



STAFF REPORT

DATE: 3/7/2017

REGULAR

ITEM #: 13

TO: City Council
FROM: Emily Becker, City Planner
AGENDA ITEM: City's Shoreland Management Overlay District Ordinance Amendment
REVIEWED BY: Stephen Wensman, Planning Director

BACKGROUND:

At its 2/21/2017 meeting, the Council discussed proposed Shoreland Management Overlay District Ordinance amendments. These amendments were proposed in order to bring the City's Shoreland Management Overlay District Ordinance in to compliance with standards set forth by Minnesota Administrative Rules, Chapter 6120: Shoreland and Floodplain Management. Minnesota Rules Part 6120.2800 requires Minnesota cities designated by the commissioner in consultation with the appropriate county adopt land use controls that are in compliance with this Chapter.

The Council had some reservations regarding some of the proposed amendments and tabled the discussion to tonight's meeting.

ISSUE BEFORE COUNCIL:

The Council is respectfully requested to consider the Minnesota Department of Natural Resources (MNDNR)-approved amendments to Section 154.800: Shoreland Management Overlay District of the Zoning Code.

PROPOSAL DETAILS/ANALYSIS:

Staff consulted the MNDNR regarding the concerns the Council voiced during the 2/21/2017 meeting. MNDNR responses are attached. The following summarizes these responses:

- **Concern:** Other cities do not have shoreland ordinances, so why does Lake Elmo need to comply when other cities do not.
 - **Response:** Lake Elmo has many more public water resources that have shoreland classifications than Oakdale and is a high priority for having a shoreland ordinance.
- **Concern:** Berschen's Pond was added to the shoreland ordinance. If the pond is 10 acres or more, it becomes a NE lake. Has the pond been surveyed to meet this requirement? How does the MNDNR add waters to its shoreland list?
 - **Response:** Berschen's Pond has had a Natural Environment (NE) classification since the 1970's when the DNR first established the shoreland classification list but was taken out during the shoreland ordinance 2014 amendment that was not

approved by the MNDNR. It is a landlocked depression with no natural outlet and is a shallow lake/wetland that is prone to water level fluctuations, as is indicated by the fact that the pond and surrounding area is within the 100-year floodplain. The City can make a formal request to have this removed, provided there is documentation to justify this change.

- **Concern:** Reservations about the need for variances when existing non-conforming lots want to build decks or other structures that do not encroach further toward the lake. The concern is that there will be too many variances, the variance process is often too subjective.
 - **Response:** The MNDNR Model Ordinance allows for deck additions meeting certain provisions as well as setback averaging. Language from the model ordinance has been added to the proposed ordinance amendment. A separate, redlined attachment shows this added language.
- **Concern:** Why is the setback the same, 150', in the rural and urban districts for Natural Environmental Lakes, when for other lakes the setbacks differ.
 - **Response:** Natural Environment lakes are especially sensitive water bodies that are typically shallower and more wetland in character, and therefore are far more sensitive to phosphorus pollution due to surface water runoff and water quality degradation. A greater setback allows more space for riparian buffers that can reduce phosphorus pollution reaching the lake. The MNDNR will not provide flexibility for this standard.
- **Concern:** Also, how does the DNR determine the difference between Recreational Development Lakes and Natural Environmental Lakes. Can the lake classifications change?
 - **Response:** See attached email for how classifications are determined. The City may request reclassification, provided a resolution and supporting, relevant data request are sent to the MNDNR. Reductions in setback may also be requested provided there is a valid necessity and mitigation is provided.

FISCAL IMPACT:

None.

OPTIONS:

The Council may:

- Approve the ordinance amendment as proposed.
- Make changes to and approve the ordinance amendment (this may result in the MNDNR retracting their approval and possibly taking further action).
- Deny the ordinance amendment.

RECOMMENDATION:

Staff, the MNDNR, and the Planning Commission recommend that the Council approve the proposed ordinance amendment to the City's Shoreland Management Overlay District Ordinance.

“Move to approve Ord. 08-166 amending Section 154.800: Shoreland Management Overlay District of the Zoning Code.”

In addition, Staff recommends that the City Council authorize summary publication of the approved ordinance through the following resolution:

“Move to adopt Resolution 2017-012 authorizing summary publication of Ordinance 08-166”

ATTACHMENTS:

- Email from Jen Sorenson from MNDNR providing responses to Council concerns communicated at 2/21/2017 meeting.
- Redlined version showing changes to Nonconformities section.
- Proposed Ordinance 08-166 (no redlines).
- MNDNR contingent approval letter and redlined version of ordinance.
- Resolution 2017-012.

From: [Kristina Handt](#)
To: [Stephen Wensman](#); [Emily Becker](#)
Subject: FW: DNR Response to Questions on Lake Elmo's Revised Shoreland Ordinance
Date: Friday, February 24, 2017 4:22:52 PM
Attachments: [0000-00-00LakeElmoSLClassList.pdf](#)
[Shoreland Model Ordinance 010917 with commentary.pdf](#)

Let's use the DNR's language from the model ordinance about decks. No need to be as restrictive as Scandia.

