

**City of Eden Prairie
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Shoreland Handbook

October 26, 2005

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Introduction

The information provided is to assist property owners, with land abutting lakes, so they may be informed about rules and regulations governing their property.

There is a large amount of information to be familiar with for land next to lakes. Therefore, City Staff is available to review any of the information or research specific questions for you. This packet of information will be a resource to communicate, whether over the phone or out in the field, with staff.

ON-LINE

Information can be found on line at www.edenprairie.org. Once at the site click on the "Government" Window. Then in alphabetical order find "City Code." Click on City Code and all Chapters will appear on the right hand side of your screen. You may click on Chapter 9 or Chapter 11. Use the Binoculars or "Find" button to search the document with key words. Key words may include dock, vegetation, tree removal, etc.

Common questions asked include:

Docks -

What size dock may I install?
Do I need permits to install a dock?

Trees -

Can I remove trees down by the waters edge to improve views of the lake?
We want to plant trees down by the lake, is that ok?
Do I need a permit to remove trees by the lake?

Use -

Can I place an accessory structures down by the waters edge?
Can I place a sports facility, that is, tennis court facility, volleyball court facility, basketball court facility within a shoreland setback area.
What size motor can I have on the lake?
Is there a scenic easement on my property?

This is just a sampling of questions. We hope this information will be educational and prevent any occurrences which are in error of the code.

Questions related to docks and the shoreland code may be assisted by Community Development Division at 949-8485. Community Development may refer you to other City Staff or agencies depending on the question.

Contacts

Agency		Phone Number
Department of Natural Resources - Metro Area (Any work planned in the water such as permanent docks, rip rap, dredging)		651-296-6157 651-772-7919
Army Corp of Engineers (Grading, Wetlands)	General number Construction/Operations	651-290-5200 651-290-5312
Watershed Districts		
Riley/Purgatory Creek Watershed District (Barr Engineering)		952-835-2600
Lower Minnesota Valley Watershed District (Engineering)		952-496-8842
City Departments		
<u>Community Development</u> (Setbacks, variances, general questions relating to use of lake shore property)		952-949-8485
<u>Park Natural Resources</u> (Tree Removal, review of all work in the Bluff Impact Zone)		952-949-8442
<u>Engineering</u> (Grading permit, drainage)		952-949-8330

Shoreland Classification System and Profile

A. The public waters of the City are as set forth below:

1. Natural Environment Waters Protected Water Inventory I.D.#

Grass Lake	27-80P
McCoy Lake	27-77W
Mitchell Lake	27-70P
Neill Lake	27-79P
Rice Marsh Lake	10-1P
Rice Lake	27-132P
Round Lake	27-71W
School Pond	27-75W
Smetana Lake	27-73W
Super Valu Pond (unnamed pond)	27-72P

2. Recreational Development Waters Protected Waters Inventory I.D.#

Anderson Lake	27-62P
Birch Island Lake	27-81P
Bryant Lake	27-67P
Duck Lake	27-69P
Idlewild Lake	27-74P
Riley Lake	10-2P
Red Rock Lake	27-76P
Staring Lake	27-78P

3. General Development Waters

General Legal Description

	<u>From: Sec/T/R</u>	<u>To: Sec/T/R</u>
Minnesota River	31/116/22(City Limit)	36/116/22(City Limit)
Nine Mile Creek	02/116/22(City Limit)	12/116/22(City Limit)
	03/116/22(City Limit)	02/116/22(27-67-P)
Purgatory Creek	06/116/22(City Limit)	06/116/22(City Limit)
	05/116/22(City Limit)	36/116/22(MN River)
Riley Creek	18/116/22(10-1P)	32/116/22(MN River)

IMPORTANT DEFINITIONS

These definitions relate specifically to City Code and Shoreland areas. This list is not conclusive. However, the list of definitions may assist you in understanding terms associated with properties surrounding Lakes.

"Accessory Structure" - A detached structure, building or facility, which is located on the same lot as the main building and the use of which is clearly incidental to the use of the main building. Such accessory structures shall include but not be limited to pools, tennis courts, water oriented accessory structures, etc.

"Setback" - The minimum horizontal distance between a building and the street or lot line.

"Structure" - Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground.

"Clear cutting" - Removal of all existing significant natural vegetation on a lot.

"Ordinary high water level" - The boundary of public waters and wetlands, and shall be at an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowage, the ordinary high water level is the operating elevation of the normal summer pool.

"Setback" - The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

"Shore impact zone" - Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the required structure setback.

SHORELAND DIRECTORY
CHAPTER 9

- Section 9.60 Regulation of Use of Lake Waters Generally (**Talks about temporary docks an installation**)
- Section 9.61 Regulation of Use of Anderson Lakes
- Section 9.62 Regulation of Use of Bryant Lake
- Section 9.63 Regulation of Use of Round Lake (Sections 9.61 through 9.67 talks about motors)
- Section 9.64 Regulation of Use of Riley Lake
- Section 9.65 Regulation of Use of Mitchell Lake
- Section 9.66 Regulation of Use of Red Rock Lake
- Section 9.67 Use of Motorized Vehicles and Watercraft on Duck Lake

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- Section 11.55 Mining Operation, Land Alteration and Environmental Preservation Regulations
- Section 11.60 Sloped Ground Development and Regulations
- Section 11.75 Non-Conforming Uses, Structures and Signs
- Section 11.76 Variances 11-106

B. Where Smoking Not Regulated. Notwithstanding any other provision of this Section to the contrary, the following areas shall be exempt from the provisions of this Section: {to "B. Where Smoking Not Regulated. Notwithstanding any other provision of this Section to the contrary, the following areas shall be exempt from the provisions of this Section": " \ 3 }

1. Leases of City Facilities, or those portions thereof, to non-City entities or individuals which have been entered into prior to the adoption of this ordinance,
2. In designated outdoor areas of City Facilities; and
3. City streets, easements, sidewalks, trails (except trails adjacent to or within Parks) and paths.

C. Posting of Signs

1. "No Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly and conspicuously posted outside every City Facility and Park.
2. All ashtrays and other smoking paraphernalia shall be removed from every area where smoking is prohibited under this Section.

Subd. 3. Enforcement.

- A. Complaints. Any citizen who desires to register a complaint under this Section may initiate enforcement with the City Manager or his/her designee.
- B. Violation and Penalty. It shall be a petty misdemeanor for any person to smoke in an area where smoking is prohibited by the provisions of this Section. The fine for violation of this provision shall be \$100 plus all surcharges mandated by law.
- C. Other Applicable Laws. This Section shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.
- D. Severability. If any provision, clause, sentence, or paragraph of this Section or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this Section which can be given effect without the invalid provision or application, and to this end the provisions of this Section are declared to be severable.

