



## STAFF REPORT

DATE: 08/22/2022

### **PUBLIC HEARING**

ITEM#: 4a

**TO:** Planning Commission  
**FROM:** Ben Hetzel, City Planner  
**REVIEWED BY:** Molly Just, Planning Director  
**AGENDA ITEM:** Impervious Surface Text Amendments

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### **BACKGROUND:**

At their July 12, 2022 workshop, the City Council had discussed the City's definition of impervious surface. In preparation for the workshop, staff researched and compared the City's definition and impervious surface allocations with other communities. The findings of the research prompted the City Council to direct staff to draft the proposed amendment to the City's definition for impervious surface and increase the maximum allowed impervious surface in unsewered shoreland areas.

### **ISSUE BEFORE THE PLANNING COMMISSION:**

The Planning Commission is being asked to hold a public hearing, review, and make a recommendation to City Council on the proposed text amendments.

### **PROPOSAL DETAILS/ANALYSIS: IMPERVIOUS DEFINITION**

Section 1.08.010 defines impervious surface as any structure or surface which interferes to any degree with the direct absorption of water into the ground, including, but not limited to, building footprints, sidewalks, paved or gravel driveways and parking areas, patios, sports courts, or any other similar surface. Decks, pervious landscape fabric, and retaining walls shall not be included as impervious surface.

The current definition aligns with the MN DNR shoreland model ordinance definition and a majority of other local governments.

Staff found that many other communities do not list specific examples of impervious surfaces. The City Council feels examples in the current definition are necessary and may be confusing

### **PROPOSED DEFINITION CHANGES:**

*Impervious surface* means any structure or surface which interferes to any degree with the direct absorption of water into the ground, ~~including, but not limited to, building footprints, sidewalks, paved or gravel driveways and parking areas, patios, sport courts, or any other similar surface.~~ Decks, pervious landscaping fabric, the surface water of pools and retaining walls shall not be included as impervious surface.

### **PROPOSAL DETAILS/ANALYSIS: MAXIMUM IMPERVIOUS LOT COVERAGE**

Section 105.12.1260(c)(3) Table 17-3: Shoreland Standards currently restricts unsewered lots to a maximum of 15 percent, while sewerred lots are allowed a maximum of 30 percent. This results in a high number of variance requests being submitted to exceed to the maximum 15 percent. The intent of this amendment is to reduce the number of variance requests, while not exceeding the maximum 25 percent

allowable per MN Statute 6120.3300 and the DNR Model Ordinance. It is appropriate when a community receives many variance requests from the same standard for that community to review whether the standard should be changed.

The following table depicts the impervious allowance in the Shoreland in Lake Elmo and other communities.

	<b>Maximum Impervious Lot Coverage</b>
LAKE ELMO	30% Sewered 15% Unsewered
WOODBURY	Riparian 50% Nonriparian 30%
HUGO	25%
WHITE BEAR LAKE	30%
FOREST LAKE	25%
STILLWATER	25%
MINNETONKA	Within 150 ft of HWL 30% Outside 150 ft of HWL 75%
MAHTOMEDI	Lots before March 3, 1999 35% Lots after March 3, 1999 25%
TONKA BAY	25%
LINO LAKES	Single and Two Family 30% Triplex/Townhomes 35% Commercial and Industrial 60%
CHISAGO CITY	Residential 25% Commercial and Industrial 70%

**PROPOSED CHANGES**

**Section 105.12.1260 Shoreland Management Overlay District**

Table 17-3: Shoreland Standards

<i>Standards</i>	<i>Shoreland Classification</i>		
	<i>Recreational Development</i>	<i>Natural Environment</i>	<i>Tributary River</i>

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 <sup>a</sup>	50 feet	50 feet	50 feet
Minimum Structure Setback From The Ordinary High Water Level (OHWL): <sup>b, c, e</sup>			
Sewered <sup>d</sup>	75 feet	150 feet	50 feet
Unsewered <sup>d</sup>	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 <sup>e</sup>	30 percent	30 percent	30 percent
Unsewered	<del>15 percent</del> <u>25 percent</u>	<del>15 Percent</del> <u>25 percent</u>	<del>15 percent</del> <u>25 percent</u>

**AGENCY REVIEW**

Staff distributed the proposed comments for agency review and received comments from the following:

- Valley Branch Watershed District (email provided in packet)
- Browns Creek Watershed District (email provided in packet)
- City Engineer (email provided in packet)

**PUBLIC COMMENT**

A hearing notice was published in the Stillwater Gazette on August 12, 2022. No public comments has been received at this time.

## **FISCAL IMPACT**

None

## **OPTIONS**

- Recommend approval of the proposed amendments.
- Recommend changes to the proposed amendments.
- Recommend denial of the proposed amendments.

## **RECCOMENDATION**

Staff recommend that the Planning Commission recommend approval of the proposed text amendments as presented.

*“Motion to recommend adoption of the proposed text amendment, amending the impervious surface definition in Section 1.08.010 Definitions as presented.”*

*“Motion to recommend adoption of the proposed amendment as presented, amending Section 105.12.1260 Shoreland Management Overlay District, Table 17-3: Shoreland Standards to increase the maximum impervious lot coverage for an unsewered lot to 25%.*

## **ATTACHMENTS**

1. Section 1.08.010 Definitions (Draft)
2. Section 105.12.1260 Shoreland Management Overlay District, Table 17-3: Shoreland Standards (Draft)
3. MN DNR Shoreland Model Ordinance
4. Valley Branch Watershed District comments
5. Browns Creek Watershed District comments
6. City Engineer comments

## **CHAPTER 1.08 DEFINITIONS**

### **1.08.010 Terms Defined**

#### **1.08.010 Terms Defined**

The following words, terms and phrases, when used in this Code, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

*Accessory building* means a subordinate building, or a portion of the main building, which is located on the same lot as the main building and the purpose of which is clearly incidental to that of the principal building.

*Accessory structure* means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

*Accessory use* means a use incidental or subordinate to the principal use of the same land.

*Adjacent lands* means lands within 300 feet of the normal high water mark or any identified wetland.

*Administration (wastewater service charge)* means those costs attributable to monitoring a reporting card maintenance record system of the wastewater treatment works.

*Administrator* means the administrator of the city and the duties imposed upon the administrator in LEC 32.25 et seq., with respect to registration through the administrator's duly designated agents subject to the administrator's supervision, direction, and control.

*Administrator, city clerk*, means the city clerk/administrator.

*Administrator, zoning*, means the city zoning administrator.

*Agricultural building* means a structure on agricultural land, as defined below in the definition for the term "farm, rural," of this section, designed, constructed, and used to house farm implements, livestock, or agricultural produce or products grown by the owner, lessee, or sublessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural produce or products.

*Agricultural entertainment business* means an agricultural sales business that combines the elements and characteristics of agriculture and tourism, which is not necessarily located in an existing building. Examples of agricultural entertainment include: corn mazes, hay rides, sleigh rides, petting farms, on-farm tours, agricultural related museums, demonstrations of farming practices, techniques and methods, fee-based fishing and hunting, horseback riding, nature trails, haunted barns and similar activities which are related to agriculture.