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From: Sorensen, Jenifer (DNR) [mailto:jenifer.sorensen@state.mn.us]
Sent: Friday, February 24, 2017 3:17 PM
To: Stephen Wensman <SWensman@lakeelmo.org>
Cc: Emily Becker <EBecker@lakeelmo.org>; Kristina Handt <KHandt@lakeelmo.org>; Shillcox, Jennifer (DNR) <jennifer.shillcox@state.mn.us>; Metzker, Kathleen (DNR) <Kathleen.Metzker@state.mn.us>; Petrik, Daniel (DNR) <Daniel.Petrik@state.mn.us>; John Hanson (jhanson@barr.com) <jhanson@barr.com>
Subject: DNR Response to Questions on Lake Elmo's Revised Shoreland Ordinance

Steve –

You have sent several emails this week with questions that came up during the City Council's review of Lake Elmo's shoreland ordinance on 2/21/17. I've summarized those questions below, with responses from DNR. Please let me know if you have additional questions prior to the next review by City Council.

1. Oakdale does not have a shoreland ordinance. Is Oakdale going to approve the DNR's regulations? If not, why not?

DNR Response: All cities are required by statute (MS 103F.221) to have a shoreland ordinance. Because of the large number of Minnesota cities with shoreland and limited DNR staff resources, DNR prioritizes cities it works with based on the amount of their shoreland resources. Lake Elmo has many more public water resources that have shoreland classifications than Oakdale. Therefore, Lake Elmo is a high priority for having a shoreland ordinance. Prior to 2014, Lake Elmo had a shoreland ordinance in place that was approved by DNR. The shoreland ordinance adopted by the City in 2014 was not approved by DNR and is not substantially compliant with the state shoreland rules. This is why the City is currently updating its shoreland ordinance language.

2. Berschen's Pond was added to the shoreland ordinance. If the pond is 10 acres or more it becomes a NE lake. Has the pond been surveyed to meet this requirement? How does the DNR add waters to its shoreland list?

DNR Response: Berschen's Pond (PWI# 82010500) has had a Natural Environment (NE) shoreland classification since the 1970's when DNR first established the shoreland classification list for Lake Elmo (see attached file). The City of Lake Elmo did not contest this list at the time it was established. Berschen's Pond has been included in Lake Elmo's shoreland ordinance since at least 1993, except that it was not included in the shoreland ordinance adopted by the City in 2014. The shoreland ordinance adopted by the City in 2014 was not approved by DNR and is not substantially compliant with the state shoreland rules. This is why the City is currently updating its shoreland ordinance language.

The City of Lake Elmo could make a formal request to DNR to remove the NE shoreland classification from Berschen's Pond. With this request, the City would need to provide documentation to justify the change.

The 10 acre minimum size used by DNR to assign shoreland classification was only a guideline, and size alone was not the sole determining factor for DNR when determining what public waters were assigned shoreland classifications. Berschen's Pond is a landlocked depression with no natural outlet (except at high water levels). It is a shallow lake/wetland that is prone to water level fluctuations, as is indicated by the fact that the pond and surrounding area is within the 100-year floodplain (shown in yellow on the map below). Building in the floodplain triggers both City and Valley Branch Watershed District (VBWD) floodplain regulations, increasing development costs in these areas. As listed in the VBWD plan, the normal water level for Berschen's Pond is 915 feet and the 100-year floodplain elevation is 925 feet. Under VBWD rules, the minimum floor elevation of structures in the floodplain must be 2 feet higher than the 100-year floodplain elevation. VBWD also has wetland buffer requirements, and for Berschen's Pond, the buffer requirement is 75 feet (from VBWD MnRAM assessment).



3. City Council had reservations about the need for variances when existing non-conforming lots want to build decks or other structures that do not encroach further toward the lake. The concern is that there will be too many variances and that the variance process is often too subjective.

DNR Response: The state shoreland rules and DNR's model shoreland ordinance (see attached document, p. 23) have a provision that allows decks to encroach toward the water without a variance on lots platted before the shoreland rules were put in place (nonconforming lots). Additionally, the setback averaging provision allows structure setbacks to be determined based on the average of setbacks on adjacent lots, without a variance. The language below (from Scandia's shoreland ordinance), except that highlighted in green, is directly from the state shoreland rules and the DNR's model shoreland ordinance. This language is acceptable for incorporation into the City's shoreland ordinance. The green highlighted language can be included if desired, as this would be considered a slightly higher standard.

- (2) Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
- (A) The structure existed on the date the structure setbacks were established.
 - (B) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.
 - (C) The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive.

(D) No deck on a nonconforming structure shall exceed 10 feet in width.

(E) The deck is constructed primarily of wood, and is not roofed or screened.

(F) A certificate of compliance is obtained from the Zoning Administrator.

4. Why is the setback the same, 150', in the rural and urban districts for NE lakes, when for other lakes the setbacks differ?

DNR Response: State shoreland rules specify a structure setback of 150 feet for both sewered and unsewered lots on Natural Environment (NE) lakes. NE lakes are especially sensitive water bodies – they are typically shallow and more wetland in character than Recreational Development (RD) and General Development (GD) lakes, which are larger and deeper. Shallow lakes are far more sensitive to phosphorus pollution due to surface water runoff and water quality degradation. Having a greater setback on a NE lake creates a larger shore impact zone (SIZ) (since the SIZ is $\frac{1}{2}$ the structure setback) which allows more space for riparian buffers that can reduce the amount of phosphorus pollution reaching the lake.

