed into operation until a valid Certificate of Installation has been issued.
- G. Certificates of Installation for new construction or replacement shall remain valid for (5) five years from the date of issue unless the City finds evidence of noncompliance.

### 3. Existing Systems

- A. Compliance inspections shall be required when any of the following conditions occur:
  - (1) When applying for a land use permit, shoreline alteration permit, minor subdivision, plat, land use map amendment, conditional use permit or variance and the Certificate of Installation is more than five years old or the Certificate of Compliance is more than three years old.
  - (2) Within 90 days of conveyance of any real property and the Certificate of Installation is more than five years old or the Certificate of Compliance is more than three years old.

- (3) Any time there is a change in use of the property being served by an existing SSTS which may impact the performance of the system.
    - (4) At any time as required by this Article or the City deems appropriate such as upon receipt of a complaint or other notice of a system malfunction.
  - B. Compliance inspections of existing SSTS shall be reported on the inspection report forms provided by MPCA. The following conditions, must be assessed, or verified:
    - (1) Watertightness assessment of all treatment tanks including a leakage report;
    - (2) Vertical separation distance between the bottom of the soil treatment and dispersal system and the periodically saturated soil or bedrock including a vertical soils separation verification report unless soils have been verified according to Minnesota Rule 7082.0700, Subpart 4B.
    - (3) Sewage backup, surface seepage or surface discharge including a hydraulic function report.
  - C. The Certificate of Compliance must include a certified statement by a Qualified Employee or licensed inspection business, indicating whether the SSTS is in compliance with the requirements of this Article. If the SSTS is determined not to be in compliance with the applicable requirements, a notice of noncompliance must include a statement specifying those ordinance provisions with which the SSTS does not comply. A construction permit application must be submitted to the City if the required corrective action is not a minor repair.
  - D. The Certificate of Compliance or notice of noncompliance must be submitted to the City no later than 15 calendar days after the date the inspection was performed.
  - E. Certificates of Compliance for existing SSTS shall remain valid for three years from the date of issue unless the City finds evidence of noncompliance.
4. Transfer of Property. Any property on which a SSTS is located shall not be transferred or sold unless the parties to the transaction have complied with one of the following:
- A. A current Certificate of Compliance, as provided by Section 15-3.23(3).

- B. A winter agreement, as provided by Section 15-3.24(1)(D).
- C. In the event the seller does not provide a Certificate of Compliance or compliant Operating Permit, the seller and buyer may establish a written agreement or contract to repair, replace or upgrade the existing SSTS according to the terms of this Article.
- D. The buyer may accept total responsibility of the existing SSTS and be responsible for the necessary upgrading. In the absence of a written agreement according to Section 15-3.24(1)(D), the buyer shall be responsible for the necessary upgrading of said SSTS.

5. Commercial SSTS

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

6. Vertical Separation Reduction: Minnesota Rule 7080.1500, Subp. 4(D) is hereby adopted allowing a 15 percent reduction in vertical separation distance for settling of sand or soil, normal variation of measurements and interpretations of the limiting layer for existing SSTS. This provision does not apply to Section 15-3.17.

**Section 15-3.25. ENFORCEMENT**

Enforcement of this Article shall follow the standards in Article 12 of the City’s Land Use (Zoning) Ordinance.

**Section 15-3.26. STATE NOTIFICATION OF VIOLATION**

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

### **Section 15-3.27. RECORD KEEPING**

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

### **Section 15-3.28. ANNUAL REPORT**

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

### **Section 15-3.29. FEES**

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

### **Section 15-3.30. DISPUTE RESOLUTION**

Resolution of disputes between SSTS Certified Individuals regarding conflicting compliance inspections, determination of seasonally saturation of soils and other technical issues shall follow Minnesota Rule 7082.0700, Subp. 5.

## **ARTICLE 4. NONESSENTIAL WATER USAGE UPON CRITICAL WATER DEFICIENCY**

**Section 15-4.1. Purpose and Intent:** The purpose of this Article establishes water conservation restrictions; and the plan will be in effect at any time the governor declares by executive order a critical water deficiency, pursuant to Minnesota Statutes section 103G.291.

### **Section 15-4.2. Definitions.**

*Clerk* in statutory cities means the person assigned duties pursuant to Minn. Stat. 412.151; or the city manager pursuant to Minn. Stat. 412.601 – 412.751 or in charter cities as determined by city charter.

