

## CHAPTER 10

### CONSTRUCTION PERMITS AND REGULATIONS

#### SECTION 10.01. MINNESOTA STATE BUILDING CODE ADOPTED.

Source: Ordinance No. 30-2003  
Effective Date: 10-30-03

**Subd. 1. Codes Adopted by Reference.** The Minnesota State Building Code (“the Code”), as adopted by the Commissioner of Administration pursuant to Minnesota Statutes Sections 16B.59 to 16B.75, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Administration, through the Buildings Codes and Standards Division is hereby adopted by reference with the exception of chapters identified in Minnesota Rule 1300.060, Sections B and C. The Code is hereby incorporated in this Ordinance as if fully set forth herein. This Ordinance shall perpetually include the most current edition of the Code. One copy of the Code shall be kept in the office of the City Clerk.

**Subd.2. Application, Administration and Enforcement.** Application, administration and enforcement shall be in accordance with the Code. The Code shall be enforced with the extra territorial limits permitted by Minnesota Statutes Section 16B.62 subd. 1, when so established by this Ordinance. The Code enforcement agency is the City of Eden Prairie Inspections Department. The Code shall be enforced by the Minnesota Certified Building Official designated by the City to administer the Code as set forth in Minnesota Statutes Section 16B.65, subd. 1.

**Subd. 3. Permits and Fees.** The issuance of permits and the collection of fees shall be conducted as authorized in Minnesota Statutes Section 16B.62, subd. 1.

Permit fees shall be assessed for work governed by the Code in accordance with the fee schedule adopted annually by the City’s Fee Resolution. In addition, a surcharge fee shall be collected on all permits issued for work governed by the Code in accordance with Minnesota Statutes Section 16B.70.

**Subd. 4. Building Code Optional Chapters.** The Code, established pursuant to Minnesota Statutes Sections 16B.59 to 16B.75 allows the City to adopt by reference and enforce certain optional chapters of the most current edition of the Code. The following optional provisions identified in the most current version of the Code are hereby adopted and incorporated as part of the building code for this City.

1. Chapter 1306, Special Fire Protection Systems with Subpart 2 and optional provision (E) 1.

#### SECTION 10.02. INDIVIDUAL SEWAGE TREATMENT SYSTEMS STANDARDS ADOPTED.

**Subd. 1. Individual Sewage Treatment Systems Standards Adopted by Reference.** Minnesota Rules Chapter 7080, sections 7080.0020; 7080.0060; 7080.0065; 7080.0110; 7080.0115; 7080.0120; 7080.0125; 7080.0130; 7080.0150; 7080.0160; 7080.0170; 7080.0170, subpart 2, item C, subitem (1), unit (b), Table Va; 7080.0172; 7080.0175; 7080.0176; 7080.0178; and 7080.0179 being the sections containing the technical standards and criteria contained in the “Individual Sewage Treatment Systems Program” are adopted by reference, except as may otherwise be provided in this Section. One copy shall be kept on file in the office of the City Clerk.

#### **Subd. 2. Purpose and Objectives.**

- A. **Purpose.** The purpose of this ordinance is to provide minimum standards for the regulation of individual sewage treatment systems (ISTS) including: proper location, design and construction, necessary modification and reconstruction, operation, and maintenance and repair. By preventing and eliminating possible contamination of surface and groundwater with human sewage and waterborne household and

commercial wastes and the elimination and prevention of the development of public nuisances, public health and safety will be ensured. Authority to enforce this Section is granted under Minn. Stat. Chapters 115, 145A, and Minnesota Rules Chapter 7080 and as amended that may pertain to sewage and wastewater treatment. Any provisions contained herein which are inconsistent or in conflict with any other provision of the City Code shall supersede such other provisions.

**B. Objectives.**

1. The protection of the City's lakes, rivers, streams, wetlands and groundwater essential to the promotion of public health, safety, welfare, and socioeconomic growth and development of the City in perpetuity.
2. The regulation of proper ISTS construction, reconstruction, repair and maintenance to prevent the entry and migration of contaminants, thereby ensuring the non-degradation of surface water and groundwater.
3. The establishment of minimum standards for ISTS placement, design, construction, reconstruction, repair and maintenance to prevent contamination and, if contamination is discovered, the identification and control of its consequences and the abatement of its source and migration.
4. The appropriate utilization of privy vaults and other non-water carried ISTS.
5. The prevention and control of water-borne disease, lake degradation, groundwater related hazards, and public nuisance conditions through technical assistance and education, plan reviews, inspections, ISTS surveys and complaint investigation.