When approving Lake Elmo's shoreland ordinance, DNR will be reviewing the ordinance against the state's shoreland standards, and the expectation by DNR is that the setback for both sewered and unsewered lots on NE lakes will be 150 feet. DNR will not approve flexibility to this standard for all NE lakes regulated under Lake Elmo's shoreland ordinance because structure setback standards are one of the most important standards in the rules, especially for greenfield development.

5. How does DNR determine the difference between lakes with a Recreational Development (RD) shoreland classification and lakes with a Natural Environment (NE) shoreland classification? Can the shoreland classification for a lake change?

DNR Response: The different shoreland classifications reflect differences in various physical and biological characteristics of the public waters, which in turn has an impact on the amount of use and development that an individual lake or wetland can tolerate.

General Development (GD) lakes are the biggest and deepest and can tolerate the most development and surface water use without being degraded. GD lakes usually have more than 225 acres of water per mile of shoreline and 25 dwellings per mile of shoreline at the time of classification, and are more than 15 feet deep. At the time of shoreland classification they were often already extensively used for recreation and heavily developed around the shore.

Recreational Development (RD) lakes usually medium-sized lakes of varying depth and shape, with a variety of landform, soil, and groundwater situations on the lands around them. They typically have between 60 and 225 acres of water per mile of shoreline, between 3 and 25 dwellings per mile of shoreline at the time of classification, and are more than 15 feet deep. At the time of classification they were usually characterized by having moderate levels of recreational use and development and often had capacities for accommodating additional development and use.

Natural Environment (NE) lakes usually have less than 150 total acres, less than 60 acres per mile of shoreline, and less than three dwellings per mile of shoreline at the time of classification. They are

typically small, may have some winter kill of fish, may have a shallow, swampy shoreline, and are less than 15 feet deep. NE lakes are the smallest and most sensitive to degradation from use and development, so they have the largest requirements for lot size, setbacks, etc. NE lakes may also have unique features that are susceptible to harm like shallow depth and groundwater recharge function, which also merit increased protection standards. Shallow lakes are far more sensitive to phosphorus pollution due to surface water runoff and water quality degradation. They may have adjacent lands with constraints for development such as high water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually did not have much existing development or recreational use at the time the classifications were assigned.

A local government can request reclassification of a public water basin. If the local government thinks a basin should be reclassified, it should submit a resolution and supporting data requesting a change to the DNR (see MN Rules 6120.3000 Subpart 4). Any reclassification request would be evaluated on physical and biological evidence, not on present or future development plans. As an alternative, if a local government is interested in reducing the setback of a particular lake, they could request flexibility under the shoreland rules. There would need to be a good reason for making the change (for example, the lake is already fully developed and thus the greater setback can't be met) and the local government would need to offer some way to mitigate the consequences of reduced protection.

Jenifer Sorensen

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2. Vegetation and topographic alterations other than routine maintenance;
 3. Construction of additional buildings or storage of vehicles and other materials;
and
 4. Uncontrolled beaching of watercraft.
- iv. Development organization and functioning. All planned unit developments must use an owners association with the following features:
1. Membership must be mandatory for each dwelling unit owner and any successive owner;
 2. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;
 3. Assessments must be adjustable to accommodate changing conditions; and
 4. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

12. *Nonconformities.*

- a. All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to Minnesota Statutes, Section 462.357 Subd. 1e and other regulations of this community for alterations and additions; repair after damage; discontinuance of use; and intensification of use.
 - b. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this ordinance. Any deviation from these requirements must be authorized by a variance.
 - c. Setback averaging. 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 OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone;
 - d. Setbacks of decks. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
 - i. The structure existed on the date the structure setbacks were established.
 - ii. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.
 - iii. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive.
 - iv. The deck is constructed primarily of wood, and is not roofed or screened.
13. *Surface Water-Oriented Uses.* Uses with needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters must meet the following standards:

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-166

AN ORDINANCE AMENDING SHORELAND MANAGEMENT DISTRICT RESTRICTIONS TO OBTAIN COMPLIANCE WITH DEPARTMENT OF NATURAL RESOURCES SHORELAND ORDINANCE REQUIREMENTS.

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Article XIX; Section 154.800 to read the following:

ARTICLE 19. SHORELAND MANAGEMENT OVERLAY DISTRICT

§154.800 Shoreland Management Overlay District

§154.800 Shoreland Management Overlay District

- A. *Purpose.* The ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500-6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462. The purpose of the Shoreland Management Overlay District is to preserve and enhance the quality of surface waters and conserve the economic and natural environmental values of shorelands through the following activities:
1. Regulate placement of sanitary and waste treatment facilities on shorelands of public waters to prevent pollution of public waters and public health hazards resulting from the facilities.
 2. Regulate alteration of shorelands of public waters to prevent excessive sediment pollution, increased water runoff and excessive nutrient runoff pollution.
 3. Preserve and enhance the unique aesthetic appearance and ecological value of the shoreland.
 4. Regulate the construction of buildings and changes of land use in shorelands to minimize property damage during periods of high water.
- B. *Definitions.* Words, terms and phrases, when used in this section, shall have the meanings ascribed to them in Subd. 01: Definitions; of Chapter 11: General Code Provisions, except where the context clearly indicates a different meaning.
- C. Shoreland Management Overlay District
1. *Shoreland Classifications.* The public waters in Table 17-1 have been classified by the commissioner of natural resources, consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300, as: natural environment (NE), recreational development (RD) and tributary (T) shorelands.

