



PLANNING & ZONING COMMISSION

*Agenda*  
January 22, 2025  
7:00 PM

**1. ROLL CALL**

**2. APPROVAL OF AGENDA**

**3. APPROVAL OF MINUTES**

3A. December 17, 2024 regular meeting.

**4. PUBLIC DISCUSSION** – Public comment on any item not otherwise listed on the agenda.

**5. PUBLIC HEARINGS**

5A. An application by Cottage Life Investments/Levi Stauber for a Subdivision to create a 142-foot-wide parcel of 0.67 acres and a 1.15-acre lot accessed by way of a flag lot of 40-foot width at 4407 Ugstad Road. The property is located in an R-3 zoning district.

5B. Zoning Ordinance text amendments by the City of Hermantown amending Section 200 – Definitions and Chapter 5 - Land Use Regulations, Chapter 11– Planned Unit Developments, pertaining to environmental review.

5C. Zoning Ordinance text amendments by the City of Hermantown creating Chapter 23 – Environmental Review, pertaining to environmental review of projects subject to Minnesota Administrative Rules, Chapter 4410.

**6. CONTINUING BUSINESS**

**7. NEW BUSINESS**

**8. COMMUNICATIONS**

**9. COMMISSION MEMBER REPORTS**

Joe Peterson  
Corey Kolquist  
Valerie Ouellette  
Beth Wentzlaff  
Kevin Hagen  
Matthew Fournier  
John Stauber

**ADJOURN**



## PLANNING & ZONING COMMISSION

December 17, 2024 Meeting Summary

7:00 PM

### 1. ROLL CALL

Members Present: Joe Peterson; Corey Kolquist; Beth Wentzlaff; John Stauber; and Kevin Hagen

Members Absent: Matthew Fournier; Valerie Ouellette; and John Geissler

Others Present: Eric Johnson, Community Development Director

### 2. APPROVAL OF AGENDA

Motion made by Corey Kolquist to approve the December 17, 2024 agenda as presented. Seconded by John Stauber. Motion carried.

### 3. APPROVAL OF MINUTES

Motion made by John Stauber to approve the November 19, 2024 minutes as presented. Seconded by Beth Wentzlaff. Motion carried.

### 4. PUBLIC DISCUSSION

None.

### 5. PUBLIC HEARING

5A. An application by Gregg Billman/Norway Pines, Inc. for a Commercial Industrial Development Permit for a 7,324 square foot office building with associated site improvements. The property is located at 4560 Norway Pines Place and is located in a C-1, Office/Light Industrial zoning district.

Eric Johnson, Community Development Director, presented the application of Gregg Billman/Norway Pines, Inc. for an amendment to the Commercial Industrial Development Permit (CIDP) 06-111 for an existing 7,324 square foot office building along with subsequent site improvements.

According to Eric, in 2006, a CIDP was issued for this property for the purpose of constructing a single tenant office building. The property is now being marketed for sale and there is a contingent offer pending on the property. However, there is concern from the purchaser about the following language in the recorded CIDP:

- Only one tenant in the building is allowed and any future tenants must apply for and receive a zoning certificate in lieu of a CIDP.

In discussions with the purchaser's attorney, they are acceptable with the following language being utilized in the amended CIDP as follows:

- Any new/additional tenants must apply for and receive a zoning certificate in lieu of a CIDP, in order to verify that the proposed use is permitted within the subject zoning district.

The site has been constructed with adequate parking and stormwater systems. The proposed new tenant for the building is an office-based use conducting mental health-based services.

Motion made by Corey Kolquist to approve the application by Gregg Billman/Norway Pines, Inc. for a Commercial Industrial Development Permit for a 7,324 square foot office building with associated site improvements as presented. Seconded by John Stauber. Motion carried.

**6. CONTINUING BUSINESS**

None.

**7. NEW BUSINESS**

Assign new chair to the Planning & Zoning Commission. Per discussions by staff, Eric presented the scenario where Joe Peterson is the City Council liaison to the Planning and Zoning Commission as well as continues to chair the meetings. A new member of the Planning and Zoning Commission would be appointed in the near future.

**8. COMMUNICATIONS**

None.

**9. COMMISSION MEMBER REPORTS**

- Joe Peterson – None
- Corey Kolquist – None
- Valerie Ouellette – Absent
- Beth Wentzlaff – None
- Kevin Hagen – None
- Matthew Fournier – Absent
- John Stauber – None
- John Geissler – Absent

**ADJOURN**

Motion made by Kevin Hagen to adjourn the meeting. Seconded by Beth Wentzlaff. Meeting adjourned at 7:10 pm.

Officiated by:

Transcribed by:

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Joe Peterson, Chairman

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Mary Melde, Administrative Assistant

**5A. Subdivision Application to create a flag lot in an R-3 zoning district**

**Applicant:** Cottage Life Investments /Levi Stauber  
**Case No.:** 2024-66-SUB-A  
**Staff Contact:** Eric Johnson, Community Development Director  
**Request:** Subdivision of an R-3 zoned property to create a flag lot.

**DESCRIPTION OF REQUEST:**

The property owner owns a 1.68 acre property at 4407 Ugstad Road. The property has a lot dimension of 182' x 402'. There is an existing home and one outbuilding located on the southern side of the property.

The property owner proposes to create a new flag lot along the southern border of the existing property. The property owner is proposing a 40 foot 'pole/driveway' connection to Ugstad Road for a distance of 172 feet with the 'flag' portion of the lot being approximately 182' x 230'. The proposed lot sizes for the two total parcels are:

Parcel A: 142' x 172' = 24,424/43,560 or 0.56 acres  
 Parcel B: 40' x 205' and 182' x 230' = 48,740/ 43,560 sf. or 1.12 acres

The property owner intends to keep the existing home and outbuilding as is and either market the new lot or build on the proposed parcel at a future date. Any new home application will require coordination with the City Utility Clerk for utility hook ups and Public Works regarding driveway locations.

**SITE INFORMATION:**

**Parcel Size:** 1.68 acres  
**Legal Access:** 4407 Ugstad Road  
**Wetlands:** Yes, delineated in 2024  
**Existing Zoning:** R-3, Residential  
**Minimum Lot Area:** 0.5 acres (City services are available)  
**Airport Overlay:** Safety Zone 3 (Height restrictions only)  
**Shoreland Overlay:** No  
**Comprehensive Plan:** Residential

## BACKGROUND:

The City updated its regulations covering splitting of land and subdivisions in 2016. The update to the regulations created a process to allow flag lots in residential zoning districts. A flag lot is defined as a lot containing an area shaped like a “flag” which is the portion of the lot where all structures are to be located and an area shaped like a “pole” which is the portion of the lot where the vehicular access between the flag and its adjoining road shall be located. The regulations set ten standards for flag lots in Hermantown. These are listed in the Findings section. Flag lots require a public hearing by the Planning Commission and approval by the City Council.

Administrative approvals and Flag Lot approvals require a certificate of survey, resulting legal descriptions, and review of any assessments. In addition, the City charges a fee in lieu of land dedication of \$1,100 for parks and recreation for every new residential lot created.

There is existing City water and a septic system to the existing home. There is City water and sanitary sewer mains located in Ugstad Road. The new flag lot will also be required to utilize City sanitary sewer and water services and pay all applicable availability and hook-up fees. The existing home will be required to hook into the City’s sanitary sewer main and pay all applicable availability and hook-up fees.

The property was delineated in the fall of 2024 and wetland impacts under de-minimus exemption were approved by the Hermantown Technical Evaluation Panel.

## FINDINGS:

Staff recommends the following findings of fact regarding the flag lot split application:

- 1. The resulting lots do not violate any provision of the Hermantown Zoning Regulations, Comprehensive Plan, or any other local ordinance.** The new lot exceeds minimum standards in the R-3, Residential District, maintains the suburban residential development pattern identified in the Comprehensive Plan, and has access to water and sewer.
- 2. The width of the flag lot at the front yard setback line must meet the lot width requirements of the Hermantown Zoning Regulations.** The lot is 142’ wide at the front yard setback line which exceeds the requirement of 100’.
- 3. The pole portion of a flag lot shall not exceed 500 feet.** The pole is 172’ feet long.
- 4. The pole portion of a flag lot must have a minimum width of 30 feet, be of uniform width, be a platted part of the flag lot, and connect to a public street. The driveway shall be set back a minimum of 10 feet from the neighboring property that was not used to create the flag lot and five feet from the mother property.** The pole is 40’ wide. Approval of building permits will be conditioned on siting of the driveway to meet setback standards defined in Section 1010.04.04 of the Hermantown Zoning Regulations.
- 5. The pole portion of the flag lot will not be included in calculating the minimum lot area.** The lot area without the “pole” is 0.96 acres which exceeds the ½ acre minimum lot size of the R-3, Residential zoning district.
- 6. Only one flag lot may be created from an existing/mother property.** The city will record that no further flag lots can be created from PIN # 395-0074-00020.
- 7. Must be used exclusively for single family dwelling and accessory uses.** The intended use of the new developable lot is for single family residential. The City will only issue building or zoning permits for single family residential and related uses.
- 8. The City must determine that the creation of the flag lot will not interfere with future development of roads or interior lands.** The land to the north, east and south of the subject parcel have existing single family homes located on them.

9. **The City must determine that the flag lot provides adequate accessibility of emergency responders.** The proposed pole meets minimum width and is less than the maximum length. Both standards were developed with emergency response vehicles in mind.
10. **All flag lots must display an address at their closest point of access to a public street for emergency responders.** The applicant will have to assent to displaying 911 addressing in a visible location at the entrance of the driveway.