**Subd. 3. Definitions.**

- A. Authority: The City acting by and through its Building Inspection Division and its designated agent who shall be a qualified employee or licensee.
- B. Owner: The fee owner(s) and, if applicable, the contract-for-deed purchaser. Ownership interests shall be determined by reference to the records of Hennepin County. The owner of each lot served by an ISTS is responsible for the lawful operation and maintenance of each ISTS.
- C. Non-Standard Systems: ISTS that are Alternative, Other Systems, or Performance as described in Minnesota Rules, Chapter 7080, parts 7080.0172, 7080.0178, and 7080.0179.
- D. Other Establishment: Any private or public structure, other than a dwelling, that generates sewage having characteristics other than residential-type waste or has an average waste flow greater than 2,000 gallons per day and discharges to an individual sewage treatment system.
- E. Standard System: ISTS designed and installed in accordance with the construction standards specified in Minnesota Rules, Chapter 7080, sections 7080.0060 – 7080.0170.

**Subd. 4. Administration, Duties, and Responsibilities.** The Authority shall have the following duties and responsibilities:

- A. To review all applications for ISTS.
- B. To issue all required permits.

- C. To conduct construction inspections and to perform all necessary tests on individual sewage treatment systems to determine ordinance compliance.
- D. To investigate complaints regarding ISTS.
- E. To perform compliance inspections and issue Certificates of Compliance, Notices of Noncompliance, Stop Work Orders, and Notices of Violation where appropriate.
- F. To submit complaints to the City Attorney for prosecution of violations of this Section of the Code.
- G. To submit annual reports to the Minnesota Pollution Control Agency to demonstrate enforcement of Minn. Rules Chapter 7080.0310.
- H. To maintain proper records for ISTS including site evaluation records, design records including calculations and summaries for all system component sizings and as-builts, complaints on noncompliance, compliance inspections, site evaluations, applications and exhibits, variance requests, issued permits, Certificates of Compliance, and enforcement proceedings.
- I. The issuing of permits, Certificates of Compliance or Notices of Noncompliance does not represent a guarantee or warranty of the system's operation or effectiveness. Such certificates only signify that the system in question is or has been designed and installed in compliance or noncompliance with the requirements of this Section.

**Subd. 5. Permitting.**

- A. Required Permits.
  - 1. A permit from the City is required before any ISTS in the City is installed, replaced, abandoned, altered, repaired or extended. This subdivision shall not apply to pumping.
    - a. Permits shall be issued only to licensed contractors.
    - b. A permit shall be obtained for each specific installation, replacement, alteration, repair, or extension of an ISTS.
    - c. Permits shall be issued only upon written application by the licensed contractor accompanied by all required documentation as outlined in Minnesota Rule 7080.0110 and approved by the Authority.
    - d. Permits shall be issued only upon payment of a permit fee in the amount prescribed by the City. The permit fee shall be doubled if construction is commenced prior to permit issuance.
    - e. Permits are not transferable as to person or place, and shall expire 12 months after date of issuance or upon final inspection and approval by the Authority, whichever occurs first.
    - f. Upon request of the Authority, permits shall be provided by the permittee at the time of an inspection.
  - 2. No building permit shall be issued by the City for any building which will be connected to a new ISTS until the site evaluation report and design has been submitted, reviewed, and approved by the Authority.

3. No building permit, occupancy permit, plumbing or mechanical permit, or variance shall be issued by the City for any expansion or alteration of a building (or use made thereof) connected to an existing ISTS until such system has been inspected and certified by the City as being in compliance with these Standards.
4. Whenever the addition of bedrooms, plumbing fixtures or mechanical equipment, or a change in the character or intensity of the established use is proposed, the Authority may require the review and/or replacement, repair, alteration, or expansion of the existing ISTS or any portion thereof.

B. Permits Not Required.

1. Permits shall not be required for the following activities:
  - a. Repair or replacement of pumps, floats or other electrical devices of the pump.
  - b. Repair or replacement of baffles in the septic tank.
  - c. Installation or repair of inspection pipes and manhole covers.
  - d. Repair or replacement of the line from the building to the septic tank.
  - e. Repair or replacement of the line from the septic tank or pump chamber to the distribution box or lines.

C. Permit Application.

1. All ISTS permit applications shall include the following information:
  - a. Name and address of property owner.
  - b. Property identification number.
  - c. Legal description of the property.
  - d. Lot survey or in absence of certified survey a document which includes:
    - (1) All property lines and lot dimensions.
    - (2) All existing or proposed well locations or water supply piping.
    - (3) Relative elevations of house, lot corners, and drain areas.
    - (4) Slope of land and slope percentages at drain field site.
    - (5) Distance of drain field from property lines, well locations, lakes, streams, marsh areas, and drainage channels.
  - e. ISTS designer name, address, telephone number, and state MPCA license number.
  - f. ISTS installer name, address, telephone number, and state MPCA license number.

- g. Site evaluation report in accordance with Minnesota Rule 7080.0110.
- h. System design report in accordance with Minnesota Rule 7080.0115.
- i. An approved monitoring and mitigation plan in accordance with Minnesota Rule 7080.0310, Subpart 7 for systems designed pursuant to 7080.0178 and 7080.0179.
- j. The location of at least one designated additional soil treatment area that can support a Standard System on lots created after January 23, 1996.
- k. A certified statement from the person or persons who conducted the site evaluation and system design that the person conducted the site evaluation and/or designed the system.
- l. Additional information the Authority may require.

