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CHAPTER 7

UTILITIES

Section 700 - Electric

700.01. Electrical Code. The National Electrical Code as amended and adopted by the State Building Code, as amended, is adopted by incorporated herein by reference.

700.02. Inspector. The City shall use the State of Minnesota Electrical Inspector. Any person requiring electrical inspection services shall apply directly to the State Electrical Inspector for necessary permits and inspection services and shall comply with all rules and regulations of the State Electrical Inspector.

Section 710 - Plumbing

710.01. State Plumbing Code Adopted. The Minnesota Plumbing Code, and regulations adopted thereunder, as amended, is adopted and incorporated herein by reference.

710.02. Permit Required. No person, including owners of property who wish to do their own plumbing work, shall construct, install or alter any plumbing, drain, vent, sump, water closet, sink, lavatory or other plumbing fixtures within the City without first obtaining a permit from the Administrator or such other person that the Council may designate.

Subd. 1. Exceptions. No permit shall be required in case of routine maintenance and repairs not affecting sanitation such as mending of leaks in faucets, valves or water supply pipes, mending of broken fixtures, tanks, kitchen boilers, replacing fractures, releasing frozen pipes or rodding and flushing of any house sewer or drain.

710.03. Plumbing Inspector. A plumbing inspector (“Inspector”) shall be appointed by the Council and shall act under such rules and regulations as the Council may establish.

Subd. 1. Duties. It shall be the duty of the Inspector to enforce the provisions of this Section. The Inspector shall have the authority and power to issue citations or sign complaints for violations of this Section. The Inspector shall have the authority to enter any building or premises in discharge of the Inspector's duties.

Subd. 2. Compensation. The Inspector shall receive such compensation as may be set by resolution of the Council.

710.04. Compliance. All plumbing work, including that done by the owner of the property, shall comply with the Minnesota State Plumbing Code, as amended, and the provisions of this Section and shall meet the requirements of the Inspector.

Subd. 1. Inspection Required. All plumbing work hereafter constructed shall be inspected, and if found not to be in accordance with this Section, shall be corrected.

Subd. 2. Correction. If after written notice to the person installing work requiring correction thereof the person neglects or refuses to conform to the order, the City or any duly appointed Inspector may remove the work and charge the cost thereof to the person installing the same. No person shall cover any such work without first having an inspection. Refusing to correct work when so ordered by the Inspector shall be a violation of this Section.

710.05. Forms. All forms for applications, permits and Inspector's fee statement shall be furnished by the City and issued by the Administrator.

710.06. Fees. The fees for permits and inspections shall be as set by resolution of the Council.

Section 720 - Sewers

720.01. Definitions. For purposes of this Chapter, the terms and words used herein shall be defined as follows:

Subd. 1. Commission. The Public Utilities Commission of the City of Silver Bay.

Subd. 2. Superintendent. The Superintendent of Public Utilities Department of the City or authorized deputy, agent or representative.

Subd. 3. Sewage. A combination of the water-carried wastes together with such ground, surface, and storm waters as may be present.

Subd. 4. Sewer. A pipe or conduit for carrying sewage.

Subd. 5. Sanitary Sewer. A sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.

Subd. 6. Service Wye Branch. The joint at which the sewer service line is attached to the sewer main line.

Subd. 7. Sewer Service Line. The sewer line from the house or building to the sewer main line.

Subd. 8. Person. Any individual, firm, company, association, society, corporation, or group.

Subd. 9. Undue Hardship. A condition where compliance with this Chapter is not practical or economically feasible or where there is no other reasonable alternative.

720.02. Mandatory Connections. The owner or owners of all houses, buildings or properties used for human occupancy, employment, recreation, or other purpose, situated within the City and abutting on any street, alley, or right-of-way in which there shall be located a public sanitary sewer of the City, shall be required at the owner's expense to install suitable toilet facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provisions of this Section within ninety (90) days after date of official notice to do so by the Superintendent, provided that the public sewer shall be within one hundred fifty (150) feet of the property line and if practical and economically feasible.

