

ORDINANCE NO. 52

AN ORDINANCE ADOPTING THE PROVISIONS OF THE WETLAND CONSERVATION ACT

BE IT ORDAINED BY THIS CITY COUNCIL OF THE CITY OF UNDERWOOD AS
FOLLOWS:

Section 1. Purpose. This ordinance is adopted to implement the Wetland Conservation Act of 1991, (Minnesota Laws 1991, chapter 354, as amended), and the accompanying rules of the Minnesota Board of Water and Soil Resources (Minnesota Rules Chapter 8420, as amended).

Section 2. Incorporation by Reference. This ordinance incorporates by reference the Act and the Rules. Terms used in this ordinance which are defined in the Act or the Rules have the meanings given there.

Section 3. Scope. This ordinance regulates the draining and filling of wetlands and parts of wetlands within the City of Underwood. It is part of the official controls of the City of Underwood. Conflicts with other official controls must be resolved in favor of providing the most wetland protection.

Section 4. Procedures.

Subd. 1. Exemption and no-loss determinations. Exemption and no-loss determinations under Minnesota Rules, parts 8420.0210 and 8420.0220 shall be made by the City Administrator. The Administrator may seek the advice of the technical evaluation panel on questions of wetland delineation and type. The Administrator's decision is final unless appealed to the City Council within 30 days.

Subd. 2. Sequencing and replacement plan decisions. Sequencing and replacement plan decisions under Minnesota Rules, Part 8420.0520 to .0550 shall be made following the same procedures as for special use permits plus the additional notice and time requirements of Part 8420.0230. If the amount of wetland to be drained or filled is less than one-tenth of an acre, the sequencing determination under Minnesota Rule, Part 8420.0520 shall be made by the City Administrator.

Subd. 3. Monitoring. The City Administrator shall assure that the replacement plan monitoring and enforcement requirements of Minnesota Rule, Part 8420.0600 to .0630 are fulfilled.

Subd. 4. Wetland Banking. Wetlands may be restored or created within the City of Underwood for purposes of deposit in the wetland bank in accordance with Minnesota Rule, Parts 8420.0700 to .0760. The City is responsible for approving bank plans, certifying deposits, and monitoring of banked wetlands and enforcement under the rules.

Subd. 5. Appeals. Decisions made under this ordinance may be appealed to the Board of Water and Soil Resources under Minnesota Rule Part 8420.0250, after administrative appeal right under the official controls have been exhausted.

Subd. 6. Variances. The City Council may issue variances from the official controls of the City of Underwood so long as the variances do not vary requirements of the Act or the Rules.

Subd. 7. Technical Evaluation Panel. The City Council may appoint a person to serve on the technical evaluation panel. The person must be a technical professional with expertise in water resources management.

Decision under this ordinance must not be made until after receiving the determination of the technical evaluation panel regarding wetland public values, location, size, and/or type if the decision-maker, the landowner, or a member of the technical panel asks for such determinations. This requirement does not apply to wetlands for which such data is included in an approved comprehensive wetland management plan per Minnesota Rule Part 8420.0240.

The City Council may seek and shall consider recommendations, if any, made by the technical evaluation panel in making replacement plan decisions.

Section 5. High Priority Areas. Decisions regarding sequencing, replacement plans, and banking shall particularly favor preservation, restoration, and creation of wetlands in high priority areas as identified in water management plans pursuant to Minnesota Rule Part 8420.0350.

Section 6. Delegation. The City Council may, by joint powers agreement, delegate to the soil and water conservation district under Minnesota Statutes 471.59 and 103C.331, Subdivision 19, the authority to administer all or any part of this ordinance.

PASSED BY THE CITY COUNCIL OF THE CITY OF UNDERWOOD this 2nd day of December, 1996.

Myrtle Trudeau, Mayor

Katy Johansen, City Clerk

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