Table 17-1: Shoreland Classifications

DNR ID #	Name	Location	Ordinary High Water Level	Class
82011601	Armstrong (north of CSAH 10)	Sec 28, T29, R21	1020.3	NE
82011602	Armstrong (south of CSAH 10)	Sec 28, T29, R21	1019.3	NE

82009900	Clear	Sec 2 & 11, T29, R21	-	NE
82010100	DeMontreville	Sec 4, 5 & 9, T29, R21	929.3	RD
82010500	Berschen's Pond			NE
82011000	Downs	Sec 24, T29, R21	889.1	NE
82010900	Eagle Point	Sec 22 & 27, T29, R21	896.5	NE
82010600	Elmo	Sec 13, 14, 23, 24 & 26, T29, R21	885.6	RD
82010800	Friedrich Pond	Sec 15 & 22, T29, R21	-	NE
82011300	Goose	Sec 27, 34 & 35, T29, R21	924.4	NE
82011100	H.J. Brown Pond	Sec 26, T29, R21	-	NE
82007400	Horseshoe	Sec 25, T29, R21	876.8	NE
82010400	Jane	Sec 9 & 10, T29, R21	924.0	RD
82011700	Kramer	Sec 35, T29, R21	-	NE
82010300	Olson	Sec 8 & 9, T29, R21	929.3	RD
N/A	Raleigh Creek North (to Eagle Point Lake)	Sec 16, 21 & 22, T29, R21	-	T
N/A	Raleigh Creek South (Eagle Point Lake to Lake Elmo)	Sec 22, 23 & 227, T29, R21	-	T
82011200	Rose	Sec 25 & 36, T29, R21	-	NE
82010700	Sunfish	Sec 14, T29, R21	896.4	NE
82010000	Unnamed	Sec 4, T29, R21	-	NE
82031300	Unnamed	Sec 12, T29, R21	-	NE
N/A	Unnamed to Wilmes Lake	Sec 33, T29, R21	-	T
N/A	Unnamed Tributary	Sec 25, T29, R21	-	T

Classifications

RD = Recreational Development Lake Classification

NE = Natural Environment Lake Classification

T = Tributary River Classification

Notes to Table 17-1:

- a. As measured from and perpendicular to the ordinary high water level (OHWL)
2. Land Uses in Shoreland Districts. All uses of land shall be regulated by the applicable zoning district subject to applicable conditions. Notwithstanding the underlying zoning district, the following uses shall be regulated in shoreland districts as specified in Table 17-2:

Table 17-2: Permitted (P) and Conditional (C) Uses, Shoreland Classifications

Land Uses	Shoreland Classification		
	Recreational Development	Natural Environment	Tributary River
Residential	P	P	P

Commercial	P	C	C
Public and Civic Uses	P	C	C
Outdoor Recreation ^a	C	C	C
Agricultural and Related Uses ^{b, c}	P	P	P
Industrial and Extractive Uses	-	-	-
Utilities, Transportation and Communications	C	C	C
Accessory Uses	P	P	P
Planned Developments (PUDs)	C	C	C
Forest Land Conversion	C	C	C

Notes to Table 17-2:

- a. City owned parks and open space and any uses or structures accessory to such uses are permitted within shoreland areas.
 - b. Vegetative clearing within shore and bluff impact zones and on steep slopes is not permitted.
 - c. New feedlots are not allowed in any Shoreland Management Overlay District.
3. *Shoreland Standards.* The standards in Table 17-3 shall apply within shoreland areas to principal, conditional and accessory uses and structures:

Table 17-3: Shoreland Standards

Standards	Shoreland Classification		
	Recreational Development	Natural Environment	Tributary River
Minimum structure setback from County, State or Federal road right-of-way	50 feet	50 feet	50 feet
Minimum setback from right-of-way line of town road, public street, or other roads or streets not classified	20 feet	20 feet	20 feet
Minimum structure setback from an unplatted cemetery or historical site ^a	50 feet	50 feet	50 feet
Minimum structure setback from the Ordinary High Water Level (OHWL) ^{b, c, e}			
Sewered ^d	75 feet	150 feet	50 feet
Unsewered ^d	100 feet	150 feet	100 feet
Minimum structure setback from top of bluff	30 feet	30 feet	30 feet
Minimum septic system setback from OHWL	75 feet	150 feet	75 feet
Minimum low floor elevation above the 100-year flood elevation	2 feet	2 feet	2 feet
Maximum impervious lot coverage			
Sewered ^e	30%		
Unsewered	15%		
Minimum lot size ^f , riparian lots			
Sewered			
Single family detached	20,000 sf	40,000 sf	Same as zoning district
Two-family or duplex	35,000 sf	70,000 sf	