720.03. Sewers and Connections.

Subd. 1. Permit Required. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Public Utilities Department. The permit application shall be supplemented by any plans, specifications, or other information required by the Superintendent.

Subd. 2. Costs and Expenses. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall defend, indemnify and hold harmless the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Subd. 3. Multiple Connections. A single, separate and independent sewer line shall be allowed for every house or building with one (1) sewer connection to the main sewer line except with the recommendation of the Superintendent.

Subd. 4. Unlawful Connection.

A. It is hereby declared that the infiltration or discharge of clear water into the sanitary sewer system of the City is detrimental to the health, welfare, safety and convenience of the public. No roof downspouts, exterior or interior footing drains, subsoil footing or foundation drains, areaway drains, sump pumps or other sources of storm water, ground runoff or surface water shall be directly or indirectly connected into a sanitary sewer unless otherwise authorized by the Commission and only in case of undue hardship.

B. Except as hereinafter provided, all unlawful connections as prohibited by Subd. 4 A. shall immediately be disconnected by the owner, tenant or occupant, at their expense.

C. The Superintendent shall inspect the premises served by the sanitary sewer connection to determine the extent to which the sanitary sewer is being used for disposal of sub-surface, foundation, surface or rain water, and make recommendations to the Council. The Superintendent shall have the authority to enter any building or premises, and no person shall refuse to grant admission, in the discharge of his or her duties.

D. The owner, occupant, or tenant of a premises found to have an unlawful connection shall be given notice in writing directing that person to disconnect the connections from the sanitary sewer system within 15 days of the post-marked date of the letter advising of the unlawful connection.

E. Undue Hardship. The Commission by resolution may exempt any premises from compliance with this Chapter if upon good cause shown the compliance would subject the owner, occupant or tenant to undue hardship.

F. If any person fails or refuses to make the disconnection from the sanitary sewer system within fifteen (15) days of the post-marked date of the letter advising the owner of the unlawful connection, a fine of \$250 shall be assessed against the owner of the property. If the disconnection is not remedied within thirty (30) days of the post-marked date of the letter advising of the unlawful connection, a second fine of \$500 shall be assessed against the owner of the property. If the disconnection is not remedied within sixty (60) days of the post-marked date of the letter advising the owner of the unlawful connection, the City may make the necessary corrections and charge the cost thereof to the property owner. If the owner fails or refuses to pay the fines assessed herein or the costs incurred by the City to make necessary corrections, the charges may be made a lien upon the premises and shall be certified to the County Auditor as a special assessment and collected with other taxes.

720.04. Connections to Main Service Line. The connection of the service line into the main sewer line shall be made at a wye branch intended for that purpose and at a suitable location. If no properly located wye branch shall be available, the owner shall at the owner's expense install a wye branch in the main sewer line at the location specified by the Superintendent. A neat hole shall be cut into the main sewer line to receive the service line with entry in the downstream direction at an angle of about forty-five (45) degrees. A fitting with collar shall be used to prevent the protruding of the service line into the main sewer line. Special fittings may be used for the connection only when approved by the superintendent. The maximum allowable cut opening in

an eight (8) and ten (10) inch main sewer line shall be for a four (4) inch service line; the maximum allowable cut opening in a twelve inch or greater main sewer line shall be for a six (6) inch service line; and any service line of over six (6) inches must enter the main sewer line at a proper wye or at a manhole.

Subd. 1. Approval by Superintendent Required. All connections made to a sanitary sewer line, either the main or the service line, shall be inspected and approved by the Superintendent. The sewer line shall be covered and backfilled after approval.

Subd. 2. Construction of Service Line. All sewer service lines shall be made with clay tile, cast irons, transite, or other suitable material approved by the Superintendent. The size and shape of the sewer service line shall be subject to the approval of the Superintendent, but in no event, shall the diameter be less than six (6) inches for clay tile, and four (4) inches for other material. All joints and connections shall be made water tight. The sewer service line shall be laid with an equal gradual slope with not less than one-eighth (1/8) inch per foot. Changes in direction shall be made only with properly curved pipe and fittings. All excavations required in the installation of a sewer service line shall be open trench work unless otherwise approved by the Superintendent. Pipe laying shall be on solid natural undisturbed earth or one hundred per cent (100%) compacted material. When backfilled, the first one foot above and around the pipe must be ninety-five per cent (95%) compacted earth. In no event, shall backfill be placed until the work has been inspected by the Superintendent.