(Sections 9.43 through 9.59, inclusive, reserved for future expansion.)

SECTION 9.60. REGULATION OF USE OF LAKE WATERS GENERALLY.

Subd. 1. Definitions. The following terms, as used in this Section, shall have the meanings state:

- A. "Dock" - Any wharf, pier, or other structure constructed or maintained in the lake or located above the surface of public water, whether floating or not, including all "L's" or "T's", or post which may be a part thereof, whether affixed or adjacent to the principle structure.
- B. "Water Oriented Accessory Structure" - A structure used solely for watercraft storage including storage of related boating and water-oriented sporting equipment. The term does not include slip structure or moorings.

- C. "Watercraft Cover" - A temporary cover solely for the protection of watercraft.
- D. "Mooring" - Any buoy, post, structure or other device at which a water craft may be moored and which is surrounded by navigable water.
- E. "Slip Structure" - A structure designed solely to secure a watercraft for the purpose of protecting it from damage from sun, wind, storm, or rain.
- F. "Structure" - See definition in Chapter 11, Section 11.02 entitled definitions.

Subd. 2. Nuisances Prohibited. It is unlawful for any person to commit or maintain a public nuisance in or upon the waters of any lake or other body of water; and no person shall let, permit, or enable any other person to use any boat, dock, craft or structure, or portion thereof, knowing that it is intended to be used for committing or maintaining a public nuisance. It is also unlawful for any person to willfully prevent, hinder, or oppose or obstruct a public official in the performance of his duty in carrying out the provisions of this Section or in removing or abating a public nuisance.

Subd. 3. Nuisances Defined. A public nuisance consists in doing or omitting to perform one or more of the following:

- A. Injure or endanger the safety, health, or comfort of the public; or,
- B. Offend public decency; or,
- C. Unlawfully interfere with, obstruct, or tend to obstruct or render dangerous for use or passage a lake or other body of water; or,
- D. Cause the depositing or littering of refuse or waste or other deleterious, poisonous or injurious substance upon water or ice of any lake or other body of water; or,
- E. Cause the depositing of sewage into lake waters; or,
- F. Cause the erection or maintenance of any dock or structure which interferes with, obstructs, or tends to obstruct or render dangerous for use the waters of any lake.

Subd. 4. It is unlawful for any person to fail to equip and to operate a boat, vessel or watercraft in accordance with the provisions of Chapter 361 of Minnesota Statutes, 1990, which Statutes are hereby adopted and incorporated herein and made a part hereof by reference, as fully as if set forth herein provided that these additional requirements shall be met by all owners and operators of watercraft within the harbor limits established herein, namely:

- A. All watercraft in use or underway between sunset and sunrise shall be equipped with and have in operation red and green running lights in the forward section of the boat and a white light at the stern or on the superstructure, which white light shall be visible on a dark night with clear atmosphere for a distance of two (2) miles from any direction provided, however, that motor powered watercraft under sixteen (16) feet in overall length may use portable lights, which must be clamped on the watercraft when in use, and non-powered watercraft may use a portable single white light which is visible from any direction for a distance of two (2) miles on a dark night with clear atmosphere.
- B. All watercraft when at anchor or drifting must show a white light visible from any direction for a distance of one (1) mile, and such light shall be lit from sunset to sunrise except that a watercraft anchored in a cove within one hundred (100) feet of shore and two hundred (200) feet away from normal navigation and any watercraft anchored at a dock or pier need not have the white light lit.

- C. All watercraft shall have on board and readily accessible *Coast Guard Approved* life preservers, vests or buoyant cushions capable of keeping every person on board afloat.
- D. No watercraft other than an authorized Water Patrol Boat or other police watercraft shall use or display a red light except a red running light.
- E. No watercraft other than an authorized Water Patrol Boat or other police watercraft shall use or display a police, sheriff or law enforcement officer's flag or any device designed to simulate such a flag.
- F. No person shall board, use, damage or tamper with a watercraft except when done by the owner or with the owner's consent.
- G. No person under fifteen (15) years of age shall operate a watercraft powered by a motor of ten (10) horsepower or more unless accompanied by a competent person fifteen (15) years of age or older.
- H. No person shall tow or operate a watercraft towing one (1) or more persons behind a watercraft on water skis, aquaplane, surfboard, saucer, or similar device except in compliance with these regulations:
 - 1. Every person being towed shall wear a life vest, belt or other buoyant device except with written permission of the County Sheriff.
 - 2. Not more than two (2) persons may be towed at one time except with written permission of the County Sheriff.
 - 3. No person shall be towed from one-half hour after official sunset to sunrise.
 - 4. No person shall be towed by a rope, cable or other towing device longer than eighty-five (85) feet except with a written permit of the County Sheriff.
 - 5. No person shall operate a watercraft when towing a person, and no person being towed shall come within one hundred fifty (150) feet of any bathing area, skin diver's warning flag, swimmer, or raft, watercraft, dock or pier except that raft, dock or pier from which he is operating.
 - 6. No person shall tow or be towed during a holiday, or Saturday or Sunday, or in a congested area at any time unless two competent persons are on the boat or watercraft. The driver of such watercraft shall be at least fifteen (15) years of age and must watch where the watercraft is being driven at all times. The second person on board the watercraft shall be an observer, and shall be at least twelve (12) years of age, and shall watch the person or persons being towed at all times.
 - 7. No person shall drag an unoccupied tow line behind a watercraft for an unreasonable length of time.
 - 8. No person shall tow or be towed into or through a marked channel connecting two (2) bodies of water.

Subd. 5. The operator of any motor boat, speed boat, or of any vessel under power shall not overtake or pass any watercraft in a channel or narrow passage; and all watercraft shall proceed through all channels and narrow passages of water with closed throttle.

Subd. 6. No person shall obstruct or interfere with passage of a boat or vessel through a channel or narrow water passageway.

Subd. 7. No person shall operate a boat or vessel in a careless or reckless manner in or about a public swimming beach.

Subd. 8. No person shall swim in a channel, or jump or dive from a channel bridge or dam.

Subd. 9. No person shall operate any watercraft, automobile, vehicle or powered propelled device on the open water or upon an ice covered body of water in such a manner as to endanger life, limb or property.

Subd. 10. No person shall anchor or operate a boat within one hundred (100) feet of a structure holding a lawful permit to be used for the purpose of a ski jump or within one hundred (100) feet of the buoys used as markers for the water ski course during such times as the said water ski course and jump are in use by water skiers.