**Subd. 6. Additional Requirements for the Permitting of Non-Standard Systems.**

- A. Non-standard systems shall only be permitted if all of the requirements of Minn. Rules, Chapter 7080, sections 7080.0172, 7080.0178, and 7080.0179 and the following are complied with.
  - 1. The Authority agrees that a Standard System cannot be installed.
  - 2. Reasonable assurance of performance of the system, as determined by the Authority, is submitted by the Designer.
  - 3. An operating permit has been approved by the Authority.
  - 4. A water meter is installed to monitor flow.
  - 5. If a Non-Standard System reduces the vertical separation distance between the bottom of the distribution medium to saturated soil or bedrock from three feet, the following must be met.
    - a. A minimum of one foot of unsaturated soil must be present.
    - b. Additional nutrient removal may be required by the Authority for sensitive environments or high strength wastes.
    - c. For one to three feet of unsaturated soil, total fecal coliform levels shall not exceed an average of 2,000 colonies per 100 ml of effluent.
    - d. The performance system must be installed with an alarm device that warns of system failure, so untreated sewage cannot reach the distribution medium.
- B. Operating Permit for Non-Standard Systems.
  - 1. The Authority shall issue and enforce an operating permit for all Non-Standard Systems.
  - 2. The operating permit shall be valid for twelve months and renewed by the expiration date.
  - 3. The Authority shall review all required monitoring data submitted from the previous year and the renewal application before approving any subsequent operating permits.
  - 4. An operating permit shall include:

- a. A detailed description of the operation, maintenance, and monitoring necessary to ensure both continued system performance as designed and protection of public health and the environment for the life of the system.
- b. A requirement that the person responsible for monitoring notify the Authority when monitoring plan requirements are not met.
- c. The signatures of the system designer and owner.

C. Monitoring Plans for Non-Standard Systems.

- 1. All sampling methods and analysis techniques shall be performed in accordance with Standard Methods.
- 2. The monitoring plan shall be developed and approved prior to issuance of a permit and provide the following:
  - a. The parameters for sampling, sample type, sampling location, and frequency for monitoring.
  - b. The sample parameter compliance limits or boundaries.
  - c. The reporting frequency, not less than annually.
  - d. The flow or water usage measurements.
  - e. The signature of the person responsible for conducting the monitoring and reporting to the Authority.
  - f. A mitigation plan detailing actions to be taken if the system fails to meet the expectations established by the monitoring plan requirements. The mitigation plan shall detail possible component failures, corrective actions, person responsible for mitigation, and estimated cost of correction.

D. Submittal of Monitoring Results for a Non-Standard System.

- 1. The results of the monitoring of a Non-Standard System shall be submitted in accordance with the approved monitoring plan annually to the Authority, no later than the expiration date of the operation permit.
- 2. If monitoring results do not meet the monitoring plan requirements, then the person responsible for conducting the monitoring shall notify the Authority within (10) ten calendar days.
- 3. Monitoring plans may be modified as necessary with the Authority's approval.

**Subd. 7. Individuals Constructing Their Own ISTS.**

- A. A license is not required for an individual who is constructing a Standard System on land that is owned or leased by the individual and functions solely as a dwelling or seasonal dwelling for that individual. The ISTS shall be designed by a Minnesota Pollution Control Agency licensed Designer I or II.

**Subd. 8. Application Review and Determination.**

- A. Within sixty (60) days of receipt of a complete written application for a permit, license or other approval of an action relating to an ISTS, the Authority shall either grant the permit or license or give other approval of an action or deny the same.
- B. In the event the Authority denies the granting or approval of a permit, license or other action, the Authority must state in writing the reason(s) for the denial at the time that it makes the denial. The written statement must be provided to the Applicant upon adoption.
- C. The 60 day time limit begins upon the Authority's receipt of a written request containing all information required by law or by a previously adopted rule, ordinance or policy of the Authority, including the applicable application fee. If the Authority receives a written request that does not contain all required information, the 60 day limit starts over only if the Authority sends written notice within fifteen (15) business days of receipt of the application telling the Applicant what information is missing.
- D. If the Applicant does not appeal within the time provided, the denial shall become final.

**Subd. 9. Variances.**

- A. Variances to wells and water supply lines require approval from the Minnesota Department of Health.
- B. The Authority may grant variances to the technical standards and criteria of Minnesota Rules, Chapter 7080 or this Section, if the system meets the requirements of parts 7080.0172, 7080.0178, 7080.0179 and this Section.
- C. All requests for variances from this Section shall be in writing on forms approved by the Authority.