Subd. 3. Street Crossings. When it is necessary for a sewer service line to cross a city street, an application for a permit shall be filed with the Public Works Department. The Superintendent of the Public Works Department may authorize the work including trenching, backfilling and street surface restoration per regulations and specifications established by the Public Works Department, subject to approval of the Council. The work shall be done under the supervision and inspection of the Public Works Department and the Superintendent of the Public Utilities Department.

Subd. 4. Notification. The applicant for the sewer service line construction permit shall notify the Superintendent when the sewer service line shall be ready for inspection and connection to the main sewer line. The connection shall be made under the supervision of the Superintendent.

720.05. Use of Public Sewers.

Subd. 1. Discharge of Storm Water. No person shall discharge or cause to be discharged any storm water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as shall be specifically designated as storm sewers or to a natural outlet approved by the Superintendent.

Subd. 2. Prohibited Discharge. Except as provided in this Chapter, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- A. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- B. Any feminine sanitary napkins, disposable diapers, ashes, cinders, sand, mud, wood or metal shavings, metal, rags, glass, feathers, tar, plastics, paper dishes or cups, unground garbage, or any other solid or viscous substance capable of causing obstructions to the flow in sewers or other interferences with the proper operation of the wastewater treatment plant.
- C. Any waters or waste containing a toxic or poisonous substance in sufficient quantity that injures or interferes with any sewage treatment process, or constitutes a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant.
- D. Any waters or wastes containing suspended solids of the character and quantity that unusual attention or expense shall be required to handle the materials at the wastewater treatment plant.
- E. Any noxious or malodorous gas or substance capable of creating a public nuisance.

Subd. 3. Special Discharge Permit. No person shall discharge wastes into the public sewer system from commercial, industrial, or other sources that are of a volume greater than ordinary one family household use, per unit, or are otherwise prohibited without first making application to the Commission for a Special Discharge Permit. The Commission may issue the Permit after due consideration and under such terms and conditions, regulations and supervision as may be necessary for the protection of the integrity of the wastewater treatment system and receiving waters of the discharge.

720.06. Maintenance of Sewer Lines.

Subd. 1. Cleaning and Rodding of Sewer Service Line. The owner of each sewer service line shall be responsible for the expense of cleaning, repair and replacement of the sewer service line from the owner's house or building to the service line's connection to the main sewer line. Should excavation of the sewer service line be required due to blockage thereof caused by damage to the service line or found to be plugged by tree roots, rags, grease, soaps or other foreign materials, excavation, cleaning and opening shall be at the expense of the property owner. If the blockage is due to a collapsed line under the surfaced portion of the street, the City shall be responsible for the cost of making necessary repairs to the street and the owner of the service line shall be responsible for that portion of the collapsed line under the surfaced portion of the street.

Subd. 2. Tree Roots, Removal of Boulevard Trees. Where it is found that the roots of a tree growing in a boulevard cause blockage in any sewer service line, the owner of the service line may request the Superintendent, or the Superintendent, in the Superintendent's discretion, may have the offending tree removed by the Public Works Department at the expense of the City. This remedy shall not affect the sewer service line owner's responsibility for the expense of removing a blockage in the service line caused by tree roots from whatever source.

Subd. 3. Planting Trees Prohibited. No trees shall be planted in the area immediately over or within ten (10) feet on either side of a sewer service line or a sewer main line.

Subd. 4. Abandonment of Sewer Service Line. All sewer service lines and installations connected to the sanitary sewer system that have been abandoned or for any other reason shall not be used, shall be disconnected by the property owner at his or her expense at the service wye and a cookie or another plug approved by the superintendent inserted in the bell and sealed. The disconnection and sealing shall be inspected and approved by the superintendent before it is backfilled.

720.07. Unlawful Deposits. It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property within the City or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other putrescible waste.