*Agricultural museums* means the keeping, restoration, maintenance and display of the structures, tools and equipment utilized in the production of agricultural products. Restoration and maintenance activity shall be limited to those structures, tools, and equipment permanently kept on display on the premises. Retail or wholesale sales of any product are specifically excluded.

*Agricultural sales business* means the retail sale of fresh fruits, vegetables, flowers, herbs, trees, or other agricultural, floricultural, or horticultural products. The operation may be indoors or outdoors, include pick-your-own or cut-your-own opportunities, and may involve the ancillary sale of items considered accessory to the agricultural products being sold or accessory sales of unprocessed foodstuffs; home processed food products such as jams, jellies, pickles, sauces; or baked goods and

homemade handicrafts. The floor area devoted to the sale of accessory items shall not exceed 25 percent of the total floor area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold as accessory items. No activities other than the sale of goods as outlined above shall be allowed as part of the agricultural sales business.

*Agriculture* means the production of livestock, dairy animals, dairy products, fur-bearing animals, horticultural and floricultural nursery stock, fruits of all kinds, vegetables, forage, grains, bees, and apiary products.

*Alarm site* means a single premises or location, or a multi-tenant location, served by an alarm system or systems.

*Alarm system* means any mechanical, electrical, or radio-controlled device or system which is designed to emit, transmit, or relay a signal or message and which, when activated, is intended to summon, or that would reasonably be expected to summon, police, fire, or emergency medical services. The term "alarm system" includes intrusion alarms, but does not include:

- (a) An alarm installed on a vehicle, unless the vehicle is permanently located at a site; or
- (b) An alarm designed to alert only the inhabitants of a premises, and which does not constitute a local alarm.

*All-terrain vehicle* means a motorized flotation-tired vehicle of not less than three low-pressure tires, but not more than six tires, that is limited in engine displacement of less than 800 cubic centimeters and total dry weight less than 800 pounds.

*Alley* means a public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties where the principal frontage is on a street.

*Animal control officer* means the person contracted by the city that is responsible for animal control operations within its corporate limits.

*Animals, domestic farm*, means cattle, hogs, horses, bees, turkeys, geese, sheep, goats, chickens, and other animals commonly kept for commercial food-producing purposes.

*Animals, domestic pets*, means dogs, cats, birds, and similar animals, commonly kept in a residence.

*Animation* means the movement or the optical illusion of movement of any part of a sign, sign structure, design, or pictorial segment, including the movement of any illumination or the flashing or varying of light intensity; the automatic changing of all or any part of the facing of a street sign.

*Antenna* means a device placed outdoors on a building or structure and used to transmit and/or receive radio or electromagnetic waves, excluding: satellite dishes, ten feet or shorter whip antennas one inch or less in diameter, and television antennas having a total length of not more than six feet which are located on a dwelling or other permitted building.

*Apartment* means a room or suite of rooms with cooking facilities designed to be occupied as a residence by a single-family.

*Applicant* means a person that makes an application to the city on an application form provided by the city administrator.

*At-large*. A dog is considered to be at-large:

- (a) When a dog is off the premises of the owner and not:

- (1) Under the control of the owner or a member of owner's immediate family by a leash, not exceeding six feet in length; or
- (2) At "heel" beside a competent person having custody of the dog and obedient to that person's commands.

(b) When the dog commits damage to the person or property of anyone other than the owner or creates a nuisance upon the property of one other than the owner, except in the defense of the owner, owner's family, or owner's property, unless confined in the process of being transported to or from the premises of the owner.

*Attorney* means the city attorney.

*Auto or motor vehicle reduction yard* means a lot or yard where one or more unlicensed motor vehicles, or the remains of an unlicensed motor vehicle, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage, or abandonment.

*Automobile repair* means the replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine, transmission, or differential, incidental body and fender work, minor painting, and upholstery service when the service is applied to passenger automobiles and trucks not in excess of 7,000 pounds gross vehicle weight.

*Automobile service station (gas station)* means a place where any motor fuel, lubricating oil, or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles. This definition includes greasing and oiling and sale of automobile accessories on the premises. This definition also includes minor repairs and replacement of parts and motor services to passenger vehicles and small trucks not exceeding 1.5-ton capacity. This definition shall not include major repair, rebuilding, or conditioning of engines, motor vehicles, or trailers; collision service, including body, frame, or fender straightening or repair; overhaul, painting or paint job, vehicle steam cleaning, or automatic car or vehicle washing devices.

*Automobile service uses* means those uses catering to the traveling public. Automobile service uses include auto and truck laundry, service station, repair garage, public garage, motel, hotel, seasonal produce sales, motor vehicle sales, trailer sales and rental, boat sales, rental services, and restaurants. The sale of groceries and dry goods is also included in this definition when the sale of the goods is an accessory use to the above automobile service uses.

*Awning* means a roof-like cover, including, but not limited to, fabric, metal, or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a window, walk, door or the like.

*BOD (biochemical oxygen demand) or BOD5* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20 degrees Celsius expressed in milligrams per liter. Laboratory procedures shall be in accordance with the latest edition of Standard Methods for the Examination of Water and Waste Water.

*Basement* means any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

*Beauty salon* means any commercial establishment, residence, or other establishment, place, or event wherein cosmetology, including hair care, nail care, and skin care, is offered or practiced on a regular basis for compensation.

*Bedroom* means any room within a dwelling unit which, by virtue of its design and location, might reasonably be used as a sleeping room. This definition shall not apply to LEC 5.08.010 through LEC



## 5.08.050.

*Beer or 3.2 percent malt liquor* means any fermented, potable malt beverage containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

*Best management practices (BMPs)* means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

*Block* means an area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

*Bluff* means a topographic feature such as a hill, cliff, or embankment having the following characteristics; however, an area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff:

- (a) Part or all of the feature is in a shoreland area;
- (b) The slope rises at least 25 feet above the ordinary high water level of the water body;
- (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 water body.

*Bluff impact zone* means a bluff and land located within 20 feet from the top of a bluff.

*Boardinghouse* means a building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals or lodging are provided for three or more unrelated persons, but not to exceed eight persons.

*Boathouse* means a structure designed and used solely for the storage of boats and boating equipment.

*Bona fide club* means a club organized for social or business purposes, for intellectual improvement, or for the promotion of sports, where the serving of 3.2 percent malt liquor is incidental to and not a major purpose of the club.

*Boulevard* means the portion of the street right-of-way between the curb line and the property line.

*Buildable land area* means the gross land area less the unbuildable land area that includes hydric and restrictive soils, land with slopes over 25 percent, wetlands, areas that cannot accommodate septic systems, and land that has been acquired for municipal purposes.

*Building* means any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal, or movable property of any kind. When any portion of a building is completely separated from every other part of a building by area separation, each portion of the building shall be deemed as a separate building.