**Subd. 10. Construction Inspections.**

- A. Compliance Inspections.
  - 1. Shall be conducted by the Authority anytime an ISTS is installed, replaced, altered, repaired, or extended to ensure compliance with permit and design requirements.
  - 2. Inspections shall be conducted at least once during construction prior to covering of the ISTS to assure the system has been constructed per the submitted and approved design.
  - 3. Any component of an ISTS that is buried before being inspected shall be uncovered and made ready for the necessary inspection.
  - 4. Proposed changes to an approved permit and design shall be reviewed and approved by the Authority before the changes are incorporated.
- B. Inspector.
  - 1. Compliance inspections for construction, replacement, alteration, or repair work on ISTS shall be conducted by the Authority or its designated agent.
- C. Request for Inspection.

1. It shall be the duty of the permittee to notify the Authority orally, by telephone, or in writing not less than 8 working hours between the hours of 8:00 a.m. and 4:30 p.m. before the work is to be inspected or tested.
2. If the Authority or its authorized agent does not appear for an inspection within 24 hours of the time set (3 working days, excluding Saturdays, Sundays, and holidays), the inspection or test shall be deemed to have been made.
3. Within (5) five days of completion of the work the permittee shall supply the following documentation to the Authority.
  - a. A signed affidavit stating the ISTS installation, replacement, alteration, repair, or extension was done to code, approved plans, permit, and that the installation was free from defects.
  - b. An as-built drawing including photographs of the system prior to covering of the work. (As-builts shall only be accepted for Standard Systems.)
  - c. If sufficient proof is not provided, the Authority can require the uncovering of the system for inspection.

**D. Access to Premises and Records.**

1. Upon the request of the Authority, the permit applicant, owner, or owner's agent shall allow access at any reasonable time to the affected premises as well as any related records, for the purposes of regulating and enforcing this Ordinance.
2. If entry is refused, the Authority shall use appropriate remedies provided by law to secure entry.
3. No person shall hinder or interfere with the Authority in the performance of its duties and responsibilities pursuant to the enforcement of this Section.
4. Refusal to allow reasonable access to the Authority shall constitute a separate and distinct offense whether or not any other specific violations are cited.

**E. Stop Work Orders.**

1. Whenever any ISTS work is being done contrary to the provisions of this Section, the Authority may order the work stopped by verbal or written notice served upon the installer, owner, or owner's agent.
2. All installation and construction shall cease and desist until authorization to proceed is given by the Authority.

**F. Inspection Reports.**

1. A Certificate of Compliance or Notice of Noncompliance shall be prepared by the Authority or its designated agent following an inspection or review of as-builts submitted in accordance with Subd. 10, C.3.b.
2. A Certificate of Compliance or Notice of Noncompliance shall include a signed statement by the Authority identifying the type of ISTS inspected and whether the system is in compliance with

Minnesota Rules Chapter 7080.0060.

3. A copy of the Certificate of Compliance or Notice of Noncompliance shall be provided to the property owner or their agent within 30 days of the compliance inspection and a copy kept on file with the Authority.
  - a. Certificates of Compliance issued by the Authority for new construction and replacement shall be valid for five (5) years from the date of the compliance inspection or as-built certification unless the Authority identifies the system as an Imminent Public Health Threat.
  - b. Notices of Violation may be issued with Notices of Noncompliance when the Authority determines that new construction, replacement of repairs are not in compliance with this Section.

**Subd. 11. Existing Systems.**

- A. Requirements. The Authority shall require a compliance inspection of an existing system whenever:
  1. In designated Shoreland Management or Wellhead Protection Areas, an application for any type of building or land use permit is made.
  2. The Authority deems a compliance inspection necessary, including, but not limited to, receipt of information of a potential ISTS failure or Imminent Health Threat.
  3. An additional bedroom on the property is requested. If a request for an additional bedroom is received between November 1 and April 30, the Authority may issue a building permit immediately with the contingent requirement that a compliance inspection of the existing ISTS shall be completed by the following June 1.
  4. Any addition or remodel of a licensed food, beverage, or lodging establishment or any Other Establishment where the sewage treatment system's designed flow may be effected.
- B. Inspector.
  1. Only the Authority, licensed Designer I, or Inspector shall conduct inspections to determine compliance of existing ISTS.
- C. Existing Systems in Compliance with the Two-foot Rule.
  1. An existing system installed before April 1, 1996 shall be considered in compliance with the technical standards of Minnesota Rules 7080 and need not be upgraded if the following conditions exist:
    - a. The system is not an Imminent Public Health threat.
    - b. The system has at least two feet of vertical separation between the bottom of the distribution medium and seasonally saturated soil as indicated by mottling of other indicators.
    - c. The system is not in a Shoreland Designated Area.
    - d. The system is not in a Wellhead Protection Area.

- e. The system is not serving a food/beverage/lodging facility.