720.08. Natural Outlets. Except where suitable treatment shall have been provided in accordance with this Chapter, it shall be unlawful to discharge to any natural outlet within the City, or in any

area under the jurisdiction of the City, any sanitary sewage, industrial wastes, or other polluted waters.

720.09. Privies and Private Sewage Disposal Systems. Except as provided in this Section, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, mound system or other facility intended or used for the disposal of sewage.

Subd. 1. Exceptions. Where it is not practical or economically feasible due to terrain, soil conditions or distances from the City sanitary sewer system, the City may allow disposal of sewage outside the City sanitary sewer system, provided:

- A. The property owner shall make application to the Commission for approval of an individual sewage disposal system.
- B. Detailed plans and specifications, approved by the Superintendent, shall be submitted with the application for a permit.
- C. The Commission may grant such permit provided the proposed facility meets Minnesota Department of Health requirements and will not be detrimental to the health and welfare of the public.

Subd. 2. Minn. Stat. § 115.55, as amended, is adopted and incorporated herein by reference.

720.10. Powers and authorities of Inspectors. It shall be the responsibility of the Superintendent to enforce the provisions of this Chapter. The Superintendent and other duly authorized employees of the City shall be permitted to enter on all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Chapter. The Superintendent shall have the authority and power to issue citations or sign complaints for violations of this Chapter.

720.11. Violations and Penalties.

Subd. 1. Notice. Any person found to be violating any provision of this Chapter shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit designated by the Superintendent for the satisfactory correction thereof. The offender shall, within the period of the time stated in the notice, permanently cease all violations.

Subd. 2. Other Liability. In addition to other penalties provided by this Code, any person who shall violate any of the provisions of this Chapter shall become liable to the City for any expense, loss, or damage occasioned the City because of the violation.

Section 730 - Water

730.01. Definitions. As used in this Chapter the following definitions shall apply:

Subd. 1. Commission. The Public Utilities Commission of the City of Silver Bay.

Subd. 2. Corporation Stops. The connection at the main of the service of the service connection.

Subd. 3. Curbstop. A shut-off and control valve usually located at the edge of the platted lot line or property line.

Subd. 4. Grade. The average ground level at the area involved.

Subd. 5. Superintendent. The superintendent of the Public Utilities Department of the City or authorized deputy, agent or representative.

Subd. 6. Tap. To tap onto or connect to the water main.

Subd. 7. Utility Department. The Silver Bay Public Utilities Department.

Subd. 8. Water Main. The principal water line maintained by the City.

Subd. 9. Water Service Connection. The connection running from the water main and used or to be used to water service connection therefrom.

730.02. Connections. All connections made to or taps onto any water main in the City shall be made under the direction of the Utility Department.

730.03. Ownership. Curb stops and curb stop boxes installed shall be the property of the City and shall be operated only by members of the Utility Department in their official capacity.

730.04. Maintenance.

Subd. 1. Curb Stop. When a curb stop has been installed, responsibility for its maintenance and care shall be that of the City. All repairs to curb stop shall be made by the Utility Department at the expense of the property owner.

Subd. 2. Service Lines.

A. From Main to Curb Stop. The responsibility for the maintenance of service lines from the water main to the respective curb stops shall be that of the City. This responsibility shall include repairing leaks and thawing frozen lines. The expense thereof shall be imposed upon the property owner where it can clearly be shown that the damage or freezing of the line resulted from negligence or carelessness of the property owner.

B. From Curb Stop to Building. Costs of water service installations from the water main, including connection to the main, shall be at the expense of the property owner. It shall be the responsibility of the owner to maintain the service line, including repair of leaks and thawing frozen lines, from the curb stop into the house or building.

Subd. 3. Service Line Repair. In case of failure of a property owner to commence repair on a leak or thawing frozen lines within 24 hours after being notified in writing to do so, the water shall be turned off. Where there is a substantial waste of water or when damage will likely result from the leak, the water shall be turned off if the repair has not commenced immediately after giving notice.