Triplex	120,000 sf	160,000 sf	Same as zoning district
Quad	160,000 sf	200,000 sf	
Unsewered			
Single family detached	40,000 sf	80,000 sf	Same as zoning district
Two-family or duplex	80,000 sf	70,000 sf	
Minimum lot size^f, non-riparian lots			
Sewered			
Single family detached	15,000 sf	20,000 sf	Same as zoning district
Two-family or duplex	26,000 sf	35,000 sf	
Triplex	38,000 sf	52,000 sf	
Quad	49,000 sf	65,000 sf	
Unsewered			
Single family detached	40,000 sf	80,000 sf	Same as zoning district
Two-family or duplex	80,000 sf	160,000 sf	
Minimum lot width,^{f, 9} riparian lots			
Sewered			
Single family detached	75 feet	125 feet	75 feet
Two-family or duplex ^e	135 feet	225 feet	115 feet
Triplex ^e	195 feet	325 feet	150 feet
Quad ^e	255 feet	425 feet	190 feet
Unsewered			
Single family detached	150 feet	200 feet	100 feet
Two-family or duplex ^e	225 feet	300 feet	150 feet
Minimum lot width, nonriparian Lots			
Sewered			
Single family detached	75 feet	125 feet	75 feet
Two-family or duplex ^e	135 feet	220 feet	115 feet
Triplex ^e	190 feet	315 feet	150 feet
Quad ^e	245 feet	410 feet	190 feet
Unsewered			
Single family detached	150 feet	200 feet	100 feet
Two-family or duplex ^e	265 feet	400 feet	150 feet
Maximum Structure Height	35 feet	35 feet	35 feet

Notes to Table 17-3:

- a. Reduction of the required setback from a historic site is permitted with the approval of the office of the Minnesota State Archeologist.
- b. Where structures exist 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 (OHWL), provided the proposed building is not located in a shore impact zone or bluff impact zone.

- c. Roads, driveways and parking areas shall meet the minimum structure setback. Where no alternative exists, such improvements may be placed within the required structure setbacks provided they are designed to adapt to the natural landscape, soil erosion is minimized and no construction shall occur in shore or bluff impact zones. Exceptions to setback requirements must comply with the rules and regulations of local watershed districts.
- d. Commercial, public and civic uses located on lots with public waters frontage shall be setback double the required setback or be substantially screened from the water by vegetation or topography, assuming summer, leaf-on conditions.
- e. Subdivisions of duplexes, triplexes, and quads within Natural Environment Shoreland districts must also meet standards set forth in Section (C)(5)(c).
- f. Minimum lot size and width requirements apply to residential uses only.
- g. *Lots Intended As Controlled Accesses to Public Waters or as Recreation Areas for Use by Owners of Nonriparian Lots within Subdivisions.* Must meet or exceed the following standards:
 They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
 - i. 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 the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements

Ratio of Lake Size to Shore Length (acres/mile)	Required increase in frontage (percent)
Less than 100	25%
100-200	20%
201-300	15%
301-400	10%
Greater than 400	5%

- ii. They 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; and covenants or other equally effective legal instruments 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. They 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 non-significant conflict activities include 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. They 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.

4. Design Criteria for Structures

- a. *Water Oriented Accessory Structures.* Each lot may have one (1) water oriented accessory structure not meeting the normal structure setbacks if the structure complies with the following provisions:
 - i. *Structure Height.* The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, from the average grade of the structure to the peak of the roof. Detached decks must not exceed eight (8) feet above grade at any point.
 - ii. *Structure Size.* Water oriented accessory structures cannot occupy an area greater than two-hundred and fifty (250) square feet.
 - iii. *Structure Setback.* The setback of the structure or facility landward from the Ordinary High Water Level (OHWL) must be at least ten (10) feet on a recreational development lake and fifty (50) feet on a natural environment lake.
 - iv. *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.*
 - v. *The roof of the structure may be used as a deck with safety rails, but must not be enclosed or used as a storage area.*
 - vi. The structure or facility must not be used for human habitation and must not contain water supply or sewage treatment facilities.
 - vii. *Watercraft Storage Facilities.* As an alternative for recreational development water bodies, water oriented accessory structures used solely for watercraft storage, and including the storage of related boating and water oriented sporting equipment, may occupy up to four hundred (400) square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the configuration of the shoreline.
- b. *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:
 - i. Stairways and lifts must not exceed four (4) feet in width. Wider stairways may be used for public open space or recreation properties.
 - ii. Landings for stairways and lifts must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for public open space or recreation properties.
 - iii. Canopies or roofs are not allowed on stairways, lifts or landings.
 - iv. Stairways, lifts and landings may be either constructed above ground on posts or pilings or placed into the ground, provided that they are designed and built in a manner that ensures control of soil erosion.
 - v. Stairways, lifts and landing must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
 - vi. Facilities such as public and private watercraft access ramps, lifts, access-related parking areas, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subsections (i) through (v) above are satisfied-and provided the vegetative screening and erosion control requirements are met.
- c. *Roads, Driveways, and Parking Areas.* Public and private roads, driveways, 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 qualified individual 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.