**D. Inspection Reports.**

- 1. A copy of the Certificate of Compliance or Notice of Noncompliance resulting from a compliance inspection shall be provided to the property owner and the Authority within 30 calendar days of the inspection.
  - a. Certificates of Compliance issued by the Authority for an existing ISTS shall be valid for three (3) years from the date of the compliance inspection unless the system is identified as an Imminent Public Health Threat.
  - b. A Notice of Noncompliance shall be issued in the following circumstances and the conditions noted in violation of this Section shall be remedied as follows.
    - (1) An ISTS determined to be failing shall be upgraded, replaced, or repaired in accordance with Minnesota Rules Chapter 7080.0060 within three (3) years, or its use is discontinued. The Authority may, at its discretion, grant an extension of an additional two (2) years.
    - (2) An ISTS posing an imminent threat to public health or safety shall be upgraded, replaced, or repaired within (10) ten months. The Authority will give consideration to weather conditions in determining compliance dates. If an ISTS is determined to be a public health nuisance by the Authority, the owner of the ISTS may be ordered to cease use immediately and not allow use of the ISTS until it is corrected in accordance with Authority's recommendations.

**Subd. 12. Violations.**

**A. Cause to Issue a Notice of Violation.**

- 1. Noncompliance with this Section shall constitute a violation.

**B. Serving a Notice of Violation.**

- 1. The Authority shall serve, in person or by mail, a Notice of Violation upon any person determined to be not in compliance with this Section.

**C. Contents of a Notice of Violation.**

- 1. A Notice of Violation shall contain the following:
  - a. A statement documenting the findings of fact determined through inspections, re-inspections, or investigations.
  - b. A list of specific violation or violations of this Section.
  - c. The specific requirements for correction or removal of the specified violation(s).
  - d. A mandatory time schedule for correction, removal, and compliance with this Section.

D. Notification of MPCA.

1. The Authority shall in accordance with state law notify the MPCA of any inspection, installation, design, construction, alteration, or repair of an ISTS by a licensed person or any pumping by a licensed pumper performed in violation of the provisions of this Section.

**Subd. 13. Additional Standards For Health and Environmental Protection.**

A. Siting of an ISTS.

1. Notwithstanding any state or federal requirements, the separation distance from an ISTS to a Type 3, 4, 5, or 6 wetland shall be no less than fifty (50) feet.

**Subd. 14. Warrantied Systems.**

- A. Warrantied systems, as described in Minn. Stat., Chapter 115.55, subd. 8, are prohibited.

**Subd. 15. Maintenance Report.**

A. Pumping Activities and Recording Fees.

1. The owner of an ISTS or owner's agent who measures or removes accumulations in accordance with Minnesota Rules 7080.0175 shall submit records of all pumping activities to the Authority and pay the appropriate fees.

**Subd. 16. Enforcement.**

A. Violations Of This Section.

1. Any person, firm, corporation, or other entity who violates any of the provisions of this Section or fails to perform or refrain from doing any act or thing required by any order or direction, or notice of the Authority or who makes any false statement on a Certificate of Compliance, shall be guilty of a misdemeanor, punishable by imprisonment or a fine or both, as defined by law.
2. Each day in violation may constitute a separate violation.

B. Remedies for Violations.

1. In the event of a violation of this Section, in addition to other remedies, the City Attorney may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations.

**Subd. 17. Fees.**

- A. The City shall from time to time establish fees for permits and activities undertaken pursuant to this Section.

1. Fees shall be due and payable at a time and manner determined by the City.

**Subd. 18. Appeals.**

- A. Whenever the Authority shall deny an application for a permit or other requested governmental approval related to an ISTS including a request for a variance, the applicant may appeal the decision of denial to the Board of Adjustments and Appeals in accordance with City Code Section 2.26 by giving notice thereof to

the City Clerk within ten (10) days of the receipt of written reasons for the denial.

**Subd. 19. Notices and Orders of Authority.**

**A. Emergency Orders.**

1. Whenever the Building Authority finds that an emergency exists in relation to the enforcement of the provisions of this Section which requires immediate action to protect the health, safety, or welfare of occupants of the premise or surrounding premises, the Authority may issue an order reciting the existence of such emergency and requiring that such action be taken as deemed necessary to meet the emergency, notwithstanding any other provision of this Section.
2. When any such emergency shall be declared to exist the Authority immediately shall report the same in writing to the Eden Prairie City Council.
3. Every notice of emergency shall include the following language: "If you do not comply with this Order by the above date, the City may remedy the violation and levy the costs to future assessments."

**Subd. 20. Severability.**

- A.** If a provision or application of this Section is held invalid, that invalidity shall not affect other provisions or applications of this Section.

**SECTION 10.03. SWIMMING POOL REGULATIONS.**

**Subd. 1. Definition.** For purposes of this Section an outdoor swimming pool is defined as any structure, basin, chamber or tank containing an artificial body of water for swimming, diving or recreational bathing, used in connection with a single family dwelling and having a depth of more than twenty-four (24) inches at any point and a surface area exceeding one hundred fifty (150) square feet.

