

## SECTION 9. ENVIRONMENTAL REVIEW

### Subdivision

- 9.01 Purpose
- 9.02 General Provisions
- 9.03 Environmental Assessment Worksheets (EAWs)
- 9.04 Environmental Impact Statements (EISs)

**9.01 PURPOSE:** The purpose of this section is to determine whether certain projects have or may have the potential for significant environmental effects and should undergo special procedures of the Minnesota Environmental Review Program.

#### **9.02 GENERAL PROVISIONS:**

- A. No development project shall be approved prior to review by the Zoning Administrator to determine the necessity for completion of an Environmental Assessment Worksheet (EAW) or Environmental Impact Statement (EIS). Procedures for EAWs and EISs are set forth in the Minnesota Environmental Quality Review Board (EQB) regulations for the Environmental Review Program authorized by Minnesota Statute 116D.04 and 116D.04S and specified in Minnesota Rules Parts 4410.0200 to 4410.7800.
- B. Environmental reviews (EAWs and EISs) shall be conducted as early as practical in the processing of a development project. Time delays in the normal permit process caused by the filing and review of the EAW or EIS shall not be considered part of the permit approval time requirements set forth within this Ordinance. Such delays shall be considered as additional required time for each required permit. The permit process for the proposed project may be continued from the point it was interrupted by the EAW/EIS process. No decision on granting a permit or other approval required to commence the project may be issued until the EAW/EIS process is completed.

#### **9.03 ENVIRONMENTAL ASSESSMENT WORKSHEETS (EAWs):**

- A. Purpose: The purpose of an EAW is to rapidly assess, in a worksheet format, whether or not a proposed action has the potential for significant environmental effects.
- B. Mandatory EAWs: The preparation of an EAW shall be mandatory for those

projects that meet or exceed the thresholds contained in the State Environmental Review Program regulations, Minnesota Rules 4410.4300, as may be amended.

- C. Discretionary EAWs: 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 Zoning Administrator may suggest and/or the City Council may require the preparation of a discretionary EAW if it is determined that a development project may have some significant environmental impact or when there is a perception of such, provided that the project is not specifically exempted by Minnesota Rules 4410.4600, as may be amended.
- D. Procedures:
  - 1. Preparation and Distribution:
    - a. If the Zoning Administrator determines that an EAW shall be prepared, the proposer of the project shall submit an "Application for Environmental Review" along with the EAW prepared in draft form. The applicant shall agree in writing, as a part of the application, to reimburse the City prior to the issuance of any permits for all reasonable costs, including legal and consultants' fees, incurred in preparation and review of the EAW.
    - b. Pursuant to Minnesota Rules 4410.1400, within thirty (30) days of submission of the Application for Environmental Review, the Zoning Administrator shall review the draft EAW for completeness and accuracy, add supplementary material if necessary and approve the EAW for distribution.
    - c. If the EAW is ordered to be prepared pursuant to the petition process of Minnesota Rules 4410.1100, the EAW must be prepared within twenty-five (25) working days of the date of that decision, unless an extension of time is agreed upon by the proposer of the project and the Zoning Administrator.
    - d. Within five (5) days of approving the EAW for distribution, the Zoning Administrator shall distribute copies of the EAW to the EQB for publication of the notice of availability of the EAW in the EQB Monitor. Copies shall be distributed at the same time to the official EAW distribution list maintained by the EQB staff. Within five (5) days of submission of the EAW to the EQB, the Zoning Administrator shall provide a press release to the City's official newspaper, containing notice of availability of the EAW for public review.

2. Neighboring Property Owner Notification:
  - a. Upon completion of the EAW for distribution, the Zoning Administrator shall provide mailed notice of the availability of the EAW and date of the meeting at which the Planning Commission will consider the matter to all property owners within at least five hundred (500) feet of the boundaries of the property which is the subject of the EAW. Said notice shall be mailed at minimum ten (10) days before the date of the Planning Commission meeting during which the EAW will be considered.
  - b. Failure of a property owner to receive notice shall not invalidate any such proceedings as set forth within this Ordinance.
3. Review by Planning Commission: During the thirty (30) day comment period that follows publication of the notice of availability of the EAW in the EQB Monitor, the Planning Commission shall review the EAW. The Commission shall make recommendations to the City Council regarding potential environmental impacts that may warrant further investigation before the project is commenced and the need for an EIS on the proposed project.
4. Decision by City Council: The City Council shall make its decision on the need for an EIS for the proposed project at its first meeting more than ten (10) days but not more than thirty (30) days after the close of the comment period. The Board shall base its decision on the need for an EIS and the proposed scope of an EIS on the information gathered during the EAW process and on the comments received on the EAW. Pursuant to Minnesota Rules 4410,1700, in deciding whether a project has the potential for significant environmental effects, the following factors shall be considered:
  - a. Type, extent and reversibility of environmental effects.
  - b. Cumulative potential effects of related or anticipated future projects.
  - c. The extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority.
  - d. The extent to which environmental effects can be anticipated and controlled as a result of other environmental studies undertaken by public agencies or the project proposer, or of EISs previously prepared on similar projects.

5. Within five (5) days of City Council's decision on the need for an EIS, notice shall be provided to all persons on the EAW distribution list, to all persons who commented in writing during the thirty (30) days comment period, to the EQB staff for publication of the decision in the EQB Monitor and to any person upon written request.
- E. Mitigation Measures: Any measures for mitigating that are considered by the City Council in making their EIS need decision may be incorporated as conditions for approval of conditional use permits, interim use permits, variances, planned unit development, and/or site plan requests as required by this Ordinance.

#### **9.04 ENVIRONMENTAL IMPACT STATEMENTS (EISs):**

- A. Purpose: The purpose of an EIS is to provide information for governmental units, the proposer of the project and other persons to evaluate proposed projects which have the potential for significant environmental effects, to consider alternatives to the proposed projects and to explore methods for reducing adverse environmental effects.
- B. Mandatory EISs: An EIS shall be prepared for any project that meets or exceeds the thresholds of any of the EIS categories listed in Minnesota Rules 4410.4400, as may be amended.
- C. Discretionary EISs: An EIS shall be prepared when the City Council determines that, based on the EAW and any comments or additional information received during the EAW comment period, the proposed project has the potential for significant environmental effects, or when the City Council and the proposer of the project agree that an EIS should be prepared.
- D. Procedures:
  1. All projects requiring an EIS must have an EAW on file with the City, which will be used to determine the scope of the EIS. All EISs shall be prepared according to the procedures and requirements of the State Environmental Review Program, Rules 4410.2100-4410.3000, as may be amended. The costs of preparation of an EIS shall be assessed to the project proposer in accordance with Minnesota Rules Parts 4410.6000 to 4100.6500, as may be amended.
  2. Any proposal, project or use on which an EIS is required shall be considered a conditional use as defined in Section 2.02 of this Ordinance and shall comply with the procedure for approval of a conditional use permit. Mitigating measures identified in the EIS shall be incorporated as conditions

of issuance of the conditional use permit.