- d. *Steep slopes.* Local government officials must evaluate possible soil erosion impacts 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.
5. *Subdivision Standards.* The following standards shall apply to subdivisions in shoreland areas:
 - a. Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. In determining suitability the City will consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision, or of the community at large.
 - b. Subdivisions must conform to all other official controls adopted by the City of Lake Elmo. Subdivisions will not be approved that are designed so variances from one or more standards in official controls would be needed to use the lots for their intended purpose. Lots that would require use of holding tanks must not be approved.
 - c. On natural environment lakes, subdivisions of duplexes, triplexes, and quads must also meet the following standards:
 - i. Each building must be set back at least 200 feet from the ordinary high water level.
 - ii. Each building must have common sewage treatment and water systems that serve all dwelling units in the building.
 - iii. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building.
 - iv. No more than 25 percent of a lake's shoreline can be in a duplex, triplex, or quad environment.
 6. *Agricultural Activities.* The following standards shall apply to agricultural activities in shoreland areas:
 - a. The shore impact for parcels with permitted agricultural uses is equal to a line parallel to and 50 feet from the OHWL.
 - b. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the local soil and water conservation district or the USDA Natural Resources Conservation Service.
 - c. New animal feedlots are not allowed in shoreland. Modifications or expansions to existing feedlots or resumption of old feedlots are conditional uses and must meet the following standards:
 - i. Feedlots must be designed consistent with Minnesota Rules Chapter 7020;
 - ii. Feedlots must not further encroach into the existing ordinary high water level setback or the bluff impact zone and must not expand to a capacity of 1,000 animal units or more; and,

- iii. Old feedlots not currently in operation may resume operation consistent with Minnesota Statute Section 116.0711.
 - d. The use of pesticides, fertilizers or animal wastes within shoreland areas shall be done in such a way as to minimize impacts on shore impact zones by proper application or use of earth or vegetation.
7. *Shoreland Alterations*. The purpose of this section is to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent back slumping and protect fish and wildlife habitat. Shoreland alterations shall be allowed in accordance with the following standards:
- a. No principal or accessory structure or use shall be placed within bluff or shore impact zones other than agricultural activities as permitted by subsection (C)(6)(b).
 - b. Shore impact zones shall be maintained in permanent vegetation or operated under an approved conservation plan consistent with the field office technical guides of the local soil and water conservation district.
 - c. *Intensive Vegetative Clearing*. Intensive vegetation clearing within shore and bluff impact zones and/or steep slopes is not permitted. Intensive clearing within shoreland areas outside of bluff or shore impact zones and steep slope areas is subject to standards set forth in Subp. (C) (8) of this Section.
 - d. *Limited Tree Clearing*. Limited clearing of trees and shrubs and the cutting, pruning and trimming of trees within bluff and shore impact zones or steep slopes to accommodate picnic areas, trails and water access and to provide a view to the water from a principal dwelling site shall be permitted provided the screening of structures, as viewed from the water, is not substantially reduced and that the shading of water surface is along rivers is preserved. These provisions do not apply to the removal of tree limbs or branches that are dead or pose a safety hazard.
 - e. *Grading in Shoreland Areas*. All grading and filling activities must be in conformance with the Wetland Conservation Act. Any grading or filling on steep slopes or within shore or bluff impact zones involving the movement of ten (10) or more cubic yards of material or involving more than fifty (50) cubic yards of material elsewhere in a shoreland area shall require the submission of a Grading Permit. Approval shall be granted only if the following conditions are met:
 - i. The smallest amount of bare ground is exposed for the shortest time possible;
 - ii. Ground cover such as mulch is used for temporary bare soil coverage and permanent ground cover, such as sod, is established;
 - iii. Methods to prevent erosion and trap sediment during construction are employed;
 - iv. Altered areas are stabilized to accepted erosion control standards;
 - v. Fill is not placed so as to create unstable slopes;
 - vi. Plans to place fill or excavated material on steep slopes are certified by qualified professionals as to slope stability and must not create finished slopes of 30 percent or greater;
 - vii. Alterations below the OHWL of public waters must first be authorized by the Commissioner of the Minnesota Department of Natural Resources per Minn. Stats. § 103G.245 and 103G.405;
 - viii. 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 OHWL and the height of the riprap above the OHWL does not exceed three feet; and
 - ix. Alterations of topography shall only be permitted if accessory to a permitted or conditional use.

- x. Fill or excavated material must not be placed in bluff impact zone.
- 8. *Forest management standards.* The harvesting of timber and associated reforestation or conversion of forested use to a nonforested use must be conducted consistent with the following standards:
 - a. Timber harvesting and associated reforestation must be conducted consistent with the Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers
 - b. Forest land conversion to another use requires issuance of a conditional use permit and adherence to the following standards:
 - i. Shore and bluff impact zones must not be intensively cleared of vegetation.
 - ii. An erosion and sediment control plan is developed and approved by the City and local soil and water conservation district and is consistent with the City's Storm Water and Erosion and Sediment Control Ordinance (150.270) before issuance of a conditional use permit for the conversion.
- 9. *Stormwater Management.* Stormwater management shall be in accordance with the City's Storm Water and Erosion and Sediment Control Ordinance (§150.270). In addition, the Minnesota Pollution Control Agency's Minnesota Stormwater Manual shall be used as guidance. Within shoreland areas, the following standards also apply:
 - a. Existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain storm water in a manner consistent with local watershed district rules and regulations before discharge to public waters.
 - b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, and erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as grading is complete and facilities or methods used to retain sediment on the site are removed.
 - c. Use of fertilizers, pesticides or animal wastes within shoreland areas must be done in a way to minimize impact on the shore impact zone or public water by proper application.
 - d. New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
- 10. *Private Utilities.* The following provisions shall apply in shoreland areas:
 - a. Private subsurface sewage treatment systems shall meet applicable City and County requirements and Minnesota Pollution Control Agency's Chapter 7080 standards. Publicly owned sewer systems shall be used where available.
 - b. Any private water supply to be used for domestic purposes shall meet quality standards established by the Minnesota Department of Health and the Minnesota Pollution Control Agency.
 - i. Private wells must be located, constructed, maintained, and sealed in accordance with or in a more thorough manner than the Water Well Construction Code of the Minnesota Department of Health.
- 11. *Planned Unit Developments (PUD)*
 - a. *Purpose.* To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential uses.
 - b. *Density.* Deviation from the minimum lot size standards of Table 17-3 of this ordinance is allowed if the standards in this Section are met.
 - c. *Processing of PUDs.* Planned unit developments are processed according to the procedures and standards of Article XVI and Article XVII, whichever is more restrictive. Approval cannot occur until all applicable environmental reviews are complete.