Subd. 11. Regulation of Structures

- A. **Prohibition.** It is unlawful for any person to use any area of any public waters outside of an authorized dock use area, for docks, mooring, boat storage, swimming floats, ski jump storage or diving towers, unless such use is specifically permitted under the provisions of this Section.
- B. **Authorized Dock Use Area.** An authorized dock use area is described as follows:
1. **Length -** The authorized dock use area for lots bordering on the lake extends into the lake a distance equal to the lot's lake frontage to be measured at right angles to the side lot lines and, except as provided herein, shall not extend into the lake a distance of greater than 100 feet in the case of commercial docks and 75 feet in the case of other docks to be measured on a line parallel to the side lot lines as extended into the lakes.
 2. **Width -** The authorized dock use area for lots bordering on the lake is limited in width by the setback limitations prescribed herein. The setback from side lot lines as extended into the lake shall be 15 feet for private docks and 20 feet for commercial docks. Where boat slips open toward a side lot line, the setback provided shall be at least equal to the slip depth, but shall not be less than 20 feet.
 3. **Multiple Docks -** Only one dock is allowed per abutting lot.
- C. **Structures Not to Obstruct.** No dock, or other structure shall be so located as to obstruct a navigable channel, or so as to obstruct reasonable access to any other dock, mooring area or similar structure authorized under this Chapter. No dock, mooring area or similar structure shall be located or designed so that it unnecessarily requires or encourages boats using it to encroach into any other authorized dock use area.
- D. **Unusual Configuration.** Where the provisions of this Section would cause the authorized dock use area of two or more lots to overlap, or where there is any other unusual configuration of shoreline or extended lot lines, which causes a conflict between the owners of two or more adjacent or nearby lots in that they may tend to use the same area of any public waters for docks, mooring areas or other structures or for reasonable access thereto, the owner of any of the affected lots may apply to the Council for a variance pursuant to this Section. A variance may be (1) to permit the applicant to locate a dock, mooring area or other structure in a location different from that permitted by this Section, or (2) to permit the owner of any adjacent or nearby site lot to do so.
- E. **Docks: Dimension Limits.** A dock as defined in Subdivision 1 of this Section, shall not exceed, in the case of a commercial dock, 600 square feet, and in the case of a residential dock, 450 square feet.
- F. **Prohibited Structure.** The following may not be erected on a public water: (1) water-oriented accessory structure; or (2) any structure above the horizontal plane of a dock except watercraft covers and slip structures as regulated by this Subdivision. A non-conforming dock or roof lawfully in existence upon enactment of this ordinance may not be structurally altered or expanded in any way.
- G. **Surface Water-oriented Commercial Use.** Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

1. Any signs must comply with Chapter 11, Section 11.70.
 2. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.
 3. Outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
- H. Storage. Unless otherwise specifically permitted by this Section, no structure on a public water may be used for the storage of any materials or items other than watercraft.
- I. Multiple Docks. Only one dock is allowed per abutting lot.
- J. Temporary Structures. No swimming floats, ski jumps, diving towers, buoys, markers, or other structures surrounded by navigable water shall be located in a public water more than 100 feet from the shoreline without being authorized by a permit from the City. The Council may grant any such permit, provided that the proposed structure is not more than 200 feet from the shoreline, if it determined that the granting of such permit will not create hazards or obstructions to navigation. Permits shall not be issued for free floating structures. Permits are not required for diving floats or navigation buoys.
- K. Permits. Any change in the length, width, height, or location of a structure requiring a permit under this Section requires the issuance of a new permit. If a permit is denied, or if any activity or structure does not otherwise conform with the requirement of this Section, a variance may be sought consistent with the requirements of this Section. In applying for any permit under this Section, the following information shall be supplied by the applicant:
1. The name, address, and telephone number of the applicant.
 2. The type, number, and proposed location of structures for which the permit is sought.
 3. The period of time for which the permit is sought. (No more than 3 years.)
 4. A statement as to whether the structure will be reflectorized.
 5. If an organization is seeking the permit, a statement as to the nature of the organization.
 6. If the permit is sought for a particular event, the nature of the event.
 7. Such other information as the City Planner may require to assist him, or the Council, in considering the application for the permit.
 8. A statement by the applicant that he assumes responsibility for the presence and removal of all structures in the protected water.
- L. Factors Considered Prior to Granting Permit. In exercising its discretion to grant or deny permits, the Council may consider, among other things, the following:
1. Whether the structure will be structurally safe for use by the intended users.
 2. Whether the facility will comply with the regulations contained in this Section.

3. Whether the proposed structure will create a volume of traffic on the public water in the vicinity of the facility which will tend to be unsafe or which will cause an undue burden on traffic upon the public water in the vicinity of the facility.
 4. Whether the proposed facility will be compatible with adjacent development.
 5. Whether the proposed facility will be compatible with the maintenance of the natural beauty of the public water.
 6. Whether the proposed facility will affect the quality of the water of the public water and the ecology of the public water.
 7. Whether the proposed facility, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the facility.
 8. Whether adequate sanitary and parking facilities will be provided in connection with the proposed facility.
- M. **Permit Conditions.** The Council may impose written conditions on the issuance of a permit. A violation of the terms and conditions of the permit is a violation of this Section and grounds for revocation of the permit.
- N. **Permit Revocation.** A permit may be revoked by the Council.
1. The Council may revoke a permit for any of the following causes:
 - a. A permitted structure is found to be a hazard.
 - b. The permitted structure is an obstruction to safe use of the lake.
 - c. The permit is not in compliance with the requirements of this Section.
 2. Notice of the hearing for revocation of a permit shall be given by the City Clerk in writing, setting forth specifically the grounds of the complaint and the time and place of hearing.
 3. Such notice shall be mailed, postage prepaid, to the permittee to his/her last known address at least five (5) days prior to the date set for hearing, or shall be delivered in the same manner as a summons at least three (3) days prior to the date set for hearing.
- O. **Permit Fees.** When filing the application, the applicant shall pay non-refundable fees for temporary structure and all other permit fees in amounts which have been determined by the Council and fixed by resolution. A copy of such resolution shall be kept on file in the office of the City Clerk and uniformly enforced.

Source: Ordinance No. 17-96
Effective Date: 4-26-96

SECTION 9.61. REGULATION OF USE OF ANDERSON LAKES.

Subd. 1. Anderson Lakes and all that part of the lake front owned by the Hennepin County Park Reserve District shall be and hereby is set apart for nature study purposes to be used only for such purposes and for such other recreational purposes not inconsistent with nature study purposes.

Source: Ordinance No. 70-84
Effective Date: 4-5-84

SECTION 9.64. REGULATION OF USE OF RILEY LAKE.