*Building code* means the state building code.

*Building footprint* means the outline of the total area covered by a building's perimeter at the ground level.



*Building height* means the vertical distance between the average of the ground level elevations to the top of a flat roof, the deck line of a mansard roof, or the midpoint on a pitched roof which is between the highest point (peak of building) and lowest point (bottom of the truss at the top plate of the wall) on the roof.

*Building line* means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

*Building official* means the officer or other designated authority, certified by the state, charged with the administration and enforcement of the state building code, or the building officer's duly authorized representative.

*Building setback* means the minimum horizontal distance between one building and the lot line.

*Building setback line* means a line within a lot parallel to a public right-of-way line, a side or rear lot line, a bluff line, or a high water mark or line, behind which buildings or structures must be placed.

*Building sewer* means the part of the drainage system which extends from the building drain to the point of connection to either a public sewer, a septic tank, a pumping chamber, or an individual sewage treatment system, for the purpose of conveying wastewater. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Business* means any occupation, employment, or enterprise where merchandise is exhibited or sold, or where services are offered for compensation.

*Business of refuse collection* means operating a refuse collection service for hire.

*Canopy* means a detachable, roof-like cover, supported from the ground or deck, floor or walls of a structure, for protection from the sun or weather.

*Capacity (sewer systems)* means the internal liquid volume of a sewage tank below the outlet level. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Carpport* means an automobile shelter having one or more sides open.

*Cellar* means the portion of the building having more than one-half of the clear floor-to-ceiling height below the average grade of the adjoining ground.

*Cesspool* means an underground pit into which raw household sewage or other untreated liquid waste is discharged and from which the liquid is allowed to seep into the surrounding soil. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Channel* means a natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water, including, but not limited to, streams, river, creeks, ditches, drainageways, canals, conduits, culverts, waterways, gullies, ravines, or washes; and including any area adjacent to the watercourse, which is subject to inundation by reason of overflow or floodwaters.

*Church* means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

*Cigarette vending machine* means any automatic vending machine used for the sale of cigarettes and matches, and controlled by the insertion of coins; it shall not include machines or devices used solely for the vending of service, food, or confections.

*City* means the area within the corporate boundaries of the city as presently established or as amended by ordinance, annexation, or other legal actions at a future time. The term "city" may also be used to refer to the city council and its authorized representatives.

*City's trade area* means the area located within the city limits and the area located within the limits of all Minnesota cities and townships which are contiguous to the city.

*Civil defense* means the preparations for and the carrying out of all emergency functions.

*Civil defense emergency* means an emergency declared by the governor under state statutes, or an emergency proclaimed by the mayor.

*Civil defense forces* means any personnel employed by the city and any other volunteer or paid member of the local civil defense agency engaged in carrying on civil defense functions.

*Clean Water Act* means the federal Water Pollution Control Act (33 USC 1251 et seq.), and any subsequent amendments thereto.

*Closure statement* means a written statement prepared by the park owner which includes the following information:

- (a) A statement that the manufactured home park, or a portion of the manufactured home park, is closing and the anticipated date of closing;
- (b) A statement addressing the availability, location, and potential cost of other manufactured home park lot sites located within a 25-mile radius of the manufactured home park that is being closed; and
- (c) A statement of the probable relocation costs within a reasonable range which will be incurred by the park residents in order to relocate the park residents' manufactured home to a manufactured home park within a 25-mile radius.

*Club* means any corporation duly organized under the laws of the state for civic, fraternal, social, or business purposes, or for intellectual improvement or for the promotion of sports or a congressionally chartered veterans' organization if it meets the following conditions:

- (a) It shall have more than 50 members.
- (b) For more than a year, it shall have owned, hired, or leased a building or space in a building of the extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members.
- (c) Its affairs and management shall be conducted by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose.
- (d) None of its members, officers, agents, or employees shall be paid directly or indirectly any compensation by way of profit from the distribution or sale of beverages to the members of the club, or to its guests, beyond the amount of the reasonable salary or wages as may be fixed and voted each year by the governing body of the club.

*Club or lodge* means a non-profit association or persons who are bona fide members paying annual dues.

*Code, this Code, or this Code of Ordinances* means this Code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

*Collection point* means any residence, place of business, or other place in the city with respect to which a "hauler," as defined in this section, has been hired for the purpose of collecting and transporting solid waste.

*Combined sewer* means a sewer intended to serve as a sanitary sewer and storm sewer.

*Commercial establishment* means any premises where a commercial or industrial enterprise of any kind is carried on, including restaurants, clubs, churches, schools, or where food is prepared or served.

*Commercial lumbering or harvesting of forest products* means any removal of trees that may result in the commercial sale of any wood or product of the tree.

*Commercial speech* means speech or graphics advertising a business, profession, commodity, service or entertainment.

*Commercial use* means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

*Commercial user (sewer systems)* means any place of business which discharges sanitary waste as distinct from industrial wastewater.

*Commissioner (intoxicating liquor)* means the commissioner of public safety for the state.

*Commissioner (shoreland)* means the commissioner of the state department of natural resources.

*Community sewage treatment system* means a sewage treatment and collection system which collects sewage from two or more residences or other establishments, consisting of collector lines, pumps, sewage tanks, and soil treatment unit; for the purposes of administration, operation, maintenance, and replacement; individual off-site systems shall be considered community sewage treatment systems.

*Comprehensive plan* means the policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities, including recommendations for planned execution; documented in text, ordinance, and maps, which constitute the guide for the future development of the community or any portion of the community.

*Concealed weapon* means whenever a person is carrying a weapon that is not readily ascertainable upon observing the person.

*Conditional use* means a specific type of structure or land use listed in individual zoning districts that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the zoning code.

*Condominium*. See *Dwelling, multiple, or apartment building*.

*Conservation easement* means an interest in real property created in a manner that imposes limitations or affirmative obligations regarding the use of property, including the retention, protection, and maintenance of open space.

*Contractor maintenance shop* means an area and/or building devoted to use by a person who contracts to do certain work in the fields of building or construction trades. If there is outside storage of construction equipment, it shall be placed to the rear of the contractor's maintenance shop and screened from adjacent properties by a landscape plan approved by the city council.

*Council or city council* means the governing body of the city.

*County* means Washington County, Minnesota.

*Curb level* means the grade elevation of the curb in front of the center of the building. Where no curb has been established, the community engineer shall determine a curb level or its equivalent for the purpose of this definition.

*Current land use* means the land use as it appears on the tax statement.

*Current resident list* means a list of names and addresses of adult residents of the manufactured home park.

*DNR* means the state department of natural resources.