**RECOMMENDATION:**

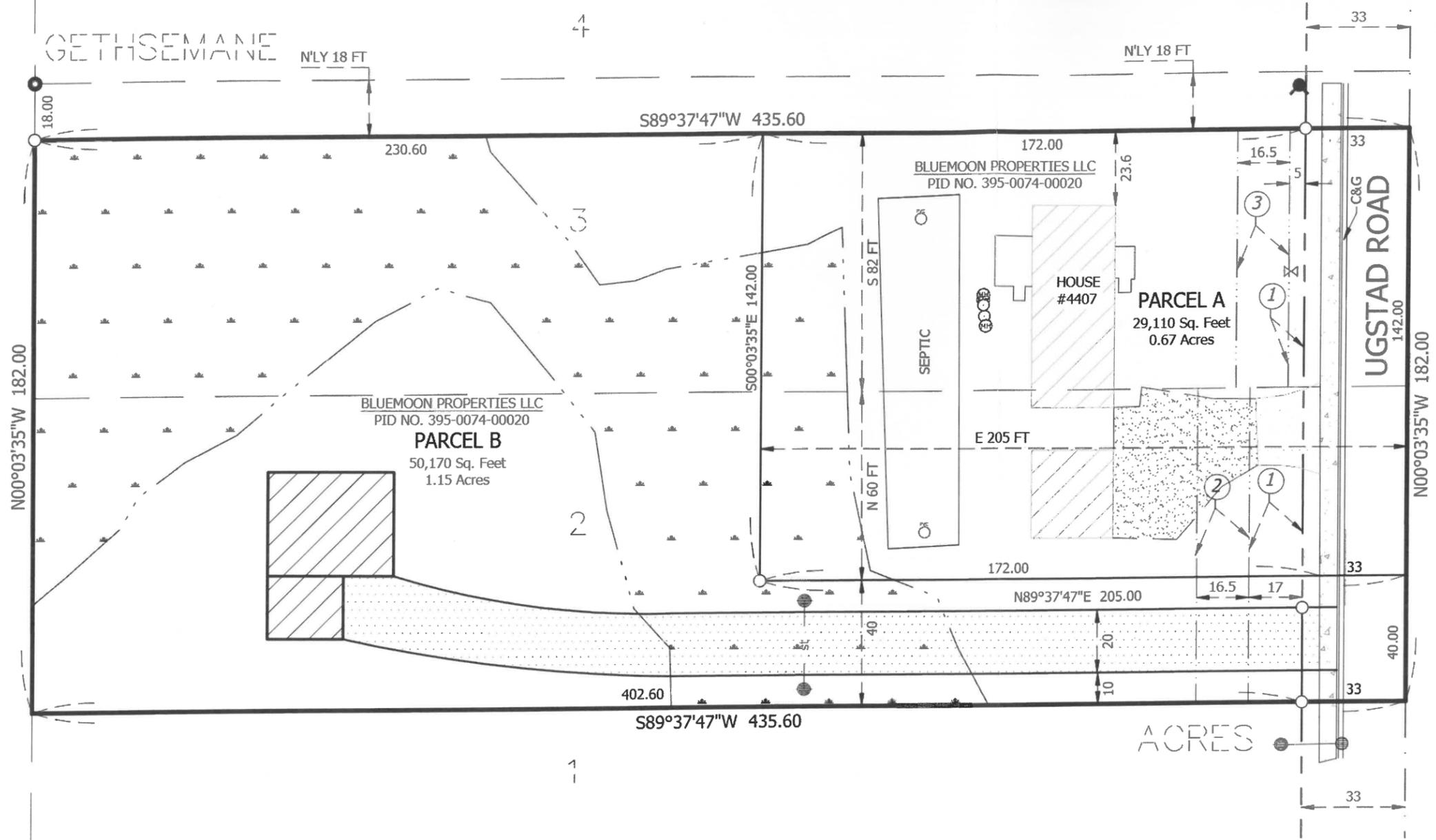
1. Recommend approval of the creation of a 182' by 230' flag lot with a 40' by 172' pole abutting Ugstad Road.
2. Adopt the stated Findings of Fact and other content of this report as the required findings identified in Section 1010.04.11.6 of the Hermantown Zoning Regulations.
3. Prior to recording of the flag lot, the property owner shall pay a fee in lieu of land dedication for parks and recreation of \$1,100.
4. Prior to issuance of a City land alteration permit for site work on the flag lot the property owner of the land alteration permit will provide a site plan depicting the driveway and flag the location of the driveway for inspection to confirm that it meets setback requirements listed Section 1010.04 of the Hermantown Zoning Regulations.
5. The new flag lot will be required to utilize City sanitary sewer and water services and pay all applicable fees.
6. The existing home will be required to hook into the City's sanitary sewermain in Ugstad Road and pay all applicable fees.
7. The property owner shall sign a consent form assenting to all conditions of this approval.
8. The property owner shall pay an administrative fine of \$750 per violation of any condition of this approval.

**ATTACHMENTS**

- Location Map
- Proposed Survey and Legal Descriptions

**Location Map**





**PARENT LEGAL DESCRIPTION PER DOCUMENT NO. 1370594**  
 Lot Three (3) EXCEPT the Northerly Eighteen Feet (N'ly 18') thereof and Lot Two (2), GETHSEMANE ACRES

**LEGAL DESCRIPTION OF PARCEL A**  
 The North 60.00 feet of the East 205.00 feet of Lot 2 and the South 82.00 feet of the East 205.00 feet of Lot 3, GETHSEMANE ACRES, according to the recorded plat thereof, St. Louis County, Minnesota. Said parcel contains 29,110 square feet or 0.67 acres.

**LEGAL DESCRIPTION OF PARCEL B**  
 Lot 2, EXCEPT The North 60.00 feet of the East 205.00 feet of thereof and Lot 3, EXCEPT the South 82.00 feet of the East 205.00 feet thereof, GETHSEMANE ACRES, according to the recorded plat thereof, St. Louis County, Minnesota. Said parcel contains 50,170 square feet or 1.15 acres.

**LEGEND**

	CONCRETE SURFACE		SECTION SUBDIVISION LINE		HYDRANT
	BITUMINOUS SURFACE		RIGHT OF WAY LINE		WATER VALVE
	GRAVEL SURFACE		EXISTING EASEMENT LINE		PVC CLEANOUT
	EXISTING BUILDINGS		BOUNDARY LINE AS SURVEYED		REFER TO SURVEYOR'S NOTES
	WET LAND PER OTHERS		EXISTING PLAT LINE		ELEC PEDESTAL
			PROPOSED PARCEL LINE		MISC MANHOLE
			WET LAND LINE		CATCH BASIN
			STORM SEWER		CULVERT
			C&G-CONCRETE CURB & GUTTER		FOUND IRON PIPE
			PROPOSED BUILDING		
			PROPOSED DRIVEWAY		

**SURVEYOR'S NOTES**

- EASEMENT FOR PUBLIC PURPOSES FOR THE CONSTRUCTION AND MAINTENANCE OF UGSTAD ROAD PER DOCUMENT NO. 551890.
- US WEST COMMUNICATIONS EASEMENT PER DOCUMENT NO. 553705.
- US WEST COMMUNICATIONS EASEMENT PER DOCUMENT NO. 553705.
- THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
- BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
- BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY. SEE ARCHITECTURAL PLAN FOR BUILDING FOUNDATION DIMENSIONS.
- NO SPECIFIC SOILS INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY ALTA LAND SURVEY COMPANY. THE SUITABILITY OF SOILS TO SUPPORT THE SPECIFIC STRUCTURE PROPOSED IS NOT THE RESPONSIBILITY OF ALTA LAND SURVEY COMPANY OR THE SURVEYOR.

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.  
*David R. Evanson*  
 David R. Evanson  
 MN License #49505  
 DATE:10-14-2024

CERTIFICATE OF SURVEY	
CLIENT:ROBB STAUBER	REVISIONS:
ADDRESS:4407 UGSTAD ROAD HERMANTOWN, MN 55811	
DATE:10-14-2024	JOB NO:24-301 SHEET 1 OF 1

**ALTA**  
 LAND SURVEY COMPANY  
 PHONE: 218-727-5211  
 LICENSED IN MN & WI  
 WWW.ALTLANDSURVEYDULUTH.COM



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**5B and C. Amendments to the City Ordinance regarding Environmental Review Standards and Procedures**

<b><u>Applicant:</u></b>	City of Hermantown
<b><u>Case No.:</u></b>	2025-01-ZT
<b><u>Staff Contact:</u></b>	Eric Johnson, Community Development Director
<b><u>Request:</u></b>	Amendments to the City Ordinance regarding Environmental Review Standards and Procedures

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**BACKGROUND**

State Statutes set requirements regarding mandatory and discretionary environmental review, including: Environmental Assessment Worksheets (EAW), Environmental Impact Statements (EIS), and Alternative Urban Areawide Review (AUAR - an alternative discretionary EAW). State Statutes define development thresholds that trigger environmental review and the process that must be followed to assess the environmental impacts of a proposed use or development and identify mitigation measures.

While some sections of City Ordinance reference statutes, there is no explicit description of required review procedures. For development proposals subject to environmental review, it is important to ensure City review and permitting processes align with statutory review procedures. Codifying that interface will enhance awareness (for staff and project proposers) and foster process consistency, efficiency, and transparency.

Requirements for environmental review are stipulated in Minnesota Statutes Section 116D - Environmental Policy and in Minnesota Administrative Rules Chapter 4410 - Environmental Review. Statutes define the types of uses and size thresholds that trigger formal environmental review, the required documentation, and review procedures. Statutes also identify the body that serves as the Responsible Government Unit (RGU) for specific types of uses. For local industrial, commercial, institutional, and residential development, the RGU is generally the local government.

The purpose of environmental review is to identify and evaluate potential environmental impacts of a project and consider methods to reduce or mitigate adverse impacts. Environmental review is not intended to be used to approve or deny a project. The analysis provides information to guide other approvals and permitting decisions. For example, measures identified to reduce environmental impacts may be incorporated into conditions of project approval.