- d. *Application for a PUD.* The applicant for a PUD must submit the following documents prior to final action on the application request:
- i. A property owners association agreement with mandatory membership, and consistent with 11 (h) (iv) of this ordinance.
 - ii. Deed restrictions, covenants, permanent easements or other instruments that:
 1. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
 2. Ensure preservation and maintenance of open space in perpetuity accordance with the criteria and analysis specified in 11 (h) of this ordinance.
- e. *Density Determination.* Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures:
- i. Step 1. Identify Density Analysis Tiers. Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high water level at the following intervals, proceeding landward:

Classification	Tier Depth	
	No Sewer (ft)	Sewer (ft)
Recreational Development Lakes	267	267
Natural Environment Lakes	400	320
Tributary Rivers	300	300

- ii. Step 2. Calculate Suitable Area for Development. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high water level of public waters.
- iii. Step 3. Determine Base Density
 1. Divide the suitable area within each tier by the minimum single residential lot area in Table 17-3 (use required minimum riparian lot areas for the 1st tier unless no lots within the 1st tier are riparian) for lakes to determine the allowable number of dwelling units, or base density, for each tier. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any tier closer to the waterbody.
 2. All PUDs must meet the design standards in Section 11 (f) of this ordinance.
- iv. Step 4. Determine if the Site can Accommodate Increased Density.

The PUD may provide for an increase in density of up to 20% allowed in the base zoning district or in Table 17-3, whichever is more restrictive, if: Structure setbacks from the ordinary high water level:

 1. Are increased to at least 50 percent greater than the minimum setback; or

2. The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least 25 percent greater than the minimum setback.

f. *Design Criteria.* All PUDs must meet the following design criteria:

i. General Design Standards.

1. Dwelling units must be clustered into one or more groups and located on suitable areas of the development.
 2. Dwelling units must be designed and located to meet the dimensional standards, other than those for lot area and width, in Table 17-3:
 3. Shore recreation facilities:
 - a. Must be centralized and located in areas suitable for them based on a suitability analysis (as explained in Subd. (C) (5) (a) of this Section).
 - b. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit in the first tier.
 - c. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units located in other tiers.
 4. At least 50 percent of the total project area shall be preserved as open space and must meet standards outlined in 11 (g) of this ordinance.
 5. PUDs shall be connected to public water supply and sewer systems. When sewer is not available, individual septic systems are not allowed; community sewage treatment systems are required.
 6. Approval from the DNR is required to ensure compliance with additional regulations.
- ii. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
- iii. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.

g. *Open Space Requirements.*

- i. Open space must constitute at least 50 percent of the total project area within the shoreland and must include:
 1. Areas with physical characteristics unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries;
 2. Portions of the shore impact zone preserved in its natural or existing state as follows:
 - i. For existing residential PUD's, at least 50 percent of the shore impact zone

- ii. For new residential PUDs, at least 70 percent of the shore impact zone.
 - ii. Open space may include:
 - 1. Outdoor recreational facilities for use by owners of lots in the subdivision and by the general public; and
 - 2. Stormwater detention facilities, subsurface sewage treatment systems (if the use of the space is restricted to avoid adverse impacts on the systems), and other required site improvements not prohibited herein may be applied to this requirement.
 - 3. Non-public water wetlands
 - iii. Open space shall not include:
 - 1. Road rights-of-way, or land covered by roads, structures or parking surfaces;
 - 2. Lots, unless owned in common by an owners association;
 - 3. Commercial facilities or uses;
 - 4. Land below the OHWL of public waters.
- h. *Open Space Maintenance and Administration Requirements.*
 - i. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved.
 - ii. Before final approval of a PUD is granted, the developer/owner shall provide for the preservation and maintenance, in perpetuity, of open space and the continuation of the development as a community.
 - iii. The instruments must prohibit:
 - 1. Commercial uses ;
 - 2. Vegetation and topographic alterations other than routine maintenance;
 - 3. Construction of additional buildings or storage of vehicles and other materials; and
 - 4. Uncontrolled beaching of watercraft.
 - iv. Development organization and functioning. All planned unit developments must use an owners association with the following features:
 - 1. Membership must be mandatory for each dwelling unit owner and any successive owner;
 - 2. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;
 - 3. Assessments must be adjustable to accommodate changing conditions; and
 - 4. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

12. *Nonconformities.*

- a. All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to Minnesota Statutes, Section 462.357 Subd. 1e and other regulations of this community for alterations and additions; repair after damage; discontinuance of use; and intensification of use.

