

## CHAPTER IV

### BUILDING, HOUSING AND CONSTRUCTION REGULATIONS

#### SECTION 400 - BUILDING CODE

400.01. Building Code. Subdivision 1. Building code adopted. The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes Chapter 16B.59 to 16B.75, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit, is hereby adopted by reference with the exception of the optional chapters, unless specifically adopted in this section. The Minnesota State Building Code is hereby incorporated into this section as if fully set out herein.

Subd. 2. Building Code Optional Chapters. The Minnesota State Building Code, established pursuant to Minnesota Statutes Sections 16B.59 to 16B.75 allows the city to adopt by reference and enforce certain optional chapters of the most current edition of the Minnesota State Building Code. The following optional provisions identified in the most current edition of the State Building Code are hereby adopted and incorporated as part of the building code for the city:

None.

Subd. 3. Administration and enforcement. The application, administration and enforcement of the building code shall be in accordance with Minnesota Rules Chapter 1300. The city building official designated by the city council will be responsible for the administration and enforcement of the building code within the corporate limits of the city and extraterritorial limits permitted by Minnesota Statutes Section 16B.62, subdivision 1. The designated city building official must be certified by the State of Minnesota pursuant to Minnesota Statutes Section 16B.65, subdivision 2. The building official will be responsible for all aspects of code administration.

400.03. Permits and Fees. The issuance of permits and the collection of fees shall be as authorized Minnesota Statutes Section 16B.62, subdivision 1. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the city council. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minnesota Statutes Section 16B.70.

400.05. Building Permits Required. It is unlawful to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish any building or structure, or any part or portion thereof, including, but not limited to, the plumbing, electrical, ventilating, heating or air conditioning systems therein, if the labor and materials involved in such work have a combined value of \$1,000 or more, or cause the same to be done, without first obtaining a separate building or mechanical permit for each such building, structure or mechanical components. In addition to any other penalty, if any act for which a permit is required is begun before a permit has been issued, the

applicable permit fee will be doubled or the fee will be \$200, whichever is greater, and the owner of the property and the contractor who began work before the permit was issued are each liable to pay one-half of the fee.

400.07. Permits and special requirements for moving buildings. Subdivision 1. Definition. "Street" or "streets" means streets and highways in the city other than state trunk highways, county state-aid highways or county roads.

Subd. 2. Moving permit. It is unlawful to move a building on a street without a building moving permit.

Subd. 3. Application. The application for a building moving permit must state: (i) the approximate size and weight of the structure or building proposed to be moved; (ii) the places from and to which it is proposed to move the same; (iii) the proposed route to be followed; (iv) the proposed dates of moving and parking; and (v) the name and address of the proposed mover. The application must also state any municipal utility, street and public property repairs or alterations that will be required.

Subd. 4. Permit and Fee. The building moving permit will state the approved date or dates of moving, hours, routing, movement and parking. Permits will be issued only for moving buildings by building movers licensed by the state of Minnesota, except that a permit may be issued to a person moving his or her own building, or a person moving a building which does not exceed 12 feet in width, 25 feet in length and 16 feet in loaded height. Fees to be charged are separate for each of the following: (i) a building moving permit fee to cover use of streets and route approval; and (ii) a fee equal to the anticipated amount required to compensate the city for any municipal utility and public property (other than streets) repairs or alterations occasioned by such movement. Fees must be paid in advance. Fees are set forth in the city's fee schedule.

Subd. 5. Building Permit and Code Compliance. Before a building is moved from one location to another within the city, or from a point of origin within the city to a destination outside the city, regardless of the route of movement, the building must be inspected and a building permit issued for the work necessary to bring it into full compliance with the State Building Code.

Subd. 6. Proof of Tax Payment. It is unlawful to move a building (including a manufactured home) if the point of origin or destination (or both) is within the city, and regardless of the route of movement, without having paid in full all real and personal property taxes and special assessments due thereon, and filing written proof of such payment to the city.

400.09. Underground Utility Installations. The installation of wires, lines, cables or piping above the surface of the ground for electrical, telephone, television or gas is prohibited in any areas of new construction or major reconstruction, except service connections on private property or wires for television antenna on private property. These installations are subject to inspection and approval of the maintenance superintendent.

400.11. Hazardous Buildings. Minnesota Statutes Sections 463.15 to 463.261 are adopted by reference.

400.13. Unsafe Buildings. Subdivision 1. Definition and abatement. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, unsanitary conditions, physical damage, obsolescence, fire hazard, or abandonment, as specified in the State Building Code, another provision of the city code, or any other law, are, for the purpose of this section, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified herein.