*Department* means the city water department.

*Emergency* means the declaration of a critical water deficiency by the governor.

*Irrigation* means the water of shrubs, trees, sod, seeded areas, gardens, lawns, or any other outdoor vegetation, except outdoor vegetation utilized for agricultural purposes.

*Notification to public* means notification through local media, including interviews and issuance of news releases.

*Public water supplier* means the city or other entity that owns, manages, or operates a public water supply, as defined in Minn. Stat. 144.382, subdivision 4.

*Reclaimed water* means water collected from rooftops, paved surfaces, or other collection devices and all water utilized more than once before re-entering the natural water cycle.

*Water recirculation system* means any system which enables a user to reuse water at least once prior to returning the water to the natural water cycle.

### **Section 15-4.3. Application.**

1. This ordinance applies to all customers of public water suppliers who own or control water use on any premises.
2. No person shall make, cause, use, or permit the use of water received from a public water supply for residential, commercial, industrial, governmental, or any other purpose in any manner contrary to any provision in this ordinance.
3. Mandatory emergency conservation measures shall be implemented based upon the declaration of a critical water emergency by the governor.

### **Section 15-4.4. Declaration of critical water deficiency.**

Upon declaration of a critical water deficiency by the governor, the public water supplier shall immediately post notice of the emergency declaration at the usual meeting place of the city council, or the official city bulletin board. The city shall provide notification to the public as quickly as possible or through established water supply plans, emergency response plans, or procedures.

### **Section 15-4.5. Mandatory emergency water conservation measures.**

Upon declaration of a water emergency and notification to the public, the following mandatory restrictions upon nonessential water use shall be enforced:

1. Outdoor irrigation of yards, gardens, golf courses, parklands, and other non-agricultural land, except for those areas irrigated with reclaimed water, is prohibited.

2. Washing or spraying of sidewalks, driveways, parking areas, tennis courts, patios, or other paved areas with water from any pressurized source, including garden hoses, except to alleviate immediate health or safety hazards, is prohibited.
3. The outdoor use of any water-based play apparatus connected to a pressurized source is prohibited.
4. Restaurants and other food service establishments are prohibited from serving water to their customers, unless water is specifically requested by the customer.
5. Operation of outdoor misting systems used to cool public areas is prohibited.
6. The filling of swimming pools, fountains, spas, or other exterior water features is prohibited.
7. The washing of automobiles, trucks, trailers, and other types of mobile equipment is prohibited, except at facilities equipped with wash water recirculation systems, and for vehicles requiring frequent washing to protect public health, safety, and welfare.

**Section 15-4.6. Variances.**

The City Clerk or their designee, is authorized to grant variances to this ordinance where strict application of its provisions would result in serious hardship to a customer. A variance may be granted only for reasons involving health or safety. An applicant may appeal the denial of a variance within five (5) days of the decision by submitted a written appeal to the City Clerk. The City Council shall hear the appeal at the next City Council meeting. The decision of the City Council is final.

**Section 15-4.7. Violation.**

1. Violations shall be determined and cited by the City Clerk or his/her designee. A violator may appeal the citation within five (5) days of its issuance by submitting a written appeal to the City. The City Council shall hear the appeal at the next City Council meeting. The decision of the City Council is final. Violators may be granted an administrative waiver if evidence is provided that equipment failure was the cause of the violation. A letter from a qualified vendor or equipment invoice will be required to show proof of equipment failure.
2. Upon discovery of a first violation the violator shall be issued, either personally or by mail, a warning letter that sets forth the violation and which shall describe the remedy and fines for future violation.
3. Upon subsequent violations at the same location, the violator shall be issued, either personally or by mail, a citation that sets forth the violation and shall describe the remedy. Fines shall be added to the monthly water bill of the owner or current occupant of the premises where the violation occurred. The imposition of the fine shall in no way limit the right of the City to pursue other legal remedies.

**Section 15-4.8. Enforcement.**

The City Clerk or his/her designee is authorized to designate city employees or law enforcement personnel to enforce the provisions of this ordinance.

**Section 15-4.9. Severability.**

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

**CHAPTER 16 – [RESERVED FOR EXPANSION]**