Subd. 1. A slow, no-wake zone extending one hundred fifty (150) feet out from Riley Lake Park and eight hundred (800) feet in length shall be designated and marked with necessary buoys and signs. Watercraft shall operate in the slow, no-wake zone at the slowest possible speed necessary to maintain steerage and in no case greater than five (5) miles per hour.

Subd. 2. A water skier pick-up and drop-off area seven hundred (700) feet in length shall be designated on City land and adjacent waters south of the swim area and marked with necessary buoys and signs. No water skiers shall be picked up or dropped off from any City land adjoining Riley Lake except in the designated area.

Subd. 3. Notice. A sign shall be constructed at each public waterfront facility on Riley Lake clearly designating the slow, no-wake zone and water skier pick-up and drop-off zone. Each zone will be marked with necessary buoys and signs.

Source: Ordinance No. 8-86

Effective Date: 5-1-86

SECTION 9.65. REGULATION OF USE OF MITCHELL LAKE.

It is unlawful to operate any watercraft, vessel, or boat on Mitchell Lake with a motor except one motor of ten (10) or less horsepower. Authorized resource management, emergency and enforcement personnel are exempt from this provision *when acting in the performance of their assigned duties*. A temporary exemption permit may be granted upon the approval of the Board of Adjustments and Appeals.

SECTION 9.66. REGULATION OF USE OF RED ROCK LAKE.

It is unlawful to operate any watercraft, vessel, or boat on Red Rock Lake with a motor except one motor of ten (10) or less horsepower. Authorized resource management, emergency and enforcement personnel are exempt from this provision when acting in the performance of their assigned duties.

Source: Ordinance No. 12-92

Effective Date: 6-5-92

SECTION 9.67. USE OF MOTORIZED VEHICLES AND WATERCRAFT ON DUCK LAKE.

It is unlawful to operate any motorized watercraft, vessel, boat, snowmobile or vehicle on or across Duck Lake. Authorized resource management, emergency and enforcement personnel are exempt from this provision when acting in the performance of their assigned duties.

Source: Ordinance No. 33-96

Effective Date: 8-30-96

SECTION 9.68 REGULATION OF USE OF SMETANA LAKE.

Subd. 1. It is unlawful to launch or operate a motorboat on Smetana Lake except for (1) boats powered by electric motors; (2) boats operated by enforcement, emergency and resource management personnel acting in the performance of their duties; and (3) excursion boats owned and operated by the City of Eden Prairie.

Source: Ordinance No. 32-2001

Effective Date: 9-13-01

(Section 9.69, inclusive, reserved for future expansion.)

accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation requirements and the use of land restrictions specified in Subd. 5 of this Ordinance. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.

(Section 11.46 through 11.49, inclusive, reserved for future expansion.)

SECTION 11.50. SHORELAND MANAGEMENT.

Subd. 1. Authorization and Jurisdiction.

- A. **Statutory Authorization.** These Shoreland regulations are adopted pursuant to the authorization and policies contained in Minn. Stat. Section 103F.201-103F.221 and Minn. Stat. Section 462.
- B. **Jurisdiction.** The provisions of this Section shall apply to the shorelands of the public waters as classified in Subd. 7 of this Section. Pursuant to Minnesota Regulations, Parts 6120.2500-6120.3900, no lake, pond, or flowage less than 10 acres in size in municipalities need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this section.

Subd. 2. Declaration of Policy and Procedures. Declaration of Policy. It is hereby found and declared that shorelands of public waters are, or may be, subject to uncontrolled use resulting in: Health and safety hazards, pollution of public waters, loss of property, destruction of fish and wildlife, impairment of natural beauty, and impairment of local tax base all of which adversely affect the public health, safety, and welfare. It is, therefore, the purpose of this Section to provide standards and criteria for the subdivision, use and development of the shorelands of public waters in order to preserve and enhance the quality of public waters, conserve the economic and natural environmental values of shorelands, and provide for wise utilization of water and related land resources, and thereby promote and protect the public health, safety, and welfare.

Subd. 3. Interpretation and Severability. Interpretation. In interpreting and applying the provisions of this Section, such provisions shall be held to be minimum requirements for the promotion of the public health, safety, prosperity and general welfare. It is not the intention of this Section to interfere with any other provision of the City Code, however, where this Section imposes a greater restriction upon the use or improvement of any premises than those imposed or required by other City Code provisions, rules, regulations or permits of the City, State, or appropriate Watershed District, the provisions of this Section shall govern.

Subd. 4. Definitions. The following terms, as used in this Section, shall have the meanings stated:

- 1. "Bluff" - A topographic feature such as a hill, cliff, or embankment having all the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):
 - a. Part or all of the feature is located in a shoreland area;
 - b. The slope rises at least 25 feet above the ordinary high water level of the waterbody;
 - c. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
 - d. The slope must drain toward the waterbody.

2. "Bluff impact zone" - A bluff and land located within 20 feet beyond the top of a bluff.
3. "Building line" - A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
4. "Clear cutting" - Removal of all existing significant natural vegetation on a lot.
5. "Commissioner" - *The Commissioner of the Department of Natural Resources.*
6. "Lot Abutting" - Any lot directly abutting the Ordinary High Water Level or within 150 feet thereof shall be considered an abutting lot.
7. "Ordinary high water level" - The boundary of public waters and wetlands, and shall be at an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowage, the ordinary high water level is the operating elevation of the normal summer pool.
8. "Public waters" - Any waters as defined in Minnesota Statutes, 103.G.005 Sub. 15 and Sub. 18.
9. "Setback" - *The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.*
10. "Sewage treatment system" - A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Subdivision 17 of this ordinance.
11. "Sewer system" - Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
12. "Shore impact zone" - Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the required structure setback.
13. "Shoreland" - Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by code on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.
14. "Shoreline" - The shoreline for public waters is defined as the normal ordinary high water level.
15. "Toe of the bluff" - The lower point of a 50-foot segment with an average slope exceeding 18 percent.
16. "Top of the bluff" - The higher point of a 50-foot segment with an average slope exceeding 18 percent.
17. "Water-oriented accessory structure" - A structure used solely for watercraft storage including storage of related boating and water-oriented sporting equipment.
18. "100-Year Frequency Flood Level" - The elevation that a creek, pond, or lake can be expected to reach once in 100 years.

Subd. 5. Administration, Application and Issuance of Certain Permits.