Subd. 2. Notice to owner. The city building official shall examine or cause to be examined every building or structure or portion thereof which is dangerous or damaged and, if such is found to be an unsafe building, the building official shall give to the owner of such building or structure written notice stating the defects therein, and shall, in detail, indicate the improvements or repairs to be made and may state that if repairs and improvements are impractical and not feasible to ultimately provide for the public safety and health, that such building or structure shall be removed. This notice may require the owner or person in charge of the building or premises, within 48 hours, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within a reasonable period of time as so stipulated in the notice by the building official. Such notice may require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected, and approved by the building official. Proper service of such notice shall be by personal service upon the owner of record or by registered or certified mail, provided, that if such notice is by registered mail or certified mail, the designated period within which said owner or person in charge is required to comply with the order of the building official shall begin as of the date of delivery shown upon the return receipt. If, in the event of an emergency situation the building official determines that to protect the public interests of health and safety, precautions or repairs or removal must be conducted immediately, the building official shall order the immediate cordoning off of any or all areas surrounding such building or structure causing the emergency conditions the building official shall notify the owner of record forthwith and order repairs to be commenced immediately. In the event notice cannot be made effective in sufficient time for the owner to abate the condition or properly cordon off the area, the council shall meet and order necessary precautions to protect the public and notice of such actions shall be made on the owner of record forthwith.

Subd. 3. Hearing procedure. Within 20 days from the date of service, any person upon whom the order is served may request a hearing by the city council. If such a hearing is requested the execution of the order prepared by the building official shall be stayed and the time period as provided in the notice shall not commence until such hearing has taken place and the order of the council shall be given. The requirements of this subdivision, however, shall not infringe upon the rights of the council and building official in the event of emergency as described in subdivision 2, above. If an emergency situation exists as referenced in subdivision 2 above, the hearing shall be held forthwith and demand for such hearing must be made at the earliest reasonable time by the person upon whom notice is served following receipt of such

notice.

Subd. 4. Posting of signs. The building official shall cause to be posted at each entrance to such building a notice to read: DO NOT ENTER, UNSAFE TO OCCUPY, BUILDING DEPARTMENT, CITY OF NERSTRAND. Such notice shall remain posted until the required repairs, demolition, or removal is completed. Such notice shall not be removed without written permission of the building official and no person shall enter the building except for the purpose of making the required repairs or for demolishing the building.

Subd. 5. Right to demolish. In case the owner shall fail, neglect, or refuse to comply with the notice to repair, rehabilitate, or to demolish and remove said building or structure or portion thereof, the council may order the owner of the building prosecuted as a violator of the provisions of this section and may order the building official to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the council, who shall cause the same to be paid and levied as a special assessment against the property.

Subd. 6. Costs. Costs incurred under provisions of this section shall be paid out of the city general fund. The clerk-treasurer shall keep an accurate account of the expenses incurred in carrying out the order and of all other expenses theretofore incurred in connection with its enforcement. Such costs shall be charged to the owner of the premises involved as a special assessment on the land on which the building or structure is located, and shall be collected in the manner provided for special assessments, but the assessment shall be payable in a single installment.

Subd. 7. Unlawful act. It is unlawful for the owner of any property to suffer or permit an unsafe building as defined herein to remain thereon.

## SECTION 405 – PRIVATE SWIMMING POOLS, SPAS, HOT TUBS AND SAUNAS

405.01. Definitions. Subdivision 1. For purposes of this section, the terms defined in this subsection have the meanings given them.

Subd. 2. “Swimming pool, spa, or hot tub” means any pool or open tank not located within a completely enclosed building and with a surface area of 50 square feet or more that holds more than 100 gallons of water, excluding natural bodies of water.

Subd. 3. Requirements for swimming pools, spas and hot tubs. The following conditions and requirements must be followed for swimming pools, spas and hot tubs:

- a) A swimming pool, spa or hot tub, is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located.
- b) Swimming pools, hot tubs, spas, and saunas must meet the structure setbacks listed for the zoning district in which they are located. In no case may swimming pool, hot tub, spa or sauna be located closer than 10 feet to any property line.
- c) All swimming pools and hot tubs must be provided with safeguards to prevent children from gaining uncontrolled access by the use of a fence or enclosure, or any combination thereof, of sufficient density as to be impenetrable. If a fence is used, it must be at least four feet in height. The bottoms of the fence must not be more than four inches from the ground. Fences must be of a non-corrosive material and must be constructed so as to be not easily climbable. All fence openings or points of entry into the pool enclosure must be equipped with gates or doors. All gates or doors to swimming pools and hot tubs must be equipped with self-closing and self-latching devices placed at sufficient height so as to be inaccessible to small children.
- d) Rented portable hot tubs are exempt from b) and c) of this section for a period not to exceed 48 hours, provided they are rendered inaccessible when not in use.