If the water is turned off because of the failure of the owner to commence repair as notified, a turn off charge as set forth in the fee schedule on file in the Administrator's office shall be charged and shall be paid before service shall be restored. If the property owner cannot either close or seal the service line shut-off valve within the building to make necessary repair, the Utility Department, upon request, shall turn off the water at the curb stop. No turn off or turn on charge shall be made if the owner makes necessary repairs or replacement of the service lines shut-off valve within forty-eight (48) hours.

730.05. Standards. All service connections from the curb stop to the corporation stop shall be of continuous copper tubing of at least three-fourths (3/4) inch diameter with flared copper to copper connections. No copper to copper connection shall be used from the corporation stop to a curb stop unless its length exceeds sixty (60) feet.

Subd. 1. Corporation cocks size. The maximum size of corporation cocks shall be:

- A. three-fourths (3/4) inch corporation stop shall be installed in a four (4) inch main.
- B. one (1) inch corporation stop in a six (6) inch main.
- C. one and one-half (1½) inch corporation stop in an eight-inch main.
- D. two (2) inch corporation stop in a ten (10) inch and larger main. If a service larger than 2 inches shall be required, the service shall be from a tee installed on the main. A service requiring larger than the allowable tap into the main shall be increased by using a tapped full circle clamp coupling unless otherwise authorized by the Superintendent. The installation of the clamp requires the water to be turned off on the main and the charges for the installation shall be based on material and labor as set forth in the schedule. Prior to

installation of the clamp, the water shall be turned off by the Utility Department at the expense of the owner.

E. Curb stop boxes and parts therefore may be purchased from the City, or if purchased from suppliers, shall conform to standards and specifications established by the Utility Department which specifications shall conform to generally accepted plumbing standards.

730.06. Backfilling. Trenching, backfilling of trenches and restoration of street surfaces from mains to curbs shall be done under direction of the Public Works Department and Superintendent in accordance with specifications established by the Public Works Department. No such backfilling shall be begun until the Public Works and Utility Departments shall have been notified, and approval given.

730.07. Charges. Charges for tapping a water main, turning water service off and on, and other services provided by the Utility Department shall be as set forth in the fee schedule established by resolution of the Council.

730.08. Abandoned Service. All service installations connected to the water system that have been abandoned or for any reason shall no longer be used shall within 30 days after notice be disconnected or shut off at the main at the cost of the owner. In the event of subdivision of lots where service installation shall not be used, the owner shall notify the City and shall pay all costs of disconnection. The property owner shall pay for the cost of digging or trenching, whether the work is done by the property owner or City to permit the Utility Department to disconnect at the main. If the property owner elects to have the City do the digging or trenching, a request to do the work shall be made to the Superintendent. The Superintendent or designee shall supervise all such work.

730.09. Watering Restrictions. Whenever the Superintendent determines that a shortage of water may occur because demand exceeds supply or a shortage exists, the Superintendent shall have the authority to limit the time and hours during which the water may be used for sprinkling, irrigation, car washing, or other specified uses.

730.10. Liability. The City shall not be liable for any deficiency or failure in the supply of water to consumers whether occasioned by shutting off the water for making repairs or connections or from any other cause whatever.

Section 740 - Solid Waste Collection

740.01. Purpose. The collection and disposal of garbage, refuse and rubbish is an essential public service. The Council has determined that to protect the health and welfare of the citizens of Silver Bay it is necessary to control the method of solid waste collection. The Council has further determined that it is to the best interests of the public that collection and disposal of solid waste be by contract and that it is the most effective and cost efficient method of providing such service.

Minnesota Statutes § 443.015 provides:

§ 443.015. Assessment to Dispose of Garbage or Refuse in Certain Cities.

The council of any statutory city or city of the fourth class which shall provide by contract or otherwise for regular collection and disposal of garbage or refuse from dwellings and places of business in the statutory city or city of the fourth class may by ordinance obligate the owners of all property served to pay the proportionate cost of such service to their respective properties, and in default of payment such Council may annually levy an assessment equal to such unpaid cost as of September first of each year, against each lot or parcel of land so served for which the service charge is unpaid. Such assessment may include a penalty not to exceed ten percent of the amount thereof and shall bear interest at such amount not exceeding six percent per annum as the council shall determine. Such assessment shall be certified to the auditor of the county in which the land assessed is situated and shall be collected and remitted to the city treasurer in the same manner as assessments for local improvements.