- A. Permit Required. A permit issued by the City shall be applied for and obtained prior to construction, installation of sewer and water facilities, and grading and filling within any part of shoreland area.
- B. Applications for permit. Application for permit within any part of a shoreland area shall be made in conformance with procedures set forth in Section 11.55, subd. 5 A. Application for Land Alteration Permit, Fees, Council Action, Bond in addition to the requirements of this subdivision.

Ordinance No. 14-2004
Effective Date: 6-10-2004

- C. Factors Considered Prior to Granting Permit. In exercising its discretion to grant or deny permits, the Council may consider, among other things, the following:
 - 1. Adequacy of lot size and building setbacks.
 - 2. Adequacy of sewer and water facilities.
 - 3. Adequacy of grading, filling and restoration.
 - 4. Whether the structures will be structurally safe for use by the intended users.
 - 5. Whether the facility will comply with the regulations and shoreland protection measures contained in this Section.
 - 6. Whether the proposed structure will create a volume of traffic on the public water in the vicinity of the facility which will tend to be unsafe.
 - 7. Whether the proposed facility will be compatible with adjacent development.
 - 8. Whether the proposed facility will be compatible with the maintenance of the natural beauty of the public water.
 - 9. Whether the proposed facility will affect the quality, or ecology of the public water.
 - 10. Whether the proposed facility, by reason of noise, fumes or other nuisance characteristics, will tend to be a source of nuisance or annoyance to persons in the vicinity of the facility.
 - 11. Whether adequate sanitary and parking facilities will be provided in connection with the proposed facility.
- D. Permit Conditions. The Council may impose written conditions on the issuance of a permit. A violation of the terms and conditions of a permit is a violation of this Section and grounds for revocation of the permit.

Ordinance No. 14-2004
Effective Date: 6-10-2004

- E. Notification Procedures.
 - 1. Copies of all notices of any public hearing to consider variances, amendments or conditional uses under any provision of this section must be sent to the Commissioner or the Commissioner's designated representative and post-marked at least ten days before the hearing. Notices of hearings to consider proposed plats must include copies of the plats.

2. A copy of approved amendments and plats, and final decision granting variances or conditional uses under this section must be sent to the Commissioner or the Commissioner's designated representative and post-marked within ten days of final action.

Ordinance No. 14-2004
Effective Date: 6-10-2004

Subd. 6. Variance Standards.

A. Procedures for Considering Variance Application. A variance from strict conformity with the terms of this section may be granted in conformance with the provisions for granting variances set forth in Section 11.76 of this Chapter. Upon receiving an application for a variance, the Board of Adjustments and Appeals, prior to rendering a decision thereon, may require the applicant to furnish the following information, as deemed necessary by the Board, for determining the suitability of a particular site for the proposed use:

1. Plans showing elevation of the ground water supply, sanitation facilities, photographs showing existing land uses, vegetation upstream and downstream and soil types.
2. Specification for building constriction (including lot size and setbacks), filling, and grading, water supply, and sanitary facilities.
3. Such other information as may bear on the suitability of the proposed structure or development.

In considering variance requests, the Boards of Adjustment and Appeals must also consider whether the property owner has reasonable use of the lands without the variance, whether the existing sewage treatment system on the property needs upgrading before additional development is approved, whether the property is used seasonally or year-round, whether the variances is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

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B. Provisions of the variance regulations contained in this section shall apply.

For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

C. Administration of Variance. Refer to Subdivision 5 entitled Administration, Application and Issuance of Certain Permits.

Subd. 7. Shoreland Classification System and Profile.

A. The public waters of the City are as set forth below:

<u>Natural Environment Waters</u>	<u>Protected Water Inventory I.D.#</u>
Grass Lake	27-80P
McCoy Lake	27-77W
Mitchell Lake	27-70P
Neill Lake	27-79P
Rice Marsh Lake	10-1P
Rice Lake	27-132P
Round Lake	27-71W
School Pond	27-75W
Smetana Lake	27-73W

Super Valu Pond (unnamed pond) 27-72P

2.	<u>Recreational Development Waters</u>	<u>Protected Waters Inventory I.D.#</u>
	Anderson Lake	27-62P
	Birch Island Lake	27-81P
	Bryant Lake	27-67P
	Duck Lake	27-69P
	Idlewild Lake	27-74P
	Riley Lake	10-2P
	Red Rock Lake	27-76P
	Staring Lake	27-78P

3. General Development Waters

General Legal Description

	<u>From: Sec/T/R</u>	<u>To: Sec/T/R</u>
Minnesota River	31/116/22(City Limit)	36/116/22(City Limit)
Nine Mile Creek	02/116/22(City Limit)	12/116/22(City Limit)
	03/116/22(City Limit)	02/116/22(27-67-P)
Purgatory Creek	06/116/22(City Limit)	06/116/22(City Limit)
	05/116/22(City Limit)	36/116/22(MN River)
Riley Creek	18/116/22(10-1P)	32/116/22(MN River)

Subd. 8. Zoning Restrictions. No building permit shall be issued for any lots zoned as rural, residential, commercial, office, industrial, public or any sub-zoning district thereof which are within the Shoreland unless the use is in conformance with this Chapter and conforms to the following lot size dimensions and setbacks.

A. Natural Environment Waters.

1. Single Family Housing Detached Dwellings.

a. Lots abutting without public sewer:

- (1) Minimum lot size - 5 acres.
- (2) Minimum width at building line - 300 feet.
- (3) Minimum width at Ordinary High Water Level - 200 feet.
- (4) Minimum setback from Ordinary High Level - 200 feet.

b. Lots abutting with public sewer and water:

- (1) Minimum lot size - 40,000 square feet.
- (2) Minimum width at building line - 150 feet.
- (3) Minimum width at Ordinary High Water Level - 150 feet.
- (4) Minimum setback from Ordinary High Water Level - 150 feet.

2. Multiple Housing Attached Dwellings.

a. Lots must have public sewer and water.

b. Lots abutting:

- (1) Minimum lot size - 30,000 sq. ft./unit.

- (2) Minimum width at building line - 150 feet.
- (3) Minimum width at Ordinary High Water Level - 150 feet.
- (4) Minimum setback from Ordinary High Water Level - 150 feet.
- (5) Structures shall not comprise more than 50% of the length of the shoreland within the lot.

3. Office and Institutional.

- a. Lots must have public sewer and water.
- b. Lots abutting:
 - (1) Minimum lot size - 10 acres.
 - (2) Minimum width at building line - 200 feet.
 - (3) Minimum width at Ordinary High Water Level - 200 feet.
 - (4) Minimum setback from Ordinary High Water Level - 200 feet.