*Dangerous dog* means any dog that has:

- (a) Without provocation, inflicted substantial bodily harm on a human being on public or private property;
- (b) Killed a domestic animal without provocation while off the owner's property; or
- (c) Been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

*Day care center* means any facility licensed by the state department of human services and operated for the purpose of providing care, protection, and guidance to 14 or more individuals during only part of a 24-hour day. The term "day care center" includes nursery schools, preschools, day care centers for individuals, and other similar uses, but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

*Day spa* means a safe, clean commercial establishment, which employs professional licensed therapists whose services include massage and body or facial treatments. Treatments may include body packs and wraps, exfoliation, cellulite and heat treatments, electrolysis, body toning, waxing, aromatherapy, cleansing facials, medical facials, nonsurgical face lifts, electrical toning, and electrolysis. Services may also include hydrotherapy and steam and sauna facilities, nutrition and weight management. No services or facilities may be offered or constructed that would include customer overnight stay.

*Deadman throttle (safety throttle)* means a device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

*Decibel* means the unit of sound measured on the "A" weighing scale of a sound level meter, set on slow response, the weighing characteristics of which are specified in the Standards on Sound Level Meters of the USA Standards Institute.

*Deck* means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

*Dedicated conservation easements* means a non-possessory interest in real property imposing limitations on a parcel of land for the purposes of retaining and protecting natural or open space values of real property, assuring its availability for agricultural, forest, recreational, or other open space uses, and protecting natural resources. A conservation easement must be granted to a qualified land trust and the city. At the city's discretion, the conservation easement may go to the city if a qualified land trust does not accept the easement.

*Depth of lot* means the horizontal distance between the frontage right-of-way line and rear lot line. On a corner lot, the side with the largest frontage is its depth, and the side with the lesser frontage is its width.

*Depth of rear yard* means the horizontal distance between the rear building line and the rear lot line.

*Design standards* means the specifications to landowners or subdividers for the preparation of plats, both preliminary and final, indicating, among other things, the optimum, minimum, or maximum dimensions of the items as rights-of-way, blocks, easements, and lots.

*Designated recycling program* means a program for the collection and recycling of recyclable materials which is instituted, sponsored, and controlled by the city and its contracted recycler.

*Direct light* means light emitted directly from a lamp, off a reflector, or through a refractor of a luminaire.

*Dredging* means the process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.

*Drive-in* means any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where service to the automobile occupants is offered regardless of whether service is also provided within a building.

*Duplex* means a residential structure containing two dwelling units located on one parcel of land.

*Dwelling* means a building, or one or more portions of a building, occupied or intended to be occupied exclusively for human habitation, but not including rooms in hotels, motels, nursing homes, boardinghouses, nor trailers, tents, cabins, or trailer coaches. (See *Dwelling unit*.)

*Dwelling, duplex, or two-family* means a residential building containing two complete dwelling units.

*Dwelling, multiple, or apartment building* means a residential building, or portion of a building, containing three or more dwelling units served by a common entrance.

*Dwelling, seasonal*, means a residential building not capable of year-round occupancy due to non-winterized construction or inadequate nonconforming year-round on-site sewage treatment systems.

*Dwelling, single*, means a residential building containing one detached dwelling unit.

*Dwelling, single-family*, means a residential structure designed for or used exclusively as one dwelling unit of permanent occupancy.

*Dwelling, single-family attached*, means two single-family dwellings sharing one or more common wall, each on its own individual lot.

*Dwelling, single-family detached*, means a single-family dwelling that is surrounded by yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means.

*Dwelling, townhouse*, means a residential building containing three or more dwelling units with at least one common wall between adjacent residences and each unit so oriented as to have all exits directly to the out-of-doors.

*Dwelling unit* means a residential accommodation including complete kitchen and bathroom facilities, permanently installed, which is arranged, designed, used, or intended for use exclusively as living quarters for one family.

*Easement* means the right granted by a property owner to another or to the public to use a tract of land for the purpose of constructing and maintaining drives, and utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainageways, and gas lines.



*Ecological characteristics* means the features of a wetland which determines its function as a hydrological, botanical, or zoological resource. Ecological characteristics include, without limitation, water conveyance capacity including size and configuration of cross-section of the wetland, alignment of the wetland, gradient texture of materials along the wetland, size and configuration of the characteristics of structures within the wetlands, amount and type of vegetation within the wetland, amount and type of fish, birds, and mammals within the wetland, and the water purification function of the wetland.

*Elderly housing (senior housing)* means a facility consisting of three or more dwelling units, the occupancy of which is limited to persons 55 years of age or older. The facility may include medical facilities or care as an accessory use. Senior housing shall typically consist of multiple-household attached dwellings, but may include other forms of attached or detached dwelling units as part of a wholly-owned and managed senior project.

*Eligible park resident* means a park resident who satisfies the following criteria:

- (a) Park lot rent is current within 30 days of the anticipated park closing date and personal property taxes have been paid for the current and prior years. The owner's performance of the agreement shall be secured by a bond or a cash deposit filed with the administrator in the amount of \$1,000.00;
- (b) Manufactured home has been maintained (including the roofing, siding, windows, flooring, and frame pursuant to the manufactured home park standards) for the year in which the manufactured home was constructed and the manufactured home is in good repair as determined by the city's building inspector;
- (c) Park resident is unable to locate space in a manufactured home park within a 25-mile radius which has the same or less restrictive standards; and
- (d) Personal credit history is not the reason for the park resident's inability to relocate to another manufactured home park.

*Emergency* means an unforeseen combination of circumstances which calls for immediate action to prevent such circumstances from developing or occurring.

*Emergency management* means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters caused by fire, flood, tornado, and other acts of nature, or from sabotage, hostile action, or from industrial hazardous material mishaps. These functions include, without limitation, firefighting services, police services, emergency medical services, engineering, warning services, communications, radiological, and chemical, evacuation, congregate care, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civil protection, together with all other activities necessary or incidental for carrying out the foregoing functions. Emergency management includes those activities sometimes referred to as "civil defense" functions.

*Emergency management forces* means the total personnel resources engaged in city-level emergency management functions in accordance with the provisions of LEC 3.16 or any rule or order thereunder. This includes personnel from city departments, authorized volunteers, and private organizations and agencies.

*Emergency management organization* means the staff responsible for coordinating city-level planning and preparation for disaster response. This organization provides city liaison and coordination with federal, state, and local jurisdictions relative to disaster preparedness activities and assures implementation of federal and state program requirements.

*Engineer* means the city engineer.

*Equal degree of encroachment* means a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportional share of flood flows.

*Equivalent residential unit (ERU) sewer systems* means a unit of wastewater volume of 250 gallons per day and a strength not greater than 250 mg/L of BOD and 300 mg/L of total suspended solids.

*Essential services (public utility uses)* means underground or overhead gas, electric, steam, or water distribution systems; collection, communication, supply, or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, or other similar equipment and accessories, but not including buildings or transmission services.

*Exclusive liquor store* means an establishment used exclusively for the sale of intoxicating liquor at retail either "on-sale" or "off-sale," or both.

*Exterior storage* means the storage of goods, materials, equipment, manufactured products, and similar items not fully enclosed in a building.

*Exterior storage (includes open storage)* means the storage of goods, materials, equipment, manufactured products, and similar items not fully enclosed by a building.