There are several types of environmental review, including:

- Environmental Assessment Worksheet (EAW) - these provide brief analysis of a range of potential impacts in order to determine if more in depth analysis is needed through an EIS.
- Environmental Impact Statement (EIS) - these provide detailed analysis of the impacts of a proposed project.
- Alternative Urban Areawide Review (AUAR) - this is an alternative type of review that analyzes the environmental impacts of multiple projects within a defined area, rather than a single development

project. The information included in an AUAR is similar to that required in an EAW.

Environmental review may be mandatory or discretionary. Thresholds for mandatory review for local development projects are based on jurisdictional classification. Cities, including Hermantown, with populations between 10,001 and 20,000 are classified as "Third class". Thresholds for mandatory review in such cities are as follows:

- Residential - 250 unattached units or 375 attached units
- Residential (if inconsistent with adopted comprehensive plan)- 100 unattached units or 150 attached units.
- Industrial, commercial, institutional - 200,000 gross square feet (GSF)
- Warehouse or light industrial- 300,000 GSF

The City may require preparation of a discretionary EAWs if it determines that due to the nature or location of a proposed project, there is potential for significant environmental impacts.

## OVERVIEW OF PROPOSED CHANGES

Following is a description of the proposed changes to City Ordinance and City Zoning Code, chapters, divisions, and sections included in the ordinance attached to this report.

### **City Ordinances:**

#### Chapter 2: Administration

Requires an escrow be created and capitalized to cover costs related to mandatory environmental review, as well as special studies (e.g., traffic studies). The escrow is intended to cover costs related to preparation of the required documents, including associated technical studies. Like special studies, mandatory EAW and EISs are project specific and must be completed before the subject development project may be approved or issued permits.

The fee schedule is updated to include fees associated with Environmental Reviews:

- Environmental Assessment Worksheet – discretionary – No Fee
- Environmental Assessment Worksheet – mandatory - \$2400
- Environmental Impact Statement - \$6500
- Alternative Urban Areawide Review – 10% of AUAR Cost

### **City Zoning Code:**

#### Chapter 2: Definitions

Incorporates several new definitions relevant to environmental review into Section 200.01.33, including AUAR, EAW, EIS, EQB, Mandatory Environmental Review, and RGU.

#### Chapters 5 & 11

Changes amend the language to be uniform with proposed changes to the definitions and new ordinance chapter. The proposed changes also clean up previous language that specifically quotes Minnesota Administrative Rules Chapter 4410. The new proposed language refers back to the Minnesota Rules Chapter 4410 directly, removing the potential for conflict between local zoning code and state statute should the state amend the laws.

#### Chapter 23: Environmental Review

Creates an additional chapter that follows the organization used in other city code divisions and includes several standard subsections, such as Purpose, General Provisions, and Enforcement. It also includes separate subsections that describe the requirements and review procedures specific to the different types of environmental review: EAW, EIS, and AUAR. Each of these sections references thresholds for mandatory review defined in State Statute

(Minnesota Rules) and describes the procedures for preparation and review of the required documentation.

Highlights include:

- Environmental review documents must be prepared under the direction of the City, although the City may choose to hire a consultant(s) to prepare the documents.
- The City Council must formally accept final mandatory EAWs and EISs via resolution prior to taking official action to approve the subject development proposal. However, public review of a development proposal can occur while the environmental review is underway.
- Similarly, an AUAR and related mitigation plan must be determined adequate via City Council resolution. To remain valid, an AUAR must be updated every five years, or earlier if development is proposed that deviates significantly from the development scenario analyzed in the approved AUAR. A significant deviation would involve changes to the type and/or amount of development that would result in impacts that were not analyzed or addressed in the approved mitigation plan. Currently, the only AUAR existing in Hermantown applies to the Hawklane Business Park.

#### **ATTACHMENTS**

- Ordinance amending City Ordinance Chapter 2
- City Zoning Code Chapters 2, 5, 11, and 23 regarding Environmental Review Standards and Procedures

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**5B. Amendments to the City Ordinance regarding Environmental Review Standards and Procedures**

<b><u>Applicant:</u></b>	City of Hermantown
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<b><u>Staff Contact:</u></b>	Eric Johnson, Community Development Director
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The purpose of environmental review is to identify and evaluate potential environmental impacts of a project and consider methods to reduce or mitigate adverse impacts. Environmental review is not intended to be used to approve or deny a project. The analysis provides information to guide other approvals and permitting decisions. For example, measures identified to reduce environmental impacts may be incorporated into conditions of project approval.

There are several types of environmental review, including:

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project. The information included in an AUAR is similar to that required in an EAW.

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The fee schedule is updated to include fees associated with Environmental Reviews:

- Environmental Assessment Worksheet – discretionary – No Fee
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Changes amend the language to be uniform with proposed changes to the definitions and new ordinance chapter. The proposed changes also clean up previous language that specifically quotes Minnesota Administrative Rules Chapter 4410. The new proposed language refers back to the Minnesota Rules Chapter 4410 directly, removing the potential for conflict between local zoning code and state statute should the state amend the laws.

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Creates an additional chapter that follows the organization used in other city code divisions and includes several standard subsections, such as Purpose, General Provisions, and Enforcement. It also includes separate subsections that describe the requirements and review procedures specific to the different types of environmental review: EAW, EIS, and AUAR. Each of these sections references thresholds for mandatory review defined in State Statute

(Minnesota Rules) and describes the procedures for preparation and review of the required documentation. Highlights include:

- Environmental review documents must be prepared under the direction of the City, although the City may choose to hire a consultant(s) to prepare the documents.
- The City Council must formally accept final mandatory EAWs and EISs via resolution prior to taking official action to approve the subject development proposal. However, public review of a development proposal can occur while the environmental review is underway.
- Similarly, an AUAR and related mitigation plan must be determined adequate via City Council resolution. To remain valid, an AUAR must be updated every five years, or earlier if development is proposed that deviates significantly from the development scenario analyzed in the approved AUAR. A significant deviation would involve changes to the type and/or amount of development that would result in impacts that were not analyzed or addressed in the approved mitigation plan. Currently, the only AUAR existing in Hermantown applies to the Hawklane Business Park.

**RECOMMENDATION:**

1. Recommend approval of the creation of a 182’ by 230’ flag lot with a 40’ by 172’ pole abutting Ugstad Road.
2. Adopt the stated Findings of Fact and other content of this report as the required findings identified in Section 1010.04.11.6 of the Hermantown Zoning Regulations.
3. Prior to recording of the flag lot, the property owner shall pay a fee in lieu of land dedication for parks and recreation of \$1,100.
4. Prior to issuance of a City land alteration permit for site work on the flag lot the property owner of the land alteration permit will provide a site plan depicting the driveway and flag the location of the driveway for inspection to confirm that it meets setback requirements listed Section 1010.04 of the Hermantown Zoning Regulations.
5. The new flag lot will be required to utilize City sanitary sewer and water services and pay all applicable fees.
6. The existing home will be required to hook into the City’s sanitary sewermain in Ugstad Road and pay all applicable fees.
7. The property owner shall sign a consent form assenting to all conditions of this approval.
8. The property owner shall pay an administrative fine of \$750 per violation of any condition of this approval.

**ATTACHMENTS**

- Ordinance amending City Ordinance Chapter 3, and
- City Zoning Code Chapters 2, 5, 11, and 23 regarding Environmental Review Standards and Procedures

## Chapter 2. Definitions

- 200.01.1.** “Accessory structure or use” shall mean a structure or use on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure or use.
- 200.01.2.** “Adult use, accessory” shall mean the offering of goods and/or services classified as printed matter and/or video tapes on a limited scale that is incidental to the primary business activity in the establishment and where such items occupy no more than (1) 10% of the floor space of the establishment dedicated to retail sales or 100 square feet, whichever is less; and (2) 10% of the wall space of the establishment that is dedicated to retail sales or 100 square feet, whichever is less.
- 200.01.3.** “Agricultural uses” shall mean those uses commonly associated with the growing of produce on farms. These include: field crop farming; pasture for hay; fruit growing; tree, plant, shrub or flower nursery without building; truck gardening; and roadside stand for sale in season of products grown on the premises.
- 200.01.4.** “Agritainment” shall mean ongoing or seasonal events and/or activities of an agricultural nature that are offered to the public for the purpose of recreation, entertainment, and/or education. May include food service to guests, overnight accommodations, recreational activities, classes, farm festivals and social events.
- 200.01.5.** “Alley” shall mean a public or private way affording only secondary means of access to abutting property.
- 200.01.6.** “Association” shall mean any establishment lawfully and legally organized and operated for social, recreational or educational purposes but open only to members and not to the general public.
- 200.01.7.** “AUAR” or “Alternative Urban Areawide Review” shall mean an alternative form of environmental review to determine impacts within a defined area as detailed in Minnesota Rules 4410.3610. The content and format of an AUAR is similar to that of an EAW, but provides for a level of analysis comparable to that of an EIS.
- 200.01.8.** “Automobile repair - Major” shall mean general repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steam cleaning.
- 200.01.9.** “Automobile repair - Minor” shall mean minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding 12,000 pounds gross weight, but not including any operation specified under “Automobile repair - Major.”
- 200.01.10.** “Automobile wrecking or junk yard” shall mean any place where two or more vehicles not in running condition and/or not licensed, or parts thereof, are stored in the open

and are not being restored to operation or any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof; and including any commercial salvaging and scavenging of any other goods, articles or merchandise.