740.02. Definitions.

Subd. 1. Garbage. Any waste foodstuffs, table wastes of vegetables or animal origin, or all putrescible wastes, but excluding sewage or water-carried wastes.

Subd. 2. Refuse or Junk. Means ashes, glass, plastics, crockery, tin cans, old metal, paper, boxes, rags, tires, oil, grease, old clothing and similar waste materials from normal household living conditions and business operations.

Subd. 3. Rubbish. Fragments of buildings, broken or imperfect pieces of any structure, trash waste or rejected matter.

Subd. 4. Solid Waste. Solid waste as used in this section means, garbage, refuse, junk and rubbish.

740.03. Deposit of Garbage Restricted. No person shall deposit or cause to be deposited any garbage, refuse or rubbish upon any street, alley, vacant lot or upon any ground or area except the manner provided in this Section.

740.04. Construction or Industrial Wastes. Waste materials from building construction, factory wastes or rubbish from industrial plants shall be disposed of by the owners of the waste pursuant to the provisions of the Minnesota and Federal laws and regulations.

740.05. Burning Prohibited. No person shall burn any garbage or refuse by open burning, incinerators, stoves, or in any other manner within the City. Refuse may be burned in an incinerator built as an inherent part of a building with the approval by the Council or such person as the Council may designate. Every person having or desiring to construct an incinerator shall make application to the Council for a permit therefor.

740.06. Municipal Garbage Collection Continued. The established municipal garbage collection system shall be continued and maintained under the exclusive right and authority of the City franchised garbage collection and removal service to collect and dispose of all solid waste within the City.

740.07. Exclusive Collection System.

Subd. 1. Franchise. The City may grant a franchise to a garbage collection service to collect and dispose of all solid waste within the City. The franchisee shall be subject to such rules and regulations and serve under such terms and conditions as the Council may establish by resolution or by contract between the City and the franchisee.

Subd. 2. Landfill. The solid waste collected by the franchised garbage collection service shall be hauled to and deposited in an approved landfill.

Subd. 3. Costs. The franchised garbage collection service shall pay the cost of all landfill charges imposed by the operator of the landfill.

740.08. Storage of Garbage and Refuse.

Subd. 1. Containers. Garbage and refuse shall be kept in the types of storage and collection containers prescribed by the franchised garbage collection service. The franchised garbage collection service shall adopt rules for type and size of garbage storage and collection containers which rules shall be approved by the Council.

Subd. 2. Regulations. Storage, collection and depositories of garbage, refuse and rubbish shall comply with applicable regulations of appropriate state agencies.

740.09. Charges for Collection and Disposal Services.

Subd 1. Charges. The franchised garbage collection service shall fix all charges for collecting and disposing of solid wastes, including the time of the collection, subject to the approval of the Council by resolution.

Subd. 2. Billing. Unless otherwise determined by resolution of the Council, the billing and collection of service charges for collecting and disposal of solid waste shall be the sole responsibility of the Administrator. The Administrator shall transmit amounts due to the garbage collection system less collection fees established by the Council. The service charge for garbage and refuse collection shall be entered, shown and placed on the utility bill as provided by Minnesota Statutes § 443.28. All such charges shall be paid to the Administrator with the charges for water and sewer. If not paid when due, the procedure for collection of delinquent water and sewer accounts shall apply.

740.10. Transporting of Garbage, Refuse and other Waste Materials. All garbage, refuse or other solid wastes shall be transported on the streets of the City exclusively by the franchised garbage collection service in vehicles with leak proof bodies and cleanable construction so their contents will not drip or spill on the streets. Residents may transport refuse, rubbish, junk and other waste materials to approved collection centers. Property owners, occupants of real property, builders and contractors may transport and dispose of construction materials in approved disposal areas.

740.11. Adoption by Reference. Minn. Stat. §§ 115A, et al., are adopted and incorporated herein by reference.