4. Commercial and Industrial (no outside storage allowed).

- a. Lots must have public sewer and water.
- b. Lots abutting:
 - (1) Minimum lot size - 10 acres.
 - (2) Minimum width at building line - 200 feet.
 - (3) Minimum width at Ordinary High Water Level - 200 feet.
 - (4) Minimum setback from Ordinary High Water Level - 200 feet.

B. Recreational Development Waters.

1. Single Family Housing Detached Dwellings.

- a. Lots abutting without public sewer:
 - (1) Minimum lot size - 5 acres.
 - (2) Minimum width at building line - 300 feet (Rural - 300 feet).
 - (3) Minimum width at Ordinary High Water Level - 150 feet.
 - (4) Minimum setback from Ordinary High Water Level - 100 feet.
- b. Lots abutting with public sewer and water:
 - (1) Minimum lot size - 20,000 square feet.
 - (2) Minimum width at building line - 120 feet.
 - (3) Minimum width at Ordinary High Water Level - 120 feet.
 - (4) Minimum setback from Ordinary High Water Level - 100 feet.

2. Multiple Housing Attached Dwellings.

- a. Lots must have public sewer and water.
- b. Lots abutting:
 - (1) Minimum lot size - 15,000 sq. ft./unit.
 - (2) Minimum width at building line - 120 feet.

- (3) Minimum width at Ordinary High Water Level - 120 feet.
- (4) Minimum setback from Ordinary High Water Level - 150 feet.
- (5) Structures shall not comprise more than 50% of the length of the shoreland within the lot.

3. Office and Institutional.

- a. Lots must have public sewer and water.
- b. Lots abutting:
 - (1) Minimum lot size - 5 acres.
 - (2) Minimum width at building line - 200 feet.
 - (3) Minimum setback from Ordinary High Water Level - 200 feet.
 - (4) Minimum width at Ordinary High Water Level - 200 feet.

4. Commercial and Industrial (no outside storage allowed).

- a. Lots must have public sewer and water.
- b. Lots abutting:
 - (1) Minimum lot size - 10 acres.
 - (2) Minimum width at building line - 200 feet.
 - (3) Minimum width at Ordinary High Water Level - 200 feet.
 - (4) Minimum setback from Ordinary High Water Level - 200 feet.

C. General Development Waters.

1. Single Family Housing Detached Dwellings.

- a. Lots abutting without public sewer:
 - (1) Minimum lot size - 5 acres.
 - (2) Minimum width at building line - 120 feet.
 - (3) Minimum width at Ordinary High Water Level - 120 feet.
 - (4) Minimum setback from Ordinary High Water Level - 100 feet.
- b. Lots abutting with public sewer and water:
 - (1) Minimum lot size - 13,500 square feet.
 - (2) Minimum width at building line - 120 feet.
 - (3) Minimum width at Ordinary High Water Level - 120 feet.
 - (4) Minimum setback from Ordinary High Water Level - 100 feet.

2. Multiple Housing Attached Dwellings.

- a. Lots must have public sewer and water.
- b. Lots abutting:
 - (1) Minimum lot size - 10,000 square feet/unit
 - (2) Minimum width at building line - 100 feet.

- (3) Minimum width at Ordinary High Water Level - 120 feet.
- (4) Minimum setback from Ordinary High Water Level - 150 feet.
- (5) Structures shall not comprise more than 50% of the length of the shoreland within the lot.

3. Office and Institutional.

a. Lots must have public water and sewer.

b. Lots abutting:

- (1) Minimum lot size - 2 acres.
- (2) Minimum width at building line - 150 feet.
- (3) Minimum width at Ordinary High Water Level - 150 feet.
- (4) Minimum setback from Ordinary High Water Level - 150 feet.

4. Commercial.

a. Lots must have public water and sewer.

b. Lots abutting:

- (1) *Minimum lot size - 2 acres.*
- (2) *Minimum width at building line - 150 feet.*
- (3) *Minimum width at Ordinary High Water Level - 150 feet.*
- (4) *Minimum setback from Ordinary High Water Level - 150 feet.*

5. Industrial.

a. Lots must have public water and sewer.

b. Lots abutting:

- (1) Minimum lot size - 5 acres.
- (2) Minimum width at building line - 150 feet.
- (3) Minimum width at Ordinary High Water Level - 150 feet.
- (4) Minimum setback from Ordinary High Water Level - 150 feet.

D. Additional Special Provisions.

- 1. Where development exists on both sides of a proposed building site within the same lot as the proposed building site, structural setbacks may be altered to take setbacks of existing structures into account if approved by the City Manager or designee, provided the proposed building site is not within a shore or bluff impact zone.
- 2. Commercial, industrial, or permitted open space uses requiring location on or near public waters may be allowed as a variance closer to such waters than the setbacks specified in this Section.
- 3. Septic tanks and soil absorption systems shall be setback from the ordinary high water level in accordance with the class of public water:
 - a. Natural Environment Waters, at least 150 feet.

- b. Recreational Development Waters, at least 100 feet.
- c. General Development Waters, at least 100 feet.

E. **Additional Structure Setbacks.** The following additional structure setbacks apply, regardless of the classification of the waterbody:

<u>Setback From:</u>	<u>Setback (in feet):</u>
1. top of bluff;	30 for principle structure
2. unplatted cemetery;	50
3. right-of-way line of public street, or other roads or streets not classified;	20

F. **Bluff Impact Zones.** Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

G. **Steep Slopes.** The City Manager or designee shall required soil erosion protection and must evaluate possible soil erosion impacts, soil protection and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

H. **Uses Without Water-oriented Needs.** Commercial, industrial, public and semi-public uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view as determined by the City Manager or designee from the water by vegetation or topography, assuming summer, leaf-on conditions as determined by the City Manager or designee.

Subd. 9. Design Criteria for Structures.

A. **High Water Elevation.** Structures shall be placed such that the lowest floor elevation is at least two feet above the 100-Year Frequency Flood Level.

B. **Water-oriented Accessory Structures.** Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Subdivision 8 of this section if this water-oriented accessory structure complies with the following provisions:

- 1. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet;
- 2. The setback of the structure or facility from the ordinary high water level must be at least ten feet;
- 3. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
- 4. The roof of any water-oriented structure may not be used as a storage area;

5. The structure or facility must not be designed or used for human habitation and must not contain water supply, or sewage treatment facilities.
- C. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
1. Stairways and lifts must not exceed 4 feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties.
 2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings greater than 32 square feet but less than 64 square feet may be used for commercial properties, and public open-space recreational properties.
 3. Canopies or roofs are not allowed on stairways, lifts, or landings.
- D. Controlled Access. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:
1. The lot must meet the width and size requirements for residential lots as required by subd. 8 of this section.
 2. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by 25 percent of the requirements for riparian residential lots for each watercraft beyond six.
 3. The lot must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.
 4. Covenants must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. The covenants must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include but are not limited to, swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. The covenants must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions. The covenants must be filed with the County Recorder or the Registrar of Titles for Hennepin County.