- 200.01.11.** “Basement” shall mean a story having part but not more than 1/2 its height below grade. A “basement” is counted as a story for the purpose of height regulations, if subdivided and used for business or dwelling purposes by others than a janitor employed on the premises.
- 200.01.12.** “Beds of public waters” shall mean all portions of public waters located below the ordinary high water mark.
- 200.01.13.** “Board” shall mean the Board of Appeals and Adjustments established by this code.
- 200.01.14.** “Buildable area” shall mean the space remaining on a lot after minimum yard and setback requirements have been met.
- 200.01.15.** “Building” shall mean any structure for the shelter, support or enclosure of persons, animals, chattels, or property of any kind; and when separated by dividing walls, without openings, each portion of such building, so separated, shall be deemed a separate “building.”
- 200.01.16.** “Building height” shall mean the vertical distance from the grade at a building line to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.
- 200.01.17.** “Church or synagogue” includes the following: church, synagogue, rectory, parish house or similar building incidental to the particular use which is maintained and operated by an organized group of people for religious purposes.
- 200.01.18.** “Clinic” shall mean a place used for the case diagnosis and treatment of persons who are not provided with board or room nor kept overnight on the premises.
- 200.01.19.** “Clear cutting” shall mean the removal of an entire stand of trees.
- 200.01.20.** “Comprehensive Municipal Plan” shall mean a compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the municipality, and of its environment, and may include but is not limited to the following: statements of policies, goals, standards, a land use plan, a community facilities plan, a transportation plan and recommendations for planned executions.
- 200.01.21.** “Condominium” shall mean a multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject the provisions of the Minnesota Condominium Law, M.S. Sections 515.01 to 515.19, as may be amended from time to time.

**200.01.22.** “Convenience food establishment” shall mean an establishment which serves food in or on disposable or edible containers in individual servings for consumption on or off the premises.

**200.01.23.** “Coverage” shall mean that portion of a lot covered by principal and accessory use structures.

**200.01.24.** “Day care center” shall mean a service provided to the public, in which children of school or preschool age are cared for during established business hours, where no overnight facilities are provided.

**200.01.25.** “Design standards” shall mean the specifications required in this code for landowners, developers or subdividers.

**200.01.26.** “Developer” shall mean any person who owns or controls land which is to be developed.

**200.01.27.** “District” shall mean any section or sections of the City for which the regulations and provisions governing the use of buildings and lands are uniform for each class permitted therein.

**200.01.28.** “Dwelling” shall mean any structure designed or used as the living quarters for one family which:

**200.01.28.1.** Is constructed in conformance with M.S. Sections 327.31 to 427.35, as may be amended from time to time, or in conformance with the Hermantown Building Code;

**200.01.28.2.** Is at least 22 feet wide, measured from the outside of the exterior walls, over at least 75% of its length;

**200.01.28.3.** Has a minimum finished floor area at or above the lot grade on one floor of 792 square feet. The determination of what constitutes on floor shall be made in accordance with the Hermantown Building Code. “Lot grade,” for purposes of this section, means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the side lot lines, or, when the side lot line is more than five feet from the building, between the building and a line five feet from the building. “Finished floor area,” for purposes of this section, means those portions of a dwelling which have the walls and ceiling completely covered with plaster, paneling, drywall, tile or similar materials and floors completely covered with hardwood, carpeting, tiles or some similar material. All drywall material shall be completely taped and painted. No portion of finished floor area shall consist of exposed concrete, concrete blocks, studs or joists, whether painted or not. Finished floor area may include bedrooms, family rooms, dens and similar areas, but shall not include areas devoted to uses accessory to the operation of the dwelling, including but not limited to furnace rooms, laundry rooms, storage rooms and workshops; and

- 200.01.28.4.** Is placed on and attached to a permanent full perimeter foundation meeting the requirements of the Hermantown Building Code; provided, however, that any so-called “floating slab on grade foundation” or any so-called “pier and post” foundation system shall be reviewed and certified to by a structural engineer competent in soil mechanics licensed and certified by the State of Minnesota.
- 200.01.29.** “Dwelling, multiple family (apartment)” shall mean a building designed with three or more dwelling units exclusively for occupancy by three or more families living independently of each other but sharing hallways and main entrances and exits.
- 200.01.30.** “Dwelling, resident security guard or caretaker” shall mean a dwelling unit located on the site of a non-residential use and occupied by a caretaker or a guard employed on the premises, and consisting of only one residence per permitted establishment. A dwelling for a resident security guard or caretaker may not be an accessory structure and must be part of a permanent structure located or utilized for its proposed use.
- 200.01.31.** “Dwelling, seasonal or recreational” shall mean a dwelling utilized for recreational purposes, which is not the principal place of residence of the owner.
- 200.01.32.** “Dwelling, single family” shall mean a dwelling unit designed exclusively for occupancy by one family.
- 200.01.33.** “Dwelling, two family” shall mean a dwelling designed exclusively for occupancy by two families living independently of each other including:
- 200.01.34.** “Double bungalow” shall mean a two-family dwelling with two units that each constitute a dwelling side by side.
- 200.01.35.** “Duplex” shall mean a two-family dwelling with one unit that constitutes a dwelling (except for the satisfaction of 200.01.27.3. or 200.01.27.4. in the definition of dwelling) that is physically located above another unit that constitutes a dwelling.
- 200.01.36.** “Dwelling unit” shall mean one room, or a suite of two or more rooms, designed for or used by one family for living and sleeping purposes.
- 200.01.37.** “EAW” or “Environmental Assessment Worksheet” shall mean a brief document designed to assess the environmental effects and set out the basic facts necessary to determine whether an EIS is required for a proposed project or to initiate the scoping process for an EIS.
- 200.01.38.** “EIS” or “Environmental Impact Statement” shall mean a detailed written statement as required by Minnesota Statutes § 116D.04, Subd. 2a used to evaluate proposed projects which have the potential for significant environmental effects.
- 200.01.39.** “EQB” or Environmental Quality Board shall mean the state agency leaders and citizens from around the state formed by Minnesota Statute 116C for the purpose of providing

leadership and coordination on environmental issues. The EQB functions as the coordinating body for Minnesota's Environmental Review Program.

**200.01.40.** "Equal degree of encroachment" shall mean a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

**200.01.41.** A "family" is:

**200.01.41.1.** An individual, or a group of persons related by blood, marriage, foster children or adoption, living together as a single housekeeping unit; or

**200.01.41.2.** A group of not more than four persons who need not be related by blood, marriage or adoption, living together as a single housekeeping unit.

**200.01.42.** "Filling" shall mean the act of depositing any rock, soil, gravel, sand or other material for the purpose of permanently adding such rock, soil, gravel, sand or other material to the surface of the land.

**200.01.43.** "Flood; flood frequency; flood fringe; floodplain; flood-proofing; floodway" shall mean as set forth in Chapter 15, Floodplain Management Regulations, of these Zoning Regulations.

**200.01.44.** "Frontage" shall mean the length of the front property line of a lot or tract of land abutting a public right-of-way.

**200.01.45.** "Garage, private" shall mean an accessory building designed or used for the storage of motor driven vehicles.

**200.01.46.** "Garage, public" shall mean a building or portion thereof, other than private garage, designed or used primarily for servicing, repairing, equipping, hiring, selling or storing motor driven vehicles.

**200.01.47.** "Grading" shall mean changing the normal or existing topography of land.

**200.01.48.** "Ground signs" within the meaning of this chapter means any sign exceeding ten square feet in area, supported by uprights or braces placed upon the ground.

**200.01.49.** "Head Shop" shall mean any retail establishment open to the public that advertises, displays, or offers for sale, transfer, or barter:

**200.01.49.1.** Controlled Substances, as is defined by Minnesota Statutes § 152.01, subd. 4 (2013), as it may be amended from time to time;

**200.01.49.2.** Analog, as defined by Minnesota Statutes § 152.01, subd. 23 (2013), as it may be amended from time to time; or

**200.01.49.3.** Drug Paraphernalia, as is defined by Minnesota Statutes § 152.01, subd. 18 (2013), as it may be amended from time to time, regardless of whether it might also be possible to use Drug Paraphernalia for a lawful purpose.

**200.01.50.** “Hotel” shall mean a building in which lodging with or without meals is provided and offered to transient guests.

**200.01.51.** “Housing with services establishment” shall mean a facility licensed and defined by the Minnesota Department of Health under Minnesota Statutes Chapter 144D that provides sleeping accommodations to one or more adult residents and offering or providing, for a fee, one or more regularly scheduled health-related services or two or more regularly scheduled supportive services, whether offered or provided directly by the establishment or by another entity arranged for by the establishment.

**200.01.52.** “Impervious surface” shall mean an artificial or natural surface through which water, air or roots cannot penetrate.

**200.01.53.** “Junk or salvage yard” shall mean any establishment, place of business or place of storage or deposit, which is maintained, operated or used for storing, keeping, buying or selling junk, wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts, whether maintained in connection with another business or not, where the waste, body or discarded material stored is equal in bulk to two or more motor vehicles, and which are to be resold for used parts or old iron, metal, glass or other discarded material.

**200.01.54.** “Kennel” shall mean an establishment where three or more animals are bred for sale, boarded, trained or offered for sale.

**200.01.55.** “Livestock” shall mean domesticated hooved mammals commonly kept for agricultural purposes such as horses, cows, and llamas, except for Small Farm Animals.

**200.01.56.** “Loading space, off-street” shall mean space reserved for bulk pickups and deliveries, intended to be used by vehicles when required off-street parking spaces are otherwise unavailable. Required “off-street loading space” shall not be included as off-street parking space in the computation of required off-street parking spaces.

**200.01.57.** “Lot” shall mean a piece, parcel or plat of land occupied or capable of being occupied by one or more structures and intended as a unit for transfer of ownership.

**200.01.58.** “Lot, depth” shall mean the shortest horizontal distance between the front lot line and the rear lot line, measured from a 90-degree angle from the street right-of-way.

**200.01.59.** “Lot Line” shall mean a property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street, the “lot line” shall be deemed to be the street or alley right-of-way.