**Subd. 2. Fencing Required Around Outdoor Swimming Pools.**

- A.** All outdoor swimming pools existing and hereafter constructed shall be completely enclosed by a security fence or wall at least four (4), but not more than six (6), feet high and located at least four (4) feet from the edge of the pool. The bottom of the fence or wall shall be no higher than four (4) inches above the surface of the ground. Fence openings or points of entry to the pool area shall be equipped with self-closing and self-latching lockable gates.
- B.** The enclosure for outdoor swimming pools may utilize a wall or walls of a house or building as a part thereof provided the wall or walls are at least six (6) feet high and the enclosure is completed by a fence or wall conforming to the provisions of Subparagraph A hereof.
- C.** All persons owning or operating an outdoor swimming pool shall comply with this Section within ninety (90) days from the date of publication.

**Subd. 3. Exceptions.** This Section does not apply to: (1) above-ground outdoor swimming pools having at least four foot high, vertical or outward inclined sidewalls provided sole access is by means of a removable ladder, ramp, or stairs which must be removed when the pool is not in use; (2) swimming pools which are wholly enclosed within a building or structure.

#### **SECTION 10.04. INDIVIDUAL WATER SUPPLY.**

The Water Well Construction Code adopted by the Minnesota State Board of Health is hereby adopted by reference as though set forth verbatim herein. Three copies of said Code shall be marked CITY OF EDEN PRAIRIE - OFFICIAL COPY and kept on file and available for public examination in the office of the Building Inspections Division. It is unlawful to construct any private water well except in accordance with said Code.

Source: City Code  
Effective Date: 9-17-82

#### **SECTION 10.05. PERMITS AND SPECIAL REQUIREMENTS FOR MOVING BUILDINGS.**

**Subd. 1. Definition.** "Street" or "streets" as used in this Section mean all streets and highways in the City which are not State trunk highways, County State-aid highways, or County roads.

#### **Subd. 2. Moving Permit Required and Application.**

- A. It is unlawful for any person to move a building on any street without a moving permit from the City.
- B. The application for a moving permit shall state the approximate size and weight of the structure or building proposed to be moved, together with the places from and to which it is proposed to move the same, and proposed route to be followed, proposed dates and times of moving and parking, and the name and address of the proposed mover. Such application shall also state any municipal utility, street, and public property repairs or alterations that will be required by reason of such movement.
- C. **Permit and Fee.** The moving permit shall state date or dates of moving, hours, routing, movement and parking. Permits shall be issued only for moving buildings by building movers licensed by the State of Minnesota. Fees to be charged shall be separate for each of the following: (1) a moving permit fee to cover use of streets and route approval, and (2) a fee equal to the municipal utility and public property (other than streets) repairs or alterations occasioned by such movement. The latter shall be paid in advance.

#### **Subd. 3. The building mover shall:**

- A. **Use Designated Streets.** Move the building over those streets only which are designated for such use in the permit.
- B. **Notify of Revised Moving Time.** Notify the Building official in writing of any desired change in the date or times of moving the building from that indicated in the application and conduct moving operations only on the date and at the times designated in the application or approved in writing by the Building Official and notify the Chief of Police at least twenty-four (24) hours prior to commencing movement of the building.
- C. **Notify of Damage.** Notify the Building Official in writing of damage caused to property belonging to the City or any public utility within twenty-four (24) hours after the damage or injury has occurred.
- D. **Display Lights.** Cause red lights to be displayed during the night time on each side of the building while situated on a public street in such manner as to warn the public of an obstruction, and at all times erect and maintain barricades across such streets as shall be necessary and in such manner as to protect the public from damage or injury by reason of the presence, movement or removal of the building. Warning lights with open flames shall not be used.
- E. **No Parking.** Not park the building on any City street at any time during the moving process.
- F. **Comply With Governing Law.** Comply with the Building Code, the provisions of the City Code and all other laws.

- G. **Pay Expense of Officer.** Pay the expense of any traffic officer ordered by the City Manager to accompany the movement of the building to protect the public from injury.

**Subd. 4. Owner's Permit Required and Application.**

- A. It is unlawful for any owner of land to or from which a building is to be moved to permit such movement without an owner's permit.