Subd. 10. Placement and Height of Structures.

- A. Placement of Structures on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

1. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
2. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, so as to minimize the view from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
3. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of Subd. 9B and 9C are complied with in addition to the requirements as contained in Minnesota Rules, Chapter 1340 a copy of which is hereby adopted by reference and declared to be a part of this ordinance.

B. Height of Structures. All structures in residential districts, must not exceed 35 feet in height.

Subd. 11. Shoreland Alterations. Alterations of vegetation and topography is regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

A. Vegetation Alterations.

1. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads, utilities, and parking areas shall be regulated by this Section and this Chapter.
2. Removal or alteration of vegetation, except for agricultural uses as regulated in Subd. 14 is allowed subject to the following standards:
 - a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
 - b. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - (1) The minimal amount of vegetation is altered;
 - (2) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - (3) Along rivers, existing shading of water surfaces is preserved;
 - (4) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards; and
 - (5) All disturbed areas are restored to prevent erosion potential.

B. Topographic Alterations/Grading and Filling.

1. A grading and filling permit will be required for the movement of more than ten (10) cubic yards of material within steep slopes and shore and bluff impact zones.
2. The issuance of construction permits, grading and filling permits, variances and subdivision approvals are subject to evaluation based on the following criteria:

- a. Grading or filling in any type 2,3,4,5,6,7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:
 - (1) sediment and pollutant trapping and retention;
 - (2) storage of surface runoff to prevent or reduce flood damage;
 - (3) fish and wildlife habitat;
 - (4) recreational use;
 - (5) shoreline or bank stabilization; and
 - (6) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
 - b. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
 - c. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
 - d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
 - e. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
 - f. Fill or excavated material must not be placed in a manner that creates an unstable slope;
 - g. Plans to place fill or excavated material on steep slopes must be reviewed by registered Engineer for continued slope stability and must not create finished slopes of 30 percent or greater;
 - h. Fill or excavated material must not be placed in bluff impact zones;
 - i. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner of Department of Natural Resources under Minnesota Statutes, section 103G.245;
 - j. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
 - k. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.
3. Alteration of Beds of Public Waters.
- a. Any work which will change or diminish the course, current or cross section of a public water shall be approved by the Commissioner of the Department of Natural Resources before the work is begun. This includes construction of channels, ditches, lagooning, dredging of lakes or stream bottoms or removal of muck, silt, or weeds and filling in the lake or stream bed.

Approval shall be construed to mean the issuance, by the Commissioner, of a permit under the procedures of Minnesota Statute, Sec 103G.245 and other related statutes.

- b. Permission for excavation on shorelands where the intended purpose is connection to protected water, such as boat slips, canals, lagoons, and harbors, may be given only after the Commissioner of the Department of Natural Resources has approved the proposed connection. Approval shall only be given if the proposed work is consistent with applicable State regulations for work in beds of public waters.

Subd. 12. Placement and Design of Roads, Driveways, and Parking Areas.

- A. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a registered architect, registered landscape architect, or registered professional that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- B. All roads and parking areas shall meet the setback requirements established for structures in Subdivision 8 of this Section.
- C. Roads, driveways, parking areas and any other impervious surfaces must not be placed within bluff and shore impact zones. If no alternatives exist, they may be placed within these areas, but shall not be placed closer than 50 feet of the Ordinary High Water Level, and must be designed to minimize adverse impacts. Exceptions to this requirement include recreation trails and boat launch ramps.
- D. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. Grading and filling provisions of City Code must be met for these facilities.
- E. Natural vegetation shall be used in order to screen parking areas when viewed from a public water.

Subd. 13. Stormwater Management.

- A. Existing natural drainageways, wetlands, and vegetated soil surfaces should be used to convey, store, filter, and retain stormwater runoff before discharge to public waters, unless an improved drainage system meets all necessary regulations.
- B. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- C. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used.
- D. The installation of any erosion control measures are subject to the Minnesota Pollution Control Agency's Urban Best Management Practices, a copy of which is hereby adopted by reference and declared to be a part of this ordinance.
- E. Impervious Surfaces. The total area of all impervious surfaces on a lot shall not exceed 30% of the total lot area.

- F. When proposed facilities are used for stormwater management, documentation must be provided by a registered Engineer that they will be designed and installed consistent with the field office technical guide of the local soil and water conservation districts of Hennepin County, and United States Soil Conservation Service.
- G. Newly constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

Subd. 14. Agriculture Use Standards. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting may be conducted if steep slopes and shore and bluff impact zones are maintained in accordance with this chapter and such use otherwise conforms to the requirements of this chapter.

Subd. 15. Water and Waste Systems. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Subd.16 of this section.

A. Sanitary Restrictions.

- 1. A public or private supply of water for domestic purposes shall conform to Minnesota Rules Chapter 4720 and 4725 and 7048-7100.
- 2. Private wells shall be placed in areas not subject to flooding and upslope from any source of contamination. Wells already existing in areas subject to flooding shall be flood proofed in accordance with accepted engineering standards.

B. Water Supply and Sewage Treatment.

- 1. Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
- 2. Sewage treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
 - a. Publicly-owned sewer systems must be used where available.
 - b. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled. "Individual Sewage Treatment Systems Standards, Minnesota Rules Chapter 7080" a copy of which is hereby adopted by reference and declared to be a part of this ordinance.
 - c. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Subd. 8 of this Section.
 - d. Public sewage disposal and commercial, agricultural, solid waste, and industrial waste disposal, shall be subject to the standards of the Minnesota Rules Chapters 7020 Animal Feedlots, 7035 Solid Waste, 7040 Sewage Sludge Management, 7048 Waste Disposal - Operators, Inspections, 7060 Underground Waters, 7065 Effluent standards for Disposal Systems, 7077 Wastewater Treatment Assistance, a copy of which is hereby adopted by reference and declared to be a part of this ordinance.

C. Septic Tank and Soil Absorption System.

- 1. Location and installation of septic tanks and/or soil absorption systems shall be such that, with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance, endanger

the domestic water supply, nor pollute or contaminate any waters in the State. In determining a suitable location for the tank or system, consideration shall be given to the size and shape of the lot, slope of natural grade, soil permeability, high ground water elevation, geology, proximity to existing and future water supplies, accessibility for maintenance and possible expansion of system.