- 200.01.60.** “Lot line, corner” shall mean the boundary of a lot which is abutting a street right-of-way where the lot abuts upon two or more streets at their intersection and which is not a lot line, front.
- 200.01.61.** “Lot line, front” shall mean the boundary of a lot abutting a public street right-of-way. For purposes of this code, in the case of a corner lot, the front shall be the lot side having the shortest dimension on a public street. If the dimensions of a corner lot are within 10% of being equal, the owner may select either street lot line as the front lot line.
- 200.01.62.** “Lot line, rear” shall mean the boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line 10 feet in length within the lot, connecting the side lot lines and parallel to the front lot line.
- 200.01.63.** “Lot line, side” shall mean any boundary of a lot that is not a front lot line or a rear lot line.
- 200.01.64.** “Lot width” shall mean the minimum required horizontal distance between the side lot lines measured at right angles to the lot depth, at the minimum building setback line.
- 200.01.65.** “Lot of record” shall mean a parcel of land which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder or Registrar of Titles of St. Louis County or a parcel of land otherwise legally described, the description of which has been recorded in the office of the County Recorder, Registrar of Titles or Auditor of St. Louis County.
- 200.01.66.** “Lot, minimum area of” shall mean the area of a lot computed exclusive of any portion of the right-of-way of any public thoroughfare.
- 200.01.67.** “Mandatory Environmental Review” shall mean a formal review and assessment of the potential environmental impacts of a development project that meets mandatory thresholds for review pursuant to Minnesota Statutes § 116D and Minnesota Administrative Rules, Chapter 4410, Environmental Review.
- 200.01.68.** “Massage Establishment” shall mean any business establishment having a fixed place of business where any person engages in, or permits another person to be engaged in, the massage of clients, including but not limited to health clubs, beauty salons, saunas and steam baths that offer massage therapy, but excluding the premises or medical professionals falling within the purview of Minnesota Statutes § 471.709.
- 200.01.69.** “Measured distance” shall mean all measured distances shall be to the nearest integral foot. If a fraction is ½ foot or less, the integral foot next below shall be used. Measurements between or up to buildings shall be taken to the nearest point of the vertical building wall.

- 200.01.70.** “Medical Cannabis Distribution Facility” shall mean an establishment engaged in the sale and distribution of medical cannabis that is validly registered and approved by the State of Minnesota.
- 200.01.71.** “Mobile home” shall mean a factory-built structure equipped with the necessary service connections and made so as to be readily movable as a unit on its own running gear and designed to be used as a dwelling unit with or without a permanent foundation. “Mobile home” does not include motor vehicles as defined in M.S. Section 169.01, Subd. 3, as it may be amended from time to time, or recreational camping vehicles as defined in M.S. Section 327.14, Subd. 7, as it may be amended from time to time.
- 200.01.72.** “Mobile home development” shall mean a tract or parcel of land subdivided into individual lots of record pursuant to the provisions of this code. Such development shall be for the exclusive use of permanent mobile homes or mobile homes.
- 200.01.73.** “Mobile home park” shall mean any site, lot, field or tract of land upon which two or more occupied mobile homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.
- 200.01.74.** “Motel” shall mean a series of sleeping or living units, for the lodging of transient guests, offered to the public for compensation, and with convenient access to off-street parking spaces for the exclusive use of the guests or occupants.
- 200.01.75.** “Motel/motor hotel” shall mean a building or group of detached, semi-detached or attached buildings containing guest rooms or units, each of which has a separate entrance directly from the outside of the building, or corridor, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of transient guests traveling by automobile.
- 200.01.76.** “Non-conforming lot” shall mean a lot of record created prior to the adoption of provisions prohibiting such lot from being utilized as a building site.
- 200.01.77.** “Non-conforming structure” shall mean any structure designed, converted or adopted for a use prior to the adoption of provisions prohibiting such structure or use in such location.
- 200.01.78.** “Non-conforming use” shall mean any use of a structure or land or arrangement of land and structures legally existing prior to the adoption of any provisions prohibiting such use.
- 200.01.79.** “Obstruction” shall mean any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across, or projecting into any channel, watercourse or regulatory floodplain which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

- 200.01.80.** “Office uses” shall mean those commercial activities that take place in office buildings, where goods are not produced, sold or repaired. These include banks, general offices, governmental offices, insurance offices, personal loan agencies, professional offices, real estate offices, taxicab offices, but not taxi stands, travel agency or transportation ticket offices or telephone exchange offices.
- 200.01.81.** “Off-street loading space” shall mean a space accessible from the street, alley or driveway for use while loading or unloading merchandise or materials.
- 200.01.82.** “Ordinary high water mark” shall mean a mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The “ordinary high water mark” is commonly that point where natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the “ordinary high water mark” shall be considered to be the elevation at the top of the bank of the channel.
- 200.01.83.** “Parking spaces” shall mean an area, enclosed or unenclosed, sufficient in size to store one motor vehicle, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.
- 200.01.84.** “Pawnbroker” shall mean any natural person, partnership, corporation or other legal entity either as principal, or agent or employee thereof, who loans money on deposit or pledge of personal property, or other valuable thing, or who deals in the purchasing of personal property, or other valuable thing on condition of selling the same back again at a stipulated price, or who loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged. To the extent that a pawnbroker’s business includes buying personal property previously used, rented or leased, or selling it on consignment.
- 200.01.85.** “Permanent foundation” shall mean one so constructed as to be not readily dismantled, and its removal will result in destruction of all or a portion of its component parts. The phrase “without a permanent foundation” indicates that the support system is constructed with the intent that the structure thereon will be moved from time to time.
- 200.01.86.** “Permitted use” shall mean a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards of such district or districts.
- 200.01.87.** “Person” shall mean an individual, firm, partnership, association, corporation or organization of any kind.
- 200.01.88.** “Planned Unit Development” shall mean a tract of land which will contain two or more principal structures developed under unified ownership or control, the development of which may be unique and of a substantially different character than that of the surrounding area.

- 200.01.89.** “Premises” shall mean a lot, together with all buildings and structures existing thereon.
- 200.01.90.** “Principal use” shall mean the main use of land or buildings as distinguished from subordinate or accessory uses. A “principal use” may be either permitted, special use or a use permitted with a commercial-industrial development permit.
- 200.01.91.** “Project site” shall mean the property covered by the Commercial- Industrial Development Permit that was issued for the project.
- 200.01.92.** “Public waters” shall mean any waters of the City of Hermantown which serve a beneficial public purpose, as defined in Minnesota Statutes § 105.37, Subd. 6, as it may be amended from time to time. However, no lake, pond or flowage of less than ten acres in size and no river or stream having a total drainage area less than two square miles shall be regulated for the purposes of this chapter. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the Commissioner of Natural Resources of the State of Minnesota shall be exempt from the provisions of this chapter.
- 200.01.92.1.** The official determination of the size and physical limits of the drainage areas of rivers and streams shall be made by the Commissioner of Natural Resources of the State of Minnesota.
- 200.01.92.2.** The official size of lakes, ponds or flowages shall be the area listed in the Division of Waters’ Bulletin 25, An Inventory of Minnesota Lakes, or in the event that lakes, ponds or flowages are not listed therein, official determination of size and physical limits shall be made by the Commissioner of the State of Minnesota in cooperation with the City of Hermantown.
- 200.01.93.** “Reach” shall mean a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a “reach.”
- 200.01.94.** “Recreation area” shall mean an area of land, water or any building in which amusement, recreation or athletic sports facilities are provided for public or semi-public use, whether provision is made for the accommodation of an assembly or not. A golf course, arena, baseball park, stadium, circus, gymnasium and campground are “recreation areas” for the purpose of this code.
- 200.01.95.** “Recreational vehicle” shall mean a mobile vehicle including boats used for recreational purposes, capable of being towed, carried or being self-propelled.
- 200.01.96.** “Regional flood; regulatory flood protection elevation,” see Chapter 15, Floodplain Management Regulations, of these Zoning Regulations.

- 200.01.97.** “Residential care facility” shall mean a facility licensed and defined by the Minnesota Department of Health (the State) in which residents live in a group setting. Residential facilities licensed by the State include: nursing homes, board care homes, supervised living facilities, group homes, board and lodging facilities with special services, hospices, and adult foster care homes.
- 200.01.98.** “RGU” or “Responsible Government Unit” shall mean the governmental organization that must oversee the preparation and analysis of environmental review documents. The RGU can be any state agency or any local (county, city, township) or special purpose unit (watershed district, SWCD, etc.) of government in the state. The RGU is the governmental unit determined to have the greatest authority to approve or disapprove a project.
- 200.01.99.** “Right-of-way” shall mean a strip of land occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for other special use.
- 200.01.100.** “Roadside stands” shall mean retail outlets with all related structures primarily for sale of farm produce grown on the farm upon which such stand is located.
- 200.01.101.** “Setback” shall mean the distance from the centerline or right-of-way lines of streets to the building line for the purpose of defining limits within which no building or structure, or any part thereof, shall be erected or permanently maintained.
- 200.01.102.** “Self-service” shall mean a self-service fueling station for cars and light trucks operated in conjunction with a convenience store that sells groceries and miscellaneous items at retail. The building area for the convenience store shall not exceed 1,000 square feet and may have no more than three full-time employees working on the premises at any one time. Facilities for the repair, maintenance or washing of automobiles shall not be located on the premises.
- 200.01.103.** “Shopping center” shall mean a group or groups of three or more commercial establishments developed in accordance to an overall plan and designed and built as in interrelated project.
- 200.01.104.** “Shoreland” shall mean land located within the following distances from public waters:
- 200.01.104.1.** One thousand feet from the ordinary high water mark of a lake, pond or flowage;
  - 200.01.104.2.** Three hundred feet from a river or stream; and
  - 200.01.104.3.** The landward extent of a floodplain designated by this code on such river or stream, whichever is greater.

**200.01.105.** “Small Farm Animals” shall mean domesticated honeybees, geese, ducks, female chickens, pigeons, female goats, female sheep, rabbits, and pot-bellied pigs.

**200.01.106.** “Small Scale Agricultural Activities” shall mean the keeping of Small Farm Animals as an Accessory Use on single family residential premises within the City.

**200.01.107.** “Street” shall mean the entire width between property lines of a way or place dedicated, acquired or intended for the purpose of public use for vehicular traffic or access other than an alley.