- B. **Application.** A person seeking issuance of a permit hereunder shall file an application for such permit with the City's Building Official in writing, upon forms provided by the Building Official. The application shall include the address and legal description of the land on which the building is situated and, if within the City, to which it is proposed to be moved; the route including identification of streets or roads over which it is to be moved; the distance; the proposed date of movement; the status of any outstanding taxes and such other information as the City shall require for the determination to be made hereunder. The application shall not be accepted for filing unless accompanied by the following:

1. Evidence that all real estate taxes and special assessments against the building and land from which it is to be removed are paid in full.
2. A written statement, bill of sale or other written evidence that the applicant is entitled to move the building.
3. Written evidence of arrangements with all public utility companies whose wires, lamps or poles are required to be removed, for the removal thereof by the applicant.
4. A cash deposit from the owner of the lot from which the building is to be moved in the sum of \$1,000.00 as an indemnity to ensure completion of the following work: (1) capping the well; (2) abandoning sewerage system as required by the City; and (3) filling all excavations to grade, removing all rubbish, and leaving the premises in a safe and sanitary condition.
5. A cash deposit or letter of credit, the amount of which shall be 75% of the estimated cost, as determined by the City, to bring the building so moved into conformance with applicable Building Code requirements.
6. Payment of the permit fee.
7. If the building is to be located within the City after its movement, a survey by a licensed surveyor of the land to which the building is to be moved, including the location of the building in relation to the boundaries of the land.
8. If the building is to be located within the City after its movement, photographs of (1) two or more views of the building to be moved; (2) the lot on which the building is to be located; and, (3) the lands, and structures thereon, adjacent to the lot on which the building is to be located.

- C. **Duties of the Building Official. Inspection.** Upon receipt of the application accompanied by the fee, deposit, statement and information required, the Building Official shall review the application and make such investigation as he shall deem appropriate. He shall also obtain the recommendation of the Chief of Police and City Engineer with respect to the streets and roads on which the building may be moved to assure the greatest degree of safety to persons and property and to minimize congestion on public streets. Upon completion of his review and investigation, the Building Official shall:

1. Deny the permit for moving a building to a location other than within the City, stating in writing one or more of the grounds stated in Subd. 13 of this Section or authorize issuance of a permit; or,
2. In all other instances, make his report to the Board of Adjustments and Appeals.

**D. Board of Adjustments and Appeals - Public Hearing.**

1. Where applicant requests the moving of a building to a location within the City, the Board shall hold a public hearing on whether a permit shall be issued not later than sixty (60) days after the application has been accepted for filing. Notice, including the time, date, place and purpose of the hearing shall be given by publication in the official newspaper of the City and by mailing to the owners of real property situated within five hundred (500) feet of the land to which the building is to be moved at least ten (10) days prior to the date of the hearing. Notice containing the same information shall be posted on the property to which the building is to be moved, not less than thirty (30) days prior to the date of the hearing. Failure to give mailed notice or any defect in the notice shall not invalidate the hearing or any proceedings taken thereat.
2. Not later than five (5) days after conclusion of the hearing the Board shall either deny the permit in writing stating one or more of the grounds stated in Subd. 13 of this Section or authorize issuance of a permit.

**E. The landowner shall:**

1. **Clear Old Premises.** Remove all rubbish and materials and fill all excavations to existing grades at the original building site, if within the City, so that the premises are left in a safe and sanitary condition. All foundation structures shall be removed to a depth of eighteen (18) inches below the finished grade of the earth.
2. **Remove Service Connections.** Cause any sewer lines to be plugged with a concrete stopper and the water to be shut off if the original building is within the City. The holder of the permit shall notify gas, electric and other utilities to remove their services.
3. **Completion of Remodeling.** If the building is relocated in the City, complete within ninety (90) days after removal, all remodeling, additions or repairs as indicated in the application, in any document filed in support thereof, or in any building permit issued in connection therewith.
4. **Take all reasonable precautions to secure the building and to reduce danger to any member of the public until the building is set on its foundation and any remodeling, additions or repairs described in the application have been completed, including but not limited to:** (1) locking all doors and windows; (2) providing sufficient support or bracing so as to stabilize the building to prevent it or any part thereof from sliding, slipping, falling or moving; and (3) erecting and maintaining a security fence or wall the base of which shall be no higher than four inches and the top of which shall be at least four feet above the surface of the ground and which shall enclose the entire building as well as the excavation for the foundation.

**Subd. 5. Liability to City.**

- A. **Holders of Permits Liable for Amounts Exceeding Deposit.** The holder or holders of a permit shall be liable jointly and severally for any expenses, damages, or costs paid or incurred by the City as a result of the issuance of a permit or the taking or failure to take any action by the holder or holders of the permit or the City hereunder.

- B. **Retention of Cash Deposit.** The City may take or cause to be taken any of the following actions and may retain so much of the cash deposit necessary to reimburse itself for any costs or expenses incurred as a result thereof:
1. If the City in its sole discretion determines that the premises from which or to which the building is to be moved, if within the City, or the movement of the building through or within the City is unsafe or constitutes any other unsafe condition, the City in its sole discretion may, but shall not be required to, take or cause such action to be taken to eliminate such unsafe condition or conditions as it shall deem appropriate.
  2. If the premises from which the building has been removed are within the City and such premises are left in an unsafe or unsanitary condition or the provisions of this Section with respect to such premises have not been complied with, the City may, but shall not be required to, in its sole discretion take or cause such action to be taken to remedy such unsafe or unsanitary condition and to place the premises in such condition as to be in compliance with this Section.