2. Soil absorption systems shall not be allowed in the following areas for disposal of domestic sewage: low swampy areas or areas subject to recurrent flooding; areas where the highest known ground water table, bedrock, or impervious soil conditions are within 4 feet of the bottom of the systems; and area of ground slope which create a danger of seepage of the effluent onto the surface of the ground.
- D. Permits shall stipulate that any identified nonconforming sewage treatment system, as defined by Minnesota Rules 7080, Individual Sewage Treatment Systems, shall be reconstructed or replaced in accordance to the standards found in Minnesota Rules 7080.
- E. Inspection. The Building Inspector shall make such inspection or inspections as are necessary to determine compliance with this Section. No part of any soil absorption system or septic tank shall be covered until it has been inspected and accepted by the Building Inspector and a permit has been obtained from the City pursuant to Subdivision 5 of this Section. It shall be the responsibility of the applicant for the permit to notify the Inspector that the job is ready for inspection or reinspection, and it shall be the duty of the Inspector to make the indicated inspection within a reasonable time after such notice has been given. It shall be the duty of the owner or occupant of the property to give the Inspector free access to the property at reasonable times for the purpose of making such inspections. If upon inspection the Inspector discovers that any part of the system is not constructed in accordance with the minimum standards in this Section, he shall give the applicant written notification describing defects. The applicant shall be responsible for correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated. Upon final inspection approval, the Inspector shall so notify the applicant in writing.

Subd. 16. Non-Conforming Structures, Lots, or Sewage Treatment Systems. An existing structure or use which was lawful before adoption of this Section, but which is not in conformity with the provisions of this Section, may be continued subject to the following conditions:

- A. No structure or use shall be expanded, changed, enlarged, or altered in any way without complying in all respects with this Section.
- B. If any non-conforming structure is destroyed or damaged by any means, to the extent that the cost of repairing or restoring such destroyed or damaged non-conforming structure would be 50% or more of the Assessor's Market Value for tax purposes at the time of damage, then it shall not be reconstructed except in full compliance in all respects with the provisions of this Section, including, but not limited to, the obtaining of all required permits.
- C. Substandard Lots. The City may issue a building permit for a lot of record in the office of the County Recorder prior to the date of enactment of this Section which does not meet the lot size requirements of this Subdivision, provided the lot complies with setback provisions and sanitary restrictions of this Section, and is in separate ownership from abutting lands, except those lots not in separate ownership.
- D. Nonconforming sewage treatment systems.
 1. A sewage treatment system not meeting the requirement of Minnesota Rules 7080, entitled Individual Sewage Treatment Systems, must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

2. The City will require upgrading or replacement of any nonconforming system within a reasonable period of time which will not exceed 2-years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F.201, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Rules Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

Subd. 17. Subdivision Restrictions.

- A. Land Suitability. No permit shall be granted for land to be subdivided which the City finds to be unsuitable for the proposed use because of wetlands, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, flooding, inadequate drainage, soil and rock formation, severe erosion potential, unfavorable topography, inadequate water supply or sewage disposal capabilities, or any other feature likely to be harmful to the health, safety or welfare of future residents.
- B. Inconsistent Plats. All plats which are inconsistent with this Section shall be received and reviewed by the Commissioner 10 days before a hearing is called by the City for consideration of approval of a preliminary plat.
- C. Copies of Plats. The Commissioner shall receive all plats within shoreland areas within 10 days of final approval by the City.

Subd. 18. Information Requirements. Sufficient information must be submitted by the applicant for the city to make a determination of land development suitability. The information shall include at least the following:

- A. Topographic contours at two-foot intervals showing limiting site characteristics;
- B. The surface water features required in Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
- C. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil boring, percolation tests, or other methods;
- D. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
- E. Location of shoreland areas, 100-year flood plain areas from existing adopted maps or data; and
- F. A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- G. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- H. Controlled Access or Recreational Lots. Lots Intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Subd. 8 of this Section.

Subd. 19. Planned Unit Development (PUD). For PUD developments within a shoreland area as defined, the provisions of Section 11.40 shall apply.

Ordinance No. 16-96
Effective Date: 4-26-96

Subd. 20. Conditional Uses. The following standards must be used for reviewing conditional uses located in shoreland areas:

- A. A thorough evaluation of the topographic, vegetation, and soil conditions on the site to ensure:
 - 1. Prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 - 2. Limiting visibility of structures and other facilities as viewed from the public waters; and
 - 3. Adequacy of the site for water supply and on-site sewage treatment; and
- B. An assessment of the types, uses, and numbers of watercraft that the project will generate in relation to the suitability of public waters to safely accommodate these watercraft.

The City Council may impose some or any of the following conditions when granting conditional use permits that specify: increased setbacks from public waters; vegetation allowed to be removed or required to be established; sewage treatment system location, design or use; location, design, and use requirements for watercraft launching or docking, and for vehicular parking; structure or other facility design, use, and location; phasing of construction; and other conditions considered necessary by the City Council.

- C. Administration of Conditional Use. Refer to Subdivision 5 entitled Administration, Application and Issuance of Certain Permits.

Ordinance No. 14-2004
Effective Date: 6-10-2004

SECTION 11.51. STANDARDS FOR THE PROTECTION OF WETLANDS.

Subd. 1. Preamble. This Code hereby incorporates by reference the Wetlands Conservation Act [Minnesota Statutes 103G.221 et seq. (herein after referred to as the WCA)] and any future amendments adopted by the legislature. All wetlands, as defined in Section 11.51, Subd. 3 of this Code, including those governed by the Department of Natural Resources, are covered by this Code. Standards outlined in this ordinance have precedence over WCA in situations where the City ordinance is more restrictive than WCA. In unique situations where the physical characteristics of a specific parcel of land preclude the strict enforcement of these regulations, alternatives to these standards are established in Section 11.51, Subd. 7 of this Code.

Subd. 2. Purpose. Through the adoption and enforcement of this Code, the City shall promote the general health, safety, and welfare of its residents by both conserving and protecting wetlands and requiring sound management practices as provided for in the WCA when development occurs in the vicinity of wetlands. It is the intent of this ordinance to avoid the alteration and destruction of wetlands. Through the implementation of this Code, the City seeks to accomplish the following purposes:

- 1. Balance the need to preserve and protect natural resources and systems with both the rights of private property owners and the need to support the efficient use of developable land within the City;
- 2. Promote water quality by maintaining the ability of wetlands to recharge ground water and receive the discharge of ground water, to prevent soil erosion, and to retain sediment, nutrients and toxicants in wetland buffer strip areas before it discharges into community wetlands, lakes and streams, thus avoiding the contamination and eutrophication of these water features;