**200.01.108.** “Structure” shall mean anything constructed or erected on the ground, including but not limited to walls, fences, driveways, signboards, billboards, buildings, factories, sheds, detached garages, cabins, mobile homes and other similar items.

**200.01.109.** “Structural alterations” shall mean any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

**200.01.110.** “Thoroughfare” shall mean an actual street.

**200.01.111.** “Townhouse” shall mean single family attached units in structures having three or more continuous dwelling units, sharing a common wall, each having separate and individual front and rear entrances; the structure built as a row-house type as distinguished from multiple dwelling apartment buildings.

**200.01.112.** “Trailer” shall mean every vehicle without motive power designed or used for carrying persons or property and for being drawn by a motor vehicle.

**200.01.113.** “Usable open space” shall mean a ground area on a lot that is graded, developed, landscaped or equipped or intended and maintained for recreation or leisure, available to and useable by persons occupying a dwelling unit and their guests.

**200.01.114.** “Variance” shall have the meaning given it by Section 615 of Title 2 of the Hermantown City Code.

**200.01.115.** “Wetland” shall mean:

**200.01.115.1.** “Wetland” shall mean an area where water stands near, at or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation, and which may have the following characteristics:

**200.01.115.1.1.** Vegetation belonging to the marsh (emergent aquatic), bog, fen, sedge meadow, shrub land, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond

roughly to Wetland Types 1, 2, 3, 4, 6, 7, and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S.," 1956);

**200.01.115.1.2.** Mineral soils with grey horizons or organic soils belonging to the Histosol Order (peat and muck); and/or

**200.01.115.1.3.** Soil that is water-logged or covered with water at least three months of the year.

**200.01.115.2.** "Wetland" includes but is not limited to swamps, bogs, marches, potholes, wet meadows, and sloughs, and shallow water bodies, the waters of which are stagnant or actuated by very feeble currents, and may, at times, be sufficiently dry to permit tillage, but would require drainage to be made arable.

**200.01.115.3.** The outward extent of a "wetland" normally will be that point at which the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

**200.01.116.** "Yard" shall mean a required open space unoccupied and unobstructed by any structure or portion of a structure from the ground upward; provided, however, that fences, signs, utility poles, laws signs, antennas, and related minor equipment may be permitted in any yard, provided that they do not constitute a traffic safety hazard.

**200.01.117.** "Yard, front" shall mean a yard, extending between lot lines which intersect a street line, the depth of which is the horizontal distance between the street right-of-way line and a line on the lot which is at all points equidistant from and parallel to the street line.

**200.01.118.** "Yard, rear" shall mean a yard extending across the rear of the lot between inner side yard lines. In the case of through lots, there will be no "rear yard." In the case of corner lots, the "rear yard" shall extend from the inner side yard line of the side yard adjacent to the interior lot to the rear line of the half-depth front yard.

**200.01.119.** "Yard, side" shall mean a yard extending from the rear line of the required front yard to the rear lot line

## **CHAPTER 5. LAND USE REGULATIONS**

### **Section 500 – S-1, Suburban**

#### **500.05 Environmental Review.**

**500.05.1. Categories.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

### **Section 505 – R-1, Residential**

#### **505.05 Environmental Review.**

**505.05.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

### **Section 510 – R-2, Residential**

#### **510.05 Environmental Review.**

**510.05.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

### **Section 515 – R-3, Residential**

#### **515.05 Environmental Review.**

**515.05.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

### **Section 520 – C, Commercial**

#### **520.05 Environmental Review.**

**520.05.1** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

### **Section 525 – C-1, Office/Light Industrial**

#### **525.6. Environmental Review.**

**525.6.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**525.7. Off-Street Parking & Loading.** The following minimum requirements shall apply to all uses within the C-1 District.

**525.7.1.** Upon a determination by the City Council based on verifiable information pertaining to parking demand, the off-street parking requirements of this Section may be revised upward or downward as part of a Special Use Permit application.

**525.7.2.** For unlisted uses, off-street parking requirements shall be set by the Zoning Administrator based on the closest comparable listed use.

**525.7.3. Table 525.07.3.1 Off-Street Parking Requirements.**

<b>Table 525.07.3.1</b>	
<i>Use</i>	Minimum number of parking spaces required
Gas station and automotive repair	Three spaces, plus four spaces per each service bay.
Manufacturing facilities	Five spaces plus one per each 500 square feet floor area.
Veterinary clinic	1 space per 200 square feet of floor space.
Office or laboratory	1 space per 250 square feet of floor space.
Restaurant	1 space per 100 square feet of floor space.
Warehouse or distribution	The lesser of 1 space per 1,500 square feet of floor space, or 1 for each employee on the maximum working shift.

**525.7.4.** All off-street parking areas shall be maintained in good repair.

**525.7.5. Loading docks, berths and facilities.**

**525.7.5.1. Loading dock.** A minimum of one loading dock shall be provided for nonresidential building with 20,000 square feet or more in floor area.

**525.7.5.2. Loading facility.** A loading facility includes the dock, the berth for the vehicle, maneuvering areas, and the necessary screening walls.

**525.7.5.3. Location.** All loading berth curb cuts shall be located 25 feet or more from the intersection of two street rights-of-way. No loading berth shall be located less than 50 feet from any parcel that is zoned residential and used or subdivided for residential use, or has an occupied institutional building. Loading facilities shall not occupy the required from yard.

**525.7.5.4. Size.** A loading dock shall have a berth area at least 12 feet wide and 55 feet long.

**525.7.5.5. Access.** Each loading berth location shall permit vehicular access to a street or public alley in a manner which will least interfere with traffic.

**525.7.5.6. Surfacing.** All loading facilities and access ways shall be paved with bituminous or concrete paving to control the dust and drainage.

**525.7.5.7. Non-Conforming Uses, Structures and Lots in C-1 Zone District.** In this C-1 Zone District all uses, structures and lots in existence on November 22, 1982 shall be considered permitted uses, structures and lots under these Zoning Regulations of the City of Hermantown. These uses, structure and lots can be continued enlarged, increased, extended, reconstructed or changed to a similar use if done so within the regulations of these Zoning Regulations of the City of Hermantown. All new uses, structure and lots applied for after November 22, 1982 shall be subject to the provisions of this Section 525.

## **Section 530 – C-1A, Office/Light Industrial/Adult Uses**

### **530.7. Environmental Review**

**530.7.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**530.8. Off-Street Parking & Loading.** The following minimum requirements shall apply to all uses within the C-1 District.

**530.8.1.** Upon a determination by the City Council based on verifiable information pertaining to parking demand, the off-street parking requirements of this Section may be revised upward or downward as part of a Special Use Permit application.

**530.8.2.** For unlisted uses, off-street parking requirements shall be set by the Zoning Administrator based on the closest comparable listed use.

**530.8.3. Table 530.07.3.1, Off-Street Parking Requirements:**

<b>Table 525.08.3.1</b>	
<i>Use</i>	Minimum number of parking spaces required
Gas station and automotive repair	Three spaces, plus four spaces per each service bay.
Manufacturing facilities	Five spaces plus one per each 500 square feet floor area.
Veterinary clinic	1 space per 200 square feet of floor space.
Office or laboratory	1 space per 250 square feet of floor space.
Restaurant	1 space per 100 square feet of floor space.

Warehouse or distribution	The lesser of 1 space per 1,500 square feet of floor space, or 1 for each employee on the maximum working shift.
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**530.8.4.** All off-street parking areas shall be maintained in good repair.

**530.8.5. Loading docks, berths and facilities.**

**530.8.5.1. Loading dock.** A minimum of one loading dock shall be provided for nonresidential buildings with 20,000 square feet or more in floor area.

**530.8.5.2. Loading facility.** A loading facility includes the dock, the berth for the vehicle, maneuvering areas, and the necessary screening walls.

**530.8.5.3. Location.** All loading berth curb cuts shall be located 25 feet or more from the intersection of two street rights-of-way. No loading berth shall be located less than 50 feet from any parcel that is zoned residential and used or subdivided for residential use, or has an occupied institutional building. Loading facilities shall not occupy the required front yard.

**530.8.5.4. Size.** All loading docks shall have a berth area at least 12 feet wide and 55 feet long.

**530.8.5.5. Access.** Each loading berth location shall permit vehicular access to a street or public alley in a manner which will least interfere with traffic.

**530.8.5.6. Surfacing.** All loading facilities and access ways shall be paved with bituminous or concrete paving to control the dust and drainage.

**530.9. Non-Conforming Uses, Structures and Lots in C-1A Zone District.** In this C1-a Zone District, all uses, structures and lots in existence on November 22, 1982 shall be considered permitted uses, structures and lots under these Zoning Regulations of the City of Hermantown. These uses, structures and lots can be continued, enlarged, increased, extended, reconstructed or changed to a similar use if done so within the regulations of these Zoning Regulations of the City of Hermantown. All new uses, structures and lots applied for after November 22, 1982 shall be subject to the provisions of this Section 530.

**530.10. Special Rules for Guiding Board of Appeals and Adjustment in Considering Requests for Interpretations of Uses in C1-A Zone District.** In considering an application for an interpretation of whether a use not specifically listed in this section may be allowed, the Board of Appeals and Adjustment shall allow the proposed use, only if such use is similar to a use allowed with a commercial-industrial development permit or an adult use license in the C1-A Zone District. The Board of Appeals and Adjustment shall not determine an M-1 Manufacturing Use as allowed in a C1-A Zone District.

**530.11. Special Rules Regarding Head Shop Uses.**

**530.11.1.** Head Shop activities as identified in Section 200.01.42 may only be conducted in a Head Shop and no other retail establishment.

**530.11.2.** Head Shop activities as identified in Section 200.01.42 that are being conducted in a retail establishment on September 1, 2013 may continue as a non-conforming use but cannot be increased, reconstructed, or changed.

**Section 535 – BLM, Business and Light Manufacturing**

**535.8. Environmental Review.**

**535.8.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**535.9. Off-Street Parking & Loading.** The following minimum requirements shall apply to all uses within the BLM District.