**Subd. 6. Fees and Deposits.**

- A. **Return Upon Non-Issuance.** Upon denial of a permit, there shall be returned to the applicant all deposits, bonds and insurance policies or certificates therefor. The fee filed with the application for the permit shall not be returned.
- B. **Return Upon Allowance For Expenses.** Upon completion of the moving of a building pursuant to a permit, the amount which the applicant has deposited in conjunction with the filing of the application shall be returned to him, less all amounts which any holder of a permit shall or may become liable to the City and which the City may retain under any provision of this Section. The permit fee paid upon filing of the application shall not be returned.

**Subd. 7. Review or Appeal by the Council.**

- A. The Council may upon petition of a resident of the City or upon its own motion, elect to review any decision of the Building Official or the Board authorizing or denying issuance of a permit; or the denial of a permit may be appealed by the person who has made application therefor. Election to review must be taken by the Council by resolution duly adopted, or an appeal must be made by the applicant by filing notice thereof with the City Clerk within twenty (20) days from the date of denial of or authorization for issuance of a permit.
- B. A hearing on the election to review or appeal shall be heard by the Council no later than thirty (30) days after the election to review has been made or notice of appeal has been filed. Review shall be made upon all of the files, documents and records of the proceedings in the matter and the Council may consider such additional evidence as it shall deem appropriate. The Council may affirm, reverse or modify the action of the Building Official or the Board in accordance with the provisions hereof and may make its action subject to such conditions as may be appropriate.

**Subd. 8. Moving Hours.** No person shall move any building on any public street or highway within the City at any time other than during the hours of 1:00 o'clock A.M. to 5:30 o'clock A.M.

**Subd. 9. Moving Days.** Any person moving a building through the City for which a permit shall not be required shall move such building through the City within a period of no more than seven (7) days.

**Subd. 10. Conditional Permits.** Any permit granted under the terms of this Section, whether by the Building Official, Board of Appeals and Adjustments, or the Council, may have attached thereto written conditions which shall be strictly adhered to by the permittee.

**Subd. 11. Building Permits and Certificates of Occupancy.**

- A. Whenever an application is made to move a building which would not, after moving, comply with all then-current building codes or if changes are required or contemplated, contemporaneously with such application, a separate building permit shall also be applied for.
- B. No moved building, whether or not a separate building permit is required under Subparagraph A of this Subdivision, shall be occupied before the City issues a Certificate of Occupancy therefor.

**Subd. 12. Building Mover Endorsement.** No permit to move a building shall be granted to the owner thereof unless it is endorsed by a building mover licensed by the State, acknowledging that he knows the contents of this Section and agrees to be bound hereby and by all conditions placed upon such permit relating to hours, routing, movement, parking and speed limit.

**Subd. 13. Denial of a Permit.** Any permit under this Section shall be denied upon a finding of any one of the following:

- A. Applicant has not complied with any requirement of this Section.
- B. Persons or property in the City would be endangered by moving the building because of shape, size, route, or for any other reason;
- C. The building is in such state of deterioration or disrepair or is otherwise so structurally unsafe that it would constitute a danger to persons or property in the City;
- D. The building is structurally unsafe or unfit for the purpose for which moved, if the location to which the building is to be moved is in the City;
- E. The equipment for moving the building is unsafe and persons and property would be endangered by its use;
- F. The building or its use would not be in compliance with zoning, building codes or other provisions of the City Code, if the location to which the building is to be moved is in the City; or
- G. If the location to which the building is to be moved is in the City, the building is in substantial variance with either the established or the expected pattern of building development within the neighborhood to which the building is to be moved. Comparative age, bulk, architectural style and quality of construction of both the building to be moved and the buildings existing in the neighborhood shall be considered in determining whether a building is in substantial variance. If the building to be moved is more than ten (10) years older than the oldest building situated on the lands abutting the land to which the building is to be moved, such fact shall be evidence that the building to be moved is in substantial variance.

Source: Ordinance No. 71-84  
Effective Date: 4-5-84

**SECTION 10.06. BUILDING PERMITS REQUIRED.**

It is unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure, or any part or portion thereof, including, but not limited to, the plumbing, electrical, ventilating, heating or air conditioning systems therein, or cause the same to be done, without first obtaining a separate building or mechanical permit for each such building, structure or mechanical components from the City.

**SECTION 10.07. PERMIT FEES.**

Fees for all permits under this Chapter, which may include a surcharge, shall be determined by the Council and fixed by its resolution, a copy of which shall be in the office of the Building Official and uniformly enforced.

Source: City Code  
Effective Date: 9-17-82

(Sections 10.08 through 10.98, inclusive, reserved for future expansion.)

**10.99 VIOLATION A MISDEMEANOR.**

Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when such failure is prohibited or declared unlawful by a Code adopted by reference by this Chapter, and upon conviction thereof shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: City Code  
Effective Date: 9-17-82