## SECTION 410 – SOIL EROSION AND SEDIMENT CONTROL

410.01. Soil Erosion and Sediment Control. Subdivision 1. General rule. The following standards apply to all development and activity that necessitates grading, stripping, cutting, filling or exposure of soils.

### Subd. 2. General standards.

- a) Development must conform to the natural limitations presented by the topography and soil in order to create the best potential for preventing soil erosion.
- b) Development on slopes with a grade between 12 and 18 percent must be reviewed by the city to ensure that adequate measures have been taken to prevent erosion, sedimentation and structural damage.
- c) Erosion and siltation control measures must be coordinated with the different stages of development. Appropriate control measures must be installed prior to development when necessary to control erosion.
- d) Land must be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land must be exposed at any one period of time.
- e) Where the topsoil is removed, sufficient arable soil must be set aside for re-spreading over the developed area. The topsoil shall be restored to a depth of four inches and shall be of a quality at least equal to the soil quality prior to development.
- f) The natural drainage system must be used as far as is feasible for storage and flow of runoff. Storm water drainage must be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of storm water to marshlands or swamps may be considered for existing or planned surface drainage. Marshlands and swamps used for stormwater must provide for natural or artificial water level control. If constructed, temporary storage areas or retention basins scattered throughout developed areas must be constructed to reduce peak flow, erosion damage, and construction cost.
- g) Public and private properties adjacent to the development site must be protected from the effects of sedimentation. Any violations of this provision must be corrected by the owner to the satisfaction of the city within five days of receiving notification of such. If the violation is not remedied within the time period specified, the city may correct the problem and assess the costs incurred to the property owner.

Subd. 3. Exposed slopes. The following control measures must be taken to control erosion during construction:

- a) An exposed slope may not be steeper in grade than four feet horizontal to one foot vertical.
- b) At the foot of each exposed slopes, a channel and berm should be constructed to control runoff. The channeled water should be diverted to a sedimentation basin (debris basin, silt basin or silt trap) before being allowed to enter the natural drainage system.
- c) Along the top of each exposed slope, a berm should be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures must be taken to prevent erosion. Such measures consist of either an asphalt paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron a gravel energy dissipater should be installed to prevent erosion at the discharge end.
- d) Exposed slopes must be protected by whatever means will effectively prevent erosion considering the degree of slope, soils material, and expected length off exposure. Slope protections must consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seedlings of annual grasses. Mulch consists of hay, straw, wood chips, corn stalks, bark or other protective material. Mulch should be anchored to slopes with liquid asphalt, stakes, and netting, or should be worked into the soil to provide additional slope stability.
- e) Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will as effectively protect exposed slopes.

Subd. 4. Ground cover. A residential property must be maintained in a condition to control erosion, dust and mud by installing suitable landscaping that includes grass, trees, shrubs, or other planted ground cover or by paving with asphalt or concrete.

410.02. Preservation of Natural Drainageways. Subdivision 1. Waterways.

- a) Every effort must be made to retain the natural drainage systems in the city including existing wetlands and ponds. Above-ground runoff disposal waterways may be constructed to augment the natural drainage system.
- b) The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a 10 year storm. Adequacy is determined by the expected runoff when full development of the drainage area is reached.
- c) Fences or structures may not be constructed across the waterway that will reduce or restrict the flow of water.

- d) The banks of the waterway must be protected with permanent vegetation or rip-rap and should not exceed four feet horizontal to one foot vertical in gradient.
- e) The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
- f) The bed of the waterway should be protected with turf, sod, or concrete. If turf or sod will not function properly, rip-rap may be used. Rip-rap shall consist of quarried limestone, fieldstone (if random rip-rap is used) or construction materials of concrete. The rip-rap shall be no smaller than two inches square nor no larger than two feet square. Construction materials must be used only in those areas where the waterway is not used as part of recreation trail system.
- g) If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or rip-rap will be allowed to prevent erosion at these points.

#### Subd. 2. Sediment control of waterways

- a) To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment control structures must be incorporated throughout the contributing watershed.
- b) Temporary pervious sediment traps may consist of a construction of bales of hay with a low spillway embankment section of sand and gravel that permits a slow movement of water while filtering sediment. Such structures will serve a temporary sediment control features during the construction state of development. Development of housing and other structures are restricted from the area on either side of the waterway required to channel a 25 year storm.
- c) Permanent impervious sediment control structures consist of sediment basins (debris basins, desilting basins, or silt traps) and must be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.