**535.9.1.** Upon a determination by the City Council based on verifiable information pertaining to parking demand, the off-street parking requirements of this Section may be revised upward or downward as part of a Special Use Permit application.

**535.9.2.** or unlisted uses, off-street parking requirements shall be set by the Zoning Administrator based on the closest comparable listed use.

**535.9.3. Table 535.08.1, Off-Street Parking Requirements:**

<b>Table 535.09.1</b>	
<i>Use</i>	Minimum number of parking spaces required
Gas station and automotive repair	Three spaces, plus four spaces per each service bay.
Manufacturing facilities (including breweries)	Five spaces plus one per each 500 square feet floor area.
Medical office or veterinary clinic	1 space per 200 square feet of floor space.
Office or laboratory	1 space per 250 square feet of floor space.
Restaurant	1 space per 100 square feet of floor space.
Retail	1 space per 250 square feet of floor space.
Studios	1 space per 400 square feet of floor space.
Warehouse or distribution	The lesser of 1 space per 1,500 square feet of floor space, or 1 for each employee on the maximum working shift.

**535.9.4.** All off-street parking areas shall be maintained in good repair.

**535.9.5. Loading docks, berths and facilities.**

**535.9.5.1. Loading dock.** A minimum of one loading dock shall be provided for nonresidential buildings with 20,000 square feet or more in floor area

**535.9.5.2. Loading facility.** A loading facility includes the dock, the berth for the vehicle, maneuvering areas, and the necessary screening walls.

**535.9.5.3. Location.** All loading berth curb cuts shall be located 25 feet or more from the intersection of two street rights-of-way. No loading berth shall be located less than 50 feet from any parcel that is zoned residential and used or subdivided for residential use, or has an occupied institutional building. Loading facilities shall not occupy the required front yard.

**535.9.5.4. Size.** A loading dock shall have a berth area at least 12 feet wide and 55 feet long.

**535.9.5.5. Access.** Each loading berth location shall permit vehicular access to a street or public alley in a manner which will least interfere with traffic.

**535.9.5.6. Surfacing.** All loading facilities and access ways shall be paved with bituminous or concrete paving to control the dust and drainage.

## **Section 540 – M-2, Manufacturing, Heavy Industrial**

### **540.04 Environmental Review.**

**540.04.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

## **Section 545 – O, Open**

### **545.05 Environmental Review.**

**545.05.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

## **Section 550 - P, Public**

### **550.05 Environmental Review.**

**550.05.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

## **Section 555 - SH, Shoreland**

### **550.05 Environmental Review.**

**550.05.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

## **Section 565 – R-3a, Multiple Family Residential**

### **565.06 Environmental Review.**

**565.06.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

## **Section 570 – HM – Hermantown Marketplace**

### **Subdivision 13. Environmental Review.**

**A.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Ordinance No. 2025-\_\_\_**

The City Council of the City of Hermantown Does Ordain:

**AN ORDINANCE AMENDING CHAPTER 2, DEFINITIONS**

**Section 1.** Purpose and Intent. The purpose of this Ordinance is to add definitions relevant to the City’s environmental review Ordinance updates in Chapter 23.

**Section 2.** Section 200 – Definitions. Section 200 is hereby amended by inserting the following definitions into the appropriate alphabetical order:

“AUAR” or “Alternative Urban Areawide Review” shall mean an alternative form of environmental review to determine impacts within a defined area as detailed in Minnesota Rules 4410.3610. The content and format of an AUAR is similar to that of an EAW, but provides for a level of analysis comparable to that of an EIS.

“EAW” or “Environmental Assessment Worksheet” shall mean a brief document designed to assess the environmental effects and set out the basic facts necessary to determine whether an EIS is required for a proposed project or to initiate the scoping process for an EIS.

“EIS” or “Environmental Impact Statement” shall mean a detailed written statement as required by Minnesota Statutes § 116D.04, Subd. 2a used to evaluate proposed projects which have the potential for significant environmental effects.

“EQB” or Environmental Quality Board shall mean the state agency leaders and citizens from around the state formed by Minnesota Statute 116C for the purpose of providing leadership and coordination on environmental issues. The EQB functions as the coordinating body for Minnesota’s Environmental Review Program.

“Mandatory Environmental Review” shall mean a formal review and assessment of the potential environmental impacts of a development project that meets mandatory thresholds for review pursuant to Minnesota Statutes § 116D and Minnesota Administrative Rules, Chapter 4410, Environmental Review.

“RGU” or “Responsible Government Unit” shall mean the governmental organization that must oversee the preparation and analysis of environmental review documents. The RGU can be any state agency or any local (county, city, township) or special purpose unit (watershed district, SWCD, etc.) of government in the state. The RGU is the governmental unit determined to have the greatest authority to approve or disapprove a project.”

**Section 3.** Added to Zoning Code. The terms and provisions of this ordinance shall be amended in the appropriate place in the Hermantown Zoning Code, after adoption and becoming effective.

**Section 4.** Effective Date. The provisions of this Ordinance shall be effective after adoption immediately upon publication once in the official newspaper of the City of Hermantown and upon recording with the St. Louis County Recorder's Office.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Adopted: \_\_\_\_\_

Published: \_\_\_\_\_

Effective Date: \_\_\_\_\_

**Ordinance No. 2025-\_\_\_**

The City Council of the City of Hermantown Does Ordain:

**AN ORDINANCE AMENDING CHAPTER 5, LAND USE REGULATIONS**

**Section 1.** Purpose and Intent. The purpose of this Ordinance is to provide for environmental review when warranted under Minnesota Rules Chapter 4410.

**Section 2.** Section 500.05. Environmental Review. Section 500.05, Environmental Review, of Section 500 – S-1 Suburban, is hereby amended and restated to read as follows:

**500.05 Environmental Review.**

**500.05.1. Categories.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Section 3.** Section 505.05. Environmental Review. A new Section 505.05, Environmental Review, of Section 505 – R-1 Residential, is hereby amended and restated to read as follows:

**505.05 Environmental Review.**

**505.05.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Section 4.** Section 510.05. Environmental Review. Section 510.05, Environmental Review, of Section 510 – R-2 Residential, is hereby amended and restated to read as follows:

**510.05 Environmental Review.**

**510.05.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Section 5.** Section 515.05. Environmental Review. Section 515.05, Environmental Review, of Section 515 – R-3 Residential, is hereby amended and restated to read as follows:

**515.05 Environmental Review.**

**515.05.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Section 6.** Section 520.05. Environmental Review. Section 520.05, Environmental Review, of Section 520 – C Commercial is hereby amended and restated to read as follows:

**520.05 Environmental Review.**

**520.05.1** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Section 7.** Section 525.06. Environmental Review. A new Section 525.06, Environmental Review, is hereby added to Section 525 – C-1 Office/Light Industrial, with the remaining sections being renumbered, to read as follows:

**525.6. Environmental Review.**

**525.6.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Section 8.** Section 530.07. Environmental Review. A new Section 530.07, Environmental Review, is hereby added to Section 530 – C-1A Office/Light Industrial/Adult Uses, with the remaining sections being renumbered, to read as follows:

**530.7. Environmental Review**

**530.7.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Section 9.** Section 535.08. Environmental Review. A new Section 535.08, Environmental Review, is hereby added to Section 535 – BLM, Business and Light Manufacturing, with the remaining sections being renumbered, to read as follows:

**535.8. Environmental Review.**

**535.8.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Section 10.** Section 540.04. Environmental Review. A new Section 540.04, Environmental Review, is hereby added to Section 540 – M-2, Manufacturing, Heavy Industrial, with the remaining sections being renumbered, to read as follows:

**540.04 Environmental Review.**

**540.04.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Section 11.** Section 545.05. Environmental Review. Section 545.05, Environmental Review, of Section 545 – O Open, is hereby amended and restated to read as follows:

**545.05 Environmental Review.**

**545.05.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Section 12.** Section 550.05. Environmental Review. Section 550.05, Environmental Review, of Section 550 – P Public, is hereby amended and restated to read as follows:

**550.05 Environmental Review.**

**550.05.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Section 13.** Section 555.05. Environmental Review. A new Section 555.05, Environmental Review, is hereby added to Section 555 – SH, Shoreland, with the remaining sections being renumbered, to read as follows:

**550.05 Environmental Review.**

**550.05.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Section 14.** Section 565.06. Environmental Review. Section 565.06, Environmental Review, of Section 565 – R-3A, Multiple Family Residential, is hereby amended to read as follows:

**565.06 Environmental Review.**

**565.06.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Section 15.** Section 570, Subd. 13. Environmental Review. A new Section 570, Subd. 13, Environmental Review, is hereby added to Section 570 – HM – Hermantown Marketplace, with the remaining sections being renumbered, to read as follows:

**Subdivision 13. Environmental Review.**

**A.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Section 16.** Added to Zoning Code. The terms and provisions of this ordinance shall be amended in the appropriate place in the Hermantown Zoning Code, after adoption and becoming effective.

**Section 17.** Effective Date. The provisions of this Ordinance shall be effective after adoption immediately upon publication once in the official newspaper of the City of Hermantown and upon recording with the St. Louis County Recorder's Office.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Adopted: \_\_\_\_\_

Published: \_\_\_\_\_

Effective Date: \_\_\_\_\_

**Ordinance No. 2025-\_\_**

The City Council of the City of Hermantown Does Ordain:

**AN ORDINANCE AMENDING CHAPTER 11, PLANNED UNIT DEVELOPMENT**

**Section 1.** Purpose and Intent. The purpose of this Ordinance is to provide for environmental review for Planned Unit Developments when warranted under Minnesota Rules Chapter 4410.