*Extra strength waste (sewer systems)* means waste having a BOD and/or suspended solids greater than domestic waste as defined in the definition of the term "normal domestic strength wastewater" in this section.

*Extractive use* means the use of land for surface or subsurface removal of sand, gravel, rock, industrial materials, other nonmetallic minerals, and peat not regulated under M.S.A. §§ 93.44 to 93.51, as they may be amended from time to time.

*False alarm* means the activation of an alarm system signal or message which elicits notification to and/or response by the county sheriff's office and/or city fire department when there is no evidence of a crime, fire, medical emergency, or other activity which warrants a call for immediate police, firefighting, or emergency medical assistance.

*Family* means an individual, or two or more persons each related by blood, marriage, adoption, or foster care arrangement living together as a single housekeeping unit, or a group of not more than four persons not so related, maintaining a common household, exclusive of servants.

*Family entertainment center* means amusement facilities that may include indoor miniature golf, child play areas, arcade games, batting cages, birthday party and family celebration rooms, indoor soccer/field hockey, children's adventure play gardens, and laser tag. Also typically included in this definition are small food and beverage areas and small retail areas. All facilities are non-alcoholic and smoke free.

*Farm, rural*, means the portion of a ten-acre or more parcel of land which is devoted to agriculture by the property owner or by a lessee of the property owner.

*Farm, suburban*, means a noncommercial, food-producing use primarily intended for the use of the residents, and usually on less than ten contiguous acres. Suburban agricultural uses may include production of crops such as fruit trees, shrubs, plants, flowers, vegetables, and domestic pets.

*Farm school* means a facility that supports a school program that emphasizes fostering a child's intellectual, social, physical, and emotional growth, using farm animals, agriculture, and nature as the learning environment and conducted as part of an operational farm.



*Farmer* means a person permanently residing on a tract of land of not less than ten acres in the city and who farms the land for a livelihood.

*Fence* means a partition, structure, wall, or gate erected as a dividing marker, visual or physical barrier, or enclosure, not to include any roof or covering.

*Fill* means any act by which soil, earth, sand, gravel, rock, or any similar material is deposited, placed, pushed, or transported and shall include the conditions resulting from the act.

*Final plat* means a drawing or map of an approved subdivision, meeting all requirements of the subdivision ordinance, codified in LEC title 103, and in the form as required by law for the purposes of recording.

*Finished fill* means soil compaction area and the final grade outside the wall and foundation of a structure.

*Fire or emergency medical alarm* means a system or portion of a combination system consisting of components and circuits arranged to monitor and annunciate the status of fire or medical emergency or supervisory signal initiating devices which are intended to summon fire or emergency medical services by the county sheriff's office and/or the city fire department.

*Fish house* means a water-oriented structure meant to provide periodic shelter during the winter months while atop a frozen lake for use in fishing. A structure will be considered a fish house only if it is constructed with sleds, wheels or similar means to allow transport on to a frozen lake; is not used on land for human habitation; and is not used for boat storage.

*Fitness studio* means a place or building where passive or active exercises and related activities are performed for the purpose of physical fitness, improved circulation or flexibility, and/or weight control. The activities shall be conducted entirely within an enclosed building. A fitness studio may include exercise equipment; and shall exclude massage in any form. The maximum allowable floor area is 5,000 square feet.

*Fixture* means the assembly that holds the lamp. Fixtures may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens.

*Floatable oil* means oil, fat, or grease in a physical state so that it will separate by gravity from wastewater.

*Flood* means a temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

*Flood frequency* means the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

*Flood fringe* means the portion of the floodplain outside the floodway. The term "flood fringe" is synonymous with the term "floodway fringe" used in the flood insurance study for Washington County, Minnesota and incorporated areas.

*Floodplain* means the beds proper and the areas adjoining a wetland, lake, or watercourse which have been or hereafter may be covered by the regional flood.

*Floodproofing* means a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

*Floodway* means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

*Floor area* means the gross area of the main floor of a residential building measured in square feet and not an attached garage, breezeway, or similar attachment.

*Floor area, gross*, means the sum of the gross area of the various floors of a building measured in square feet. The basement floor area shall not be included unless the area constitutes a story.

*Floor area ratio* means the numerical value obtained through dividing the gross floor area of a building or buildings by the net area of the lot or parcel of land on which the building or buildings are located.

*Floor plan, general*, means a graphic representation of the anticipated use of the floor area within a building or structure.

*Floriculture* means the cultivation and management of ornamental and flowering plants.

*Footcandle* means an illuminance equal to one lumen per square foot.

*Forest land conversion* means the clear cutting of forested lands to prepare for a new land use other than re-establishment of a subsequent forest stand.

*Forested area* means any unit of land which has a density of trees greater than ten trees per acre.

*Frontage* means the boundary of a lot which abuts a public street.

*Full cutoff luminaire* means luminaire that allows no direct light emissions higher than 15 degrees below a horizontal plane through the luminaire's lowest light-emitting part.

*Garage, private*, means a detached one-story accessory building or portion of the principal building, including a carport, which is used primarily for the storage of passenger vehicles, trailers, or farm trucks.

*Garage, repair*, means a building or space for the repair or maintenance of motor vehicles, but not including factory assembly of the vehicles, auto wrecking establishments, or junk yards.

*Garage, storage*, means any premises, except those described as a private or repair garage, used exclusively for the storage of power-driven vehicles.

*Garbage* means solid waste resulting from the domestic and commercial preparation, cooking, and dispensing of food and from the handling, storage, or sale of meat, fish, fowl, fruit, or vegetable and condemned food.

*Glare* means direct light emitted from a luminaire that causes reduced vision or momentary blindness.

*Golf Cart* A self-propelled three or four-wheeled vehicle designated for and commonly used for transportation on a golf course that is limited in engine displacement of less than 800 cubic centimeters and total dry weight of less than 800 pounds. Vehicles that are required to be registered with Minnesota Department of Natural Resources do not fall within the definition of golf cart for purposes of this code.

*Government user (sewer systems)* means users which are units, agencies, or instrumentalities of federal, state, or local government discharging normal domestic strength wastewater.

*Gray water* means liquid waste from a dwelling or other establishment produced by bathing, laundry, culinary operations, and from floor drains, and specifically excluding toilet waste.

*Greenhouses* means a building used for the growing of plants, all or part of which are sold at retail or wholesale.

*Gross acres* means the total area of a parcel of land including wetlands, hydric soils, steep slopes, streets, and dedicated easements.

*Hauler* means a person engaged in the business of refuse collection.

*Hazardous materials* means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

*Height of building* means the vertical distance between the lowest grade level at the building line and the uppermost point on the roof.

*Historic structure* means a structure that is at least 50 years old, in its original state. Such structure shall add to the visual integrity of the landscape.

*Historical site* means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the state register of historical sites. An historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the state archaeologist or the director of the state historic society. All unplatted cemeteries are automatically considered to be significant historic sites.