- b. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this ordinance. Any deviation from these requirements must be authorized by a variance.
 - c. *Setback averaging.* 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 OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone;
 - d. *Setbacks of decks.* Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
 - i. The structure existed on the date the structure setbacks were established.
 - ii. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure.
 - iii. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive.
 - iv. The deck is constructed primarily of wood, and is not roofed or screened.
13. *Surface Water-Oriented Uses.* Uses with needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters must meet the following standards:
- a. In addition to meeting impervious coverage limits, setbacks, and other zoning standards, uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
 - b. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.
 - c. 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.
 - d. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information.
 - e. Other 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.

D. *Administration.*

- 1. *Variations.* Variations may only be granted in accordance with Minnesota Statutes, Section 462.357 and are subject to the following:
 - a. A variance may not circumvent the general purposes and intent of this ordinance; and
 - b. For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required for variance

approval. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.

2. *Conditional Uses.* All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:

- a. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- b. The visibility of structures and other facilities as viewed from public waters is limited;
- c. There is adequate water supply and on-site sewage treatment; and
- d. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

3. *Mitigation.*

a. In evaluating all variances, conditional uses, zoning and building permit applications, the zoning authority shall require the property owner to address, when related to and proportional to the impact, the following conditions to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:

- i. Advanced storm water runoff management treatment;
- ii. Reducing impervious surfaces;
- iii. Increasing setbacks from the ordinary high water level;
- iv. Restoration of wetlands;
- v. Limiting vegetation removal and/or riparian vegetation restoration;
- vi. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
- vii. Other conservation-designed conditions the zoning authority deems necessary.

b. In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions 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 shall be attached to permits.

4. *Notifications to the Department of Natural Resources*

a. All notices of public hearings to consider variances, ordinance amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

b. All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the

public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

c. Any request to change the shoreland management classification of public waters must be sent to the commissioner or the commissioner's designated representative for approval, and must include a resolution and supporting data as required by Minnesota Rules, part 6120.3000, subp.4.

d. Any request to reduce the boundaries of shorelands of public waters must be sent to the commissioner or the commissioner's designated representative for approval. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.

5. Subsurface Sewage Treatment System Certificate of Compliance. A certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required whenever a permit or variance of any type is required for any improvement on or use of the property. A sewage treatment system shall be considered compliant if the only deficient is the system's improper setback from the ordinary high water level.

SECTION 2. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 43 Adoption Date. This Ordinance 08-___ was adopted on this _____ day of ___ 2017, by a vote of ___ Ayes and ___ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-___ was published on the ___ day of _____, 2017.

**CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA**

RESOLUTION NO. 2017-012

**RESOLUTION AUTHORIZING PUBLICATION OF ORDINANCE 08-166 BY TITLE
AND SUMMARY**

WHEREAS, the City Council of the City of Lake Elmo has adopted Ordinance No. 08-166, an ordinance to amend Section 154.800: Shoreland Management Overlay District, of the City Code; and

WHEREAS, the ordinance is lengthy; and

WHEREAS, Minnesota Statutes, section 412.191, subd. 4, allows publication by title and summary in the case of lengthy ordinances or those containing charts or maps; and

WHEREAS, the City Council believes that the following summary would clearly inform the public of the intent and effect of the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lake Elmo, that the City Clerk shall cause the following summary of Ordinance No. 08-166 to be published in the official newspaper in lieu of the entire ordinance:

Public Notice

The City Council of the City of Lake Elmo has adopted Ordinance No. 08-166, which amends the Section 154.800: Shoreland Management Overlay District, of the Zoning Code, bringing it in to compliance with Minnesota Rules Part 6120.2800, by amending the following:

- The Shoreland Classifications Table is modified.
 - The following waterbodies are removed: Minnesota Department of Natural Resources (MNDNR) ID#s 82041900, 82041700, 82048400.
 - MNDNR ID# 82010500 (Berschen's Pond) is added.
- Forest land conversion is added as a conditional use, and standards for this use are set forth.
- Changes were made to the Shoreland Standards Table 17-3, including increasing certain minimum lot width, lot size, and structure setback standards; adding standards for lots containing triplexes and quads; adding minimum lot width standards for unsewered riparian lots and nonriparian sewerred and unsewered lots; and maximum structure height.
- Standards for lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions were added.
- Restrictions on roads, driveways and parking area, as well as steep slopes, were added.
- Additional standards for Planned Unit Developments (PUDs) within the shoreland were added.

- The non-conformities section was revised to reference State Statutes, Section 462.357, Subd. 1e. and reflect the MNDNR Shoreland Model Ordinance.
- Standards for surface water-oriented uses were added.
- Administration subdivision was updated to align with Minnesota Rules.

The full text of Ordinance No. 08-166 is available for inspection at Lake Elmo city hall during regular business hours.

BE IT FURTHER RESOLVED by the City Council of the City of Lake Elmo that the City Administrator keep a copy of the ordinance at City Hall for public inspection and that a full copy of the ordinance be placed in a public location within the City.

Dated: March 7, 2017.

Mayor Mike Pearson

ATTEST:

Julie Johnson, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member _____ and upon vote being taken thereon, the following voted in favor thereof: _____ and the following voted against same: _____

Whereupon said resolution was declared duly passed and adopted.