**Section 2.** Section 1110.10. Environmental Review. A new Section 1110.10, Environmental Review, is hereby added to Section 1110 – General Requirements, with the remaining sections being renumbered, to read as follows:

**1110.10. Environmental Review.**

**1110.10.1.** Environmental review will be conducted if provided for under Minnesota Rules Chapter 4410.

**Section 3.** Added to Zoning Code. The terms and provisions of this ordinance shall be amended in the appropriate place in the Hermantown Zoning Code, after adoption and becoming effective.

**Section 4.** Effective Date. The provisions of this Ordinance shall be effective after adoption immediately upon publication once in the official newspaper of the City of Hermantown and upon recording with the St. Louis County Recorder’s Office.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Adopted: \_\_\_\_\_

Published: \_\_\_\_\_

Effective Date: \_\_\_\_\_

**Ordinance No. 2025-\_\_**

The City Council of the City of Hermantown Does Ordain:

**AN ORDINANCE OF THE CITY OF HERMANTOWN,  
MINNESOTA, AMENDING THE ZONING CODE, ADDING  
CHAPTER 23, ENVIRONMENTAL REVIEW**

**Section 1.** Purpose and Intent. The purpose of this Ordinance is to identify and evaluate the magnitude for potential environmental impacts; consider alternatives to proposed projects; and explore methods for reducing adverse environmental effects through mitigation.

**Section 2.** Additional to Chapter 23. The City of Hermantown Zoning Code is hereby amended by adding a new Chapter 23, Environmental Review, to read as shown on Exhibit A attached hereto.

**Section 3.** Added to Zoning Code. The terms and provisions of this ordinance shall be amended in the appropriate place in the Hermantown Zoning Code, after adoption and becoming effective.

**Section 4.** Effective Date. The provisions of this Ordinance shall be effective after adoption immediately upon publication once in the official newspaper of the City of Hermantown and upon recording with the St. Louis County Recorder's Office.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk

Adopted: \_\_\_\_\_

Published: \_\_\_\_\_

Effective Date: \_\_\_\_\_

## EXHIBIT A

### CHAPTER 23. ENVIRONMENTAL REVIEW

#### **2300. Section 2300 – Purpose**

**2300.1. Purpose.** Identify and evaluate the magnitude of potential environmental impacts; consider alternatives to the proposed project; and explore methods for reducing adverse environmental effects through mitigation.

**2300.2. Mandatory Environmental Review.** Required and discretionary environmental reviews are allowed by Minnesota Rules Chapter 4410 for proposed projects deemed to pose adverse environmental impacts due to their size or characteristics. Environmental review is not meant to approve or deny a project, but acts as a source of information to guide other City approvals and permitting decisions.

**2300.3. Minnesota Statutes §116D, Environmental Policy and Minnesota Rules Chapter 4410.** Minnesota Statutes §116D, Environmental Policy and Minnesota Rules Chapter 4410 are adopted, together with the provisions of this chapter, as the environmental review procedures that the City of Hermantown will follow in implementing the Environmental Review Program and any rules adopted thereunder by the Minnesota Environmental Quality board.

#### **2301. Section 2301 – General Provisions**

**2301.1.** The Community Development Director or designee will review proposed development projects to determine if an Environmental Assessment Worksheet (EAW), Environmental Impact Statement (EIS), or an update to an existing Alternative Urban Areawide Review (AUAR) is required pursuant to Minnesota Rules Chapter 4410.

**2301.2.** The City may order preparation of a discretionary EAW for a proposed development project that does not meet the mandatory thresholds for an EAW or EIS review, if it determines that due to its nature or location the project may have the potential for significant environmental effects, provided the project is not exempted pursuant to Minnesota Rules, part 4410.4600. Such an order must be formalized in a resolution approved by the City Council, including findings that clearly describe the potential environmental effects.

**2301.3.** If an EAW, EIS, or an AUAR update is required or ordered for a proposed development project, the City may not take official action to approve the project, grant a permit, or begin the project until environmental review, as required herein, is completed. The City may commence review of the project concurrent with preparation and review of required environmental documentation.

**2301.4.** In accordance with Minnesota Statutes § 15.99 Subd. 3(d), agency action time limits are extended to 60 days after completion of the last process required pursuant to Minnesota Rules Chapter 4410.

**2301.5.** The Community Development Director or designee will determine whether the necessary environmental documentation is complete prior to publishing notice in the EQB Monitor and distributing the draft for review and comment.

**2302. Section 2302 – Environmental Assessment Worksheets (EAW)**

**2302.1.** Preparation of an EAW is mandatory for those projects that meet or exceed the EAW thresholds contained in Minnesota Rules 4410.4300, as may be amended.

**2302.2.** A discretionary EAW may be required when it is determined that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects. The City Council may require the preparation of a discretionary EAW if it is determined that a development project may have the potential for significant environmental impact as set forth in Minnesota Rules 4410.4500.

**2302.3.** If the Community Development Director determines that an EAW must be prepared, it is at the City's sole discretion to determine the EAW preparation process within the bounds of Minnesota Rules Chapter 4410. The City may choose to prepare the EAW; select a consultant to perform the work; or may allow the applicant to prepare the EAW. The City must review and approve any consultant selected by the applicant. The City may return an incomplete EAW submittal to the applicant, edit the EAW as necessary or request additional information from the applicant until the City accepts the EAW submittal as complete in writing.

**2302.4.** All EAWs will be prepared under the direction of the Community Development Director and must be reviewed and acted upon by the City Council by resolution.

**2302.5.** In addition to an application fee as set forth in the Fee Schedule, the applicant is responsible for all City costs associated with the preparation of the EAW, including legal and consultant fees. If the City is preparing the EAW or has selected a consultant to prepare the EAW on the City's behalf, the applicant must enter into an escrow agreement and deposit an escrow reasonably calculated to cover the environmental review.

**2302.6.** When reviewing an EAW, the Community Development Director or designee may suggest design alterations and mitigation measures that would lessen the environmental effects of the proposed project. The City Council may require that these design alterations and mitigation measures, whenever feasible and consistent with other laws, be incorporated as conditions of approval or request these changes to be incorporated into the site plan to lessen the environmental effects of the proposed project.

**2303. Section 2303 – Environmental Impact Statement (EIS)**

- 2303.1.** The City Council will require an EIS when it finds that a project has the potential for significant environmental effects under Minnesota Rules 4410.1700.
- 2303.2.** EIS documents must be required, prepared, reviewed, financed and determined adequate in accordance with Minnesota Rules 4410.
- 2303.3. Supplementing EIS.** Under certain circumstances, pursuant to Minnesota Rules 4410.3000, the City may order a supplement to a completed EIS before a development project may be initiated.
- 2303.4.** If the Community Development Director or City Council determines that an EIS must be prepared, it is at the City’s sole discretion to determine the EIS preparation process within the bounds of Minnesota Rules Chapter 4410. The City may choose to prepare the EIS; select a consultant to perform the work; or may allow the applicant to prepare the EIS. The City must review and approve any consultant selected by the applicant. The City may return an incomplete EIS submittal to the applicant, edit the EIS as necessary or request additional information from the applicant until the City accepts the EIS submittal as complete in writing.
- 2303.5.** All EISs will be prepared under the direction of the Community Development Director and must be reviewed and acted upon by the City Council by resolution.
- 2303.6.** In addition to an application fee as set forth in the Fee Schedule, the applicant is responsible for all City costs associated with the preparation of the EIS, including legal and consultant fees. If the City is preparing the EIS or has selected a consultant to prepare the EIS on the City’s behalf, the applicant must enter into an escrow agreement and deposit an escrow reasonably calculated to cover the environmental review.
- 2303.7.** When reviewing an EIS, the Community Development Director may suggest design alterations and mitigation measures that would lessen the environmental effects of the proposed project. The City Council may require that these design alterations and mitigation measures, whenever feasible and consistent with other laws, be incorporated as conditions of approval or request these changes to be incorporated into the site plan to lessen the environmental effects of the proposed project.

**2304. Section 2304 – Alternative Urban Areawide Review (AUAR)**

- 2304.1.** An AUAR may be used as an alternative review document to review the anticipated cumulative environmental effects of residential, commercial, and industrial development and associated infrastructure in a particular area following the guidelines in Minnesota Rules 4410.3610.
- 2304.2.** In addition to an application fee as set forth in the Fee Schedule, the applicant is responsible for all City costs associated with the preparation of the AUAR, including legal

and consultant fees. If the City is preparing the AUAR or has selected a consultant to prepare the AUAR on the City's behalf, the applicant must enter into an escrow agreement and deposit an escrow reasonably calculated to cover the environmental review.

**2304.3.** The City Council will adopt a resolution ordering review that specifies the geographic boundaries of the study area where the AUAR will apply and specifies the anticipated nature, location, and intensity of development and associated infrastructure within those boundaries.

**2304.4.** The City is responsible for preparing an AUAR and subsequent updates and selecting the consultant(s) to prepare needed technical studies and related work. All AUARs must be prepared and reviewed under the direction of the Community Development Director according to the procedures and requirements of Minnesota Rules 4410.3610.

**2304.5.** The final AUAR or subsequent updates, will be adopted in accordance with Minnesota Rules 4410.3610. The City Council will make a determination of the AUAR adequacy by resolution and submit evidence of adoption of the AUAR and mitigation plan to the Minnesota Environmental Quality staff and all agencies that requested notification.

#### **2305. Section 2305 – Compliance and Enforcement**

**2305.1. Prohibition on Official Action.** Pursuant to Minnesota Rules part 4410.3100, the City will not make final decisions or issue permits that allow activities related to land development, alteration, or disturbance for any proposed development project subject to the environmental review requirements in this article, until:

**2305.1.1.** A petition for an EAW is dismissed;

**2305.1.2.** A negative declaration on the need for an EIS is issued;

**2305.1.3.** An EIS is determined adequate;

**2305.1.4.** A variance is granted by the EQB in accordance Minnesota Rules part 4410.3100, subp. 3 to 7; or

**2305.1.5.** Emergency action is needed to avoid or eliminate an imminent threat to public health or safety provided by the Minnesota Environmental Quality Board.