*Holding tank* means a watertight sewage tank for the temporary storage of sewage until it is transported to an approved point for treatment and disposal. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Home occupation* means any gainful occupation or profession engaged in by the occupant(s), and up to one non-occupant employee of a dwelling when carried on within a dwelling unit or in an accessory building, provided that no signs other than those allowed by the city's sign regulations regarding home occupations are present.

*Horticulture* means the cultivation and management of trees, plants, grasses, vegetables, and fruits.

*Hotel* means a building having provision for nine or more guests in which lodging is provided with or without meals for compensation, and which is open to transient or permanent guests, or both, and where no provision is made for cooking in any guest room, and which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

*Illicit connections* means:

(a) Either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface, that allows an illegal discharge to enter the storm drain system, including, but not limited to, any conveyances that allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

(b) This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Illicit discharge* means any direct or indirect non-stormwater discharge to the storm drain system.

*Illuminance* means the level of light measured at a surface.

*Impervious surface* means any structure or surface which interferes to any degree with the direct absorption of water into the ground, ~~including, but not limited to, building footprints, sidewalks, paved or gravel driveways and parking areas, patios, sport courts, or any other similar surface.~~ Decks, pervious landscaping fabric, the surface water of pools and retaining walls shall not be included as impervious surface.

*Individual sewage disposal system* means a septic tank, seepage tile sewage disposal system, or other sewage treatment device. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Individual sewage treatment system* means an on-site sewage treatment system connecting to a single dwelling or other establishment, consisting of soil treatment unit, septic tank, and any associated pumping and piping systems. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Industrial use* means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

*Industrial users or industries (sewer systems)* means:

(a) Entities that discharge into a publicly-owned wastewater treatment works, liquid waste resulting from the process employed in industrial or manufacturing processes, or from the development of any natural resources; these are identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented under one of the following divisions:

- (1) Division A. Agriculture, Forestry, and Fishing;
- (2) Division B. Mining;
- (3) Division D. Manufacturing;
- (4) Division E. Transportation, Communications, Electric, Gas, and Sanitary Sewers; or
- (5) Division I. Services.

(b) Any non-governmental user of a publicly-owned treatment works which discharges wastewater to the treatment works which contains toxic pollutants or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process, or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works.

*Industrial waste* means the solid, liquid, or gaseous waste resulting from industrial or manufacturing processes, trade, or business, or from the development, recovery, or processing of natural resources.

*Industrial wastewater (sewer systems)* means the liquid, solid, or gaseous processing wastes from an industrial manufacturing process, trade, or business, including, but not limited to, all Standard Industrial Classification Manual divisions A, B, D, E, or I, as distinct from domestic wastewater.

*Industry, municipal sewer system*, means any non-governmental or nonresidential user of a publicly-owned treatment works which is identified in the Standard Industrial Classification Manual, latest edition, categorized in divisions A, B, D, E, and I.

*Institutional housing* means housing for students, mentally ill, infirm, elderly, nurses, physically retarded, and similar housing of a specialized nature.

*Institutional user (sewer systems)* means users other than commercial, governmental, industrial, or residential users, discharging primarily normal domestic strength wastewater (e.g., non-profit organizations).

*Intensive vegetation clearing* means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

*Interim use* means a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

*Intoxicating liquor* and *liquor* mean ethyl alcohol and distilled, fermented, spirituous, vinous, and malt beverages containing in excess of 3.2 percent alcohol by weight.

*Intrusion alarm* means a robbery, burglary, panic, or other alarm intended to summon the police, which is designed either to be initiated purposely by a person or by an alarm system that responds to a stimulus characteristic of unauthorized intrusion.

*Junk*. All exterior storage not permitted by LEC 105.04.020 or included as a permitted accessory use, a permitted use, or included as part of a conditional use permit, or otherwise permitted by the provisions of this Code, is defined as junk within the meaning of LEC 9.28.030(b)(11).

*Junk yard* means an area where discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber products, bottles, and used building materials. Storage of the material in conjunction with a permitted manufacturing process when within an enclosed area or building shall not be included.

*Kennel, animals*, means any place where four or more of any type of domestic pets, over four months of age, are owned, boarded, bred, or offered for sale.

*Lamp* means the component of a luminaire that produces light.

*Land alteration* means the excavation or grading of land involving movement of earth and materials in excess of 50 yards.

*Land reclamation* means the reclaiming of land by depositing material so as to elevate the grade, depositing of a total of more than 50 cubic yards of material per lot or parcel, either by hauling in or re-grading the area.

*Landscaping* means planting trees, shrubs, and turf covers such as grasses and shrubs.

*Licensee* means any park operator licensed by the state to maintain and operate a manufactured home park.

*Lift* means the mechanical system designed to elevate or lower someone or something up or down a topographical slope.

*Light trespass* means light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

*Loading space* means a space, accessible from a street, alley, or way, in or outside of a building, for the use of trucks while loading and unloading merchandise or materials.

*Local alarm* means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of the structure.



*Lodging room* means a room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room.

*Lot.*

- (a) The term "lot" means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by the description for the purpose of sale, lease or separation.
- (b) The term "lot" means an area within a manufactured home park designed or used for the accommodation of a manufactured home.

*Lot area* means the minimum of a horizontal plane within the lot lines.

*Lot area minimum per family* means the minimum number of square feet or acres of lot area required per dwelling unit.

*Lot, buildable,* means a lot which meets or exceeds all requirements of the community land use and development ordinances without the necessity of variances.

*Lot consolidation* means the combining of two or more existing parcels into one parcel and recorded as one parcel with the county recorder's office.

*Lot, corner.*

- (a) The term "corner lot" means a lot situated at the junction of and abutting on two or more intersecting streets; or a lot at the point of a deflection in alignment of a single street, the interior angle of which does not exceed 135 degrees.
- (b) The term "corner lot" means a lot situated at the intersection of two streets, the interior angle of the intersection not exceeding 135 degrees.

*Lot depth* means the mean horizontal distance between the front and rear lines of a lot.

*Lot improvement* means any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of the betterment.

*Lot, interior,* means a lot other than a corner lot, including through lots.

*Lot line* means the property line bounding a lot, except that, where any portion of a lot extends into a public right-of-way or a proposed public right-of-way, the line of the public right-of-way shall be the lot line.

*Lot line, front,* means the boundary of a lot which abuts a public street. In the case of a corner lot, it shall be the shortest dimension of a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner. In the case of a corner lot in a nonresidential area, the lot shall be deemed to have frontage on both streets.

*Lot line, rear,* means the boundary of a lot which is opposite to the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

*Lot line, side,* means any boundary of a lot which is not a front lot line or a rear lot line.

*Lot, non-riparian*, means a separate parcel of land within a designated shoreland area but which does not have frontage along a lake or tributary stream.

*Lot, riparian*, means a separate parcel of land within a designated shoreland area having frontage along a lake or tributary stream.

*Lot, through*, means any lot other than a corner lot which abuts more than one street. On a through lot, all the street lines shall be considered the front lines for applying this definition.

*Lot width* means the horizontal distance between the side lot lines of a lot measured at the setback line.

*Lowest floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor.

*Lumen* means a unit of measurement of the light emitted from a source.

*Luminaire* means the complete lighting system, including the lamp and the fixture.

*MDH* means the Minnesota Department of Health.

*MPCA* means the Minnesota Pollution Control Agency.

*M.S.A.* means and refers to the latest edition or supplement of Minnesota Statutes Annotated.

*Manufactured home.*

- (a) The term "manufactured home" means a structure, not affixed to or a part of real estate, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or when placed on a lot, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical system contained in it.
- (b) The term "manufactured home" means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. The term "manufactured home" includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under the M.S.A. § 327.31, subd. 3, as it may be amended from time to time. No manufactured dwelling shall be moved into the city that does not meet the Manufactured Home Building Code as defined in M.S.A. § 327.31, subd. 3. The term "manufactured home" does not include recreational vehicles as regulated in the zoning code.

*Manufactured home lot* means a parcel of land for the placement of a single manufactured home and the exclusive use of its occupants.

*Manufactured home park* means any site, lot, field, or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle, or enclosure used or intended for use as part of the equipment of the manufactured home park. The term "manufactured home park" does not include facilities which are open daily during three or fewer seasons of the year.



*Manufacturing, general*, means all manufacturing, compounding, processing, packaging, treatment, or assembly of goods or materials which involve a risk of offensive or dangerous noise, odor, or pollution beyond the lot on which the use is located. Uses include, but are not limited to, the following: sawmill, refineries, commercial feedlots, acid, cement, explosives, flour, feed, and grain milling or storage, meat packaging, slaughter houses, coal or tar asphalt distillation, rendering of fat, grease, lard, or tallow, alcoholic beverages, poisons, exterminating agents, glue or size, lime, gypsum, plaster of pans, tanneries, automobile parts, paper and paper products including storage, electric power generation facilities, vinegar works, junk yards, auto reduction yards, foundry, forge, casting of metal products, rock, stone, and cement products.

*Manufacturing, limited*, means all compounding, processing, packaging, treating, or assembling of goods and materials, provided the use will not constitute a nuisance because of offensive odors, glare, smoke, dust, noise, vibrations, or other pollution extending beyond the lot on which the use is located. Uses include, but are not limited to, the following: machine shops, products assembly, sheet metal shops, plastics, electronics, general vehicle repair (repair garage), bodywork and painting, contractor shops and storage yards, food and non-alcoholic beverages, signs and displays, printing, publishing, fabricated metal parts, appliances, clothing, textiles, used auto parts, warehousing, and wholesale business.

*Manure* means any solid or liquid containing animal excreta.

*May* means the act referred to is permissive.

*Medical uses* means those uses concerned with the diagnosis, treatment, and care of human beings. Medical uses include: hospitals, dental services, medical services or clinics, nursing or convalescent homes, orphan's homes, rest homes, and sanitariums.

*Mining* means the excavation, removal, or storage of sand, gravel, rock, soil, clay, and other natural deposits within the city, except:

- (a) For the purpose of the foundation, cellar, or basement of some pending structure, for which a permit has been issued, and which is to be erected immediately following the excavation, removal, or storage;
- (b) For the purpose of construction of sewer lines, storm sewers, water mains, surface water drainage, agricultural or conservation purposes, and sod removal;
- (c) For the moving of dirt for landscaping purposes on a lot used or to be used for residential purposes; or
- (d) For the moving of dirt within the construction limits of a road project.

The term "mining" also means the extraction of sand, gravel, rock, soil, or other material from the land and the removal thereof from the site. Mining shall not include the removal of materials associated with the construction of a building, the removal of excess materials in accordance with approved plats, or utility highway construction, minor agricultural, and sod removal.

*Minn. R.* means and refers to the latest edition or supplement of the Minnesota Administrative Regulations codified as "Minnesota Rules."

*Modular or prefabricated home* means a non-mobile dwelling unit for year-round occupancy constructed or fabricated at a central factory and transported to a building site where final installations are made permanently affixing the dwelling to the site. The dwelling unit shall be equivalent to a unit constructed on the site, meeting all requirements of the state building code.

*Monopole* means a freestanding, self-supporting tower that uses a single pole, does not use a lattice design and has no guy wires.

*Month* means a calendar month.

*Motor courts, motor hotel, or motel* means a building or group of buildings other than a hotel used primarily as a temporary residence of a motorist.

*Motor freight terminal* means a building or area in which freight brought by motor truck is transferred and/or stored for movement by motor truck.

*Motorboat* means a watercraft propelled in any manner by machinery, including watercraft temporarily equipped with detachable motors.

*Mottling* means a zone of chemical oxidation and reduction activity within the soil, appearing as patches of red, brown, orange, or gray or combination of these colors.

*Mound system* means an alternative sewage treatment system designed with the soil treatment area built above existing grade to overcome the limitations of water table, bedrock, or soil permeability. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Multi-tenant building* means a grouping of two or more business establishments that either share common parking on the lot where they are located, or that occupy a single structure or separate structures that are physically or functionally related or attached.

*Municipal separate storm sewer system (MS4)* means the system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) owned and operated by the city and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sewage.

*Municipal urban service area* means an area guided for municipal sanitary sewer service.

*National pollutant discharge elimination system (NPDES) stormwater discharge permit* means a permit issued by EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

*Natural outlet* means any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

*Natural soil* means soil which exists undisturbed in its natural state; fill shall be considered as natural soil after it has been in place for a minimum of 12 months.

*Natural terrain* means areas other than roadways or driveways (private or public), parking lots, and other areas the surface of which has been intentionally modified for motor vehicle operation.

*Net density* means the number of housing units divided by the amount of net developable land. Net developable land does not include water bodies (including wetlands and lakes, but not stormwater ponds), parks and open space (only if owned by the city and available for public use), arterial right-of-way, and other land reserved for future development or not developable according to city ordinances (i.e., steep slopes or conservation areas).

*Noise, ambient*, means the all-encompassing noise associated with a given environment, being either a composite of sounds transmitted by any means from any sources near and far or a single predominate source.

*Non-agricultural low impact* means the outdoor storage of off-road mobile construction equipment of any weight; the indoor storage of the aforementioned items and other goods and materials which, in the determination of the city council, do not jeopardize the health, safety, or welfare of the city; nature farms;

agricultural museums; farmers' markets; small engine repair shops; contractor maintenance shops; or office space as an accessory use to the aforementioned uses.

*Noncommercial speech* means a sign that contains a noncommercial message. Examples of noncommercial messages include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

*Non-contact cooling water* means water discharged from uses such as air conditioning, cooling, or refrigeration, where the only pollutant added is heat.

*Nonconformity or nonconforming use* means any legal use, structure, or parcel of land already in existence, recorded, or authorized before the adoption of zoning regulations or amendments to the zoning regulations that would not have been permitted to become established under the terms of the zoning regulations as now written, if the zoning regulations had been in effect prior to the date it was established, recorded, or authorized.

*Non-stormwater discharge* means any discharge to the storm drain system that is not composed entirely of stormwater.

*Normal domestic strength wastewater* means wastes which are characterized by a per capita discharge of 75 gallons per day at a loading not greater than 250 mg/L BOD and 300 mg/L total suspended solids.

*Noxious matter* means material which is capable of causing injury or is in any way harmful to living organisms or is capable of causing detrimental effect upon the physical or mental health of human beings.

*Nursing home* means a building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. The nursing home shall be licensed by the state as provided by law.

*Oath* means an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in those cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed." All terms shall mean a pledge taken by the person and administered by an individual authorized by state law.

*Obstruction (floodplain)* means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water.

*Occupant* means the person living in an individual home.

*Off-sale* means the sale of liquor in original packages in retail stores for consumption off or away from the premises where sold.

*Office use* means those commercial activities that take place in office buildings, where goods are not produced, sold, or repaired, including, but not limited to, banks, professional offices, governmental offices, insurance offices, real estate offices, telephone exchanges, utility offices, radio broadcasting, and similar uses.

*Officer, office, employee, commission, or department* means an officer, office, employee, commission, or department of the city unless the context clearly requires otherwise.

*Official control* means legislatively defined and enacted policies, standards, precise detailed maps, and other regulations and performance standards all of which control the physical development of the city or any part of the city, for the purpose of accomplishing the general objectives of the comprehensive plan.

The official controls may include, but are not limited to, ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes, and official maps.

*Official map* means a map adopted in accordance with the provisions of M.S.A. § 462.359, as it may be amended from time to time.

*On-sale* means the sale of liquor by the glass for consumption on the premises only.

*Open bottle* means any container, bottle, or other receptacle for liquor in which the cork, bottle cap, lid, or other sealing device is not in place and in a closed position.

*Open door* means anytime an officer or citizen discovers a door or window which is not properly secured, in a location which is protected by an alarm; and/or, anytime an officer responds to an alarm and discovers a door or window which is not properly secured.

*Open fire or open burning* means a fire burning in a manner, whether concentrated or disbursed, which is not contained within a fully enclosed firebox, structure, or vehicle and from which the products of combustion are emitted directly to the open atmosphere without passing through stack, duct, or chimney.

*Open sales lots* means lands devoted to the display of goods for sale, rent, lease, or trade, where the goods are not enclosed within a building.

*Open space* means a tract of land used for agricultural, natural habitat, walkways (sidewalks) and pathways, and/or neighborhood recreational purposes.

*Open Space Preservation (OP) permits* means, generally, permits issued in connection with the city's review and approval of a development within an OP.

*Open storage* means storage of any material outside of a building.

*Operate (snowmobiles, all-terrain vehicles, and golf carts)* means to ride in or on and control the operation of a snowmobile, all-terrain vehicle, or golf cart.

*Operation and maintenance costs (sewer systems)* means expenditures for the wastewater treatment facilities to provide the performance for which the facilities were constructed; the term "operation and maintenance" includes replacement.

*Operator (snowmobile and recreational vehicles)* means every person who operates or is in actual physical control of a snowmobile or ATV.

*Ordinary high water mark or elevation (OHW)* means the boundary of public waters and wetlands, and shall be 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 flowages, the ordinary high water level is the operating elevation of the normal summer pool.

*Organic Waste* means organic waste material typically includes food waste, non-recyclable paper products, yard waste, and other materials that readily degrade.

*Other establishment (sewer systems)* means any public or private structure other than a dwelling which generates sewage.

*Outlot* means a lot remnant or irregular parcel of land included in a plat, which may be used as open space; the outlot may be a large tract that could be subdivided in the future or may be too small to

comply with the minimum size requirements of city zoning and subdivision ordinances and not usable as a building site.

*Owner.*

- (a) The term "owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having care, custody, or control of a dog.
- (b) The term "owner" means and includes all persons interested in the property as fee simple owner, life estate holder, encumbrancer, or otherwise.

*pH* means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

*Package* or *original package* means and includes any container or receptacle holding liquor, which container or receptacle is corked or sealed.

*Paddle boat* means a non-motorized watercraft 19 feet in length or less that is propelled solely by a paddle wheel peddled by an operator or passenger.

*Park (manufactured home)* means any site, lot, field, or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle, or enclosure used or intended for use as part of the equipment of the manufactured home park.

*Park and ride* means parking lots or structures located along public transit routes designed to encourage transfer from private automobile to mass transit or to encourage carpooling for the purposes of commuting, or for access to recreation areas.

*Park closing* means the conversion of all or a portion of the occupied lots of a manufactured home park to another use or the termination of use of the manufactured home park.

*Park operator* means the person who owns, maintains, or operates a manufactured home park properly licensed under state law.

*Park owner* means the owner of a manufactured home park.

*Park resident* means an owner of a manufactured home located on a lot in a manufactured home park within the city who rents the lot and occupies the manufactured home as a principal residence.

*Parking space* means a suitably surfaced and permanently maintained area on privately-owned property, either within or outside of a building of sufficient size, to store one standard automobile, ten feet by 20 feet.

*Parks and playgrounds* mean public land and open spaces in the city dedicated or reserved for recreation purposes.

*Pedestrian way* means a public right-of-way or private easement across a block or within a block to provide access for pedestrians and which may be used for the installation of utility lines.

*Percentage of grade* means the slope of a surface, such as a vertical rise or fall expressed as a percentage of the horizontal distance.

*Percolation rate* means the calculated time rate of drop of a water level in a test hole as specified in the sewer regulations.



*Performance standards* means the minimum development standards as adopted by the governing body and on file in the office of the building official.

*Permanent outdoor luminaire* means any luminaire or system of luminaries that is outdoors and that is intended to be used for seven days or longer.

*Person.*

- (a) The term "person" means any natural individual, firm, partnership, association, or corporation. As applied to partnerships or associations, the term "person" includes the partners or members; as applied to corporations, the term "person" includes the officers, agents, or employees.
- (b) The term "person" extends to and includes an individual, person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the term "person" or "whoever" as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof.
- (c) Any person, firm, corporation, or association which owns any coin-operated machine. The person, firm, corporation, or association in whose place of business any coin-operated machine is placed for use by the public. The person, firm, corporation, or association having control over the machine. The payment of the fee by any person, firm, corporation, or association enumerated in LEC 11.04.100 et seq. shall be deemed a compliance with LEC 11.04.100 et seq.

*Planner* means the city planner.

*Planning agency* means a planning commission or department, however created, or the office of a planning or zoning director or inspector or the office of any official designated as the planning or zoning director or inspector, together with any staff members, employees, or consultants of the commission, department, director, inspector, or official, and the board of adjustment and appeals and its employees or staff.

*Planning commission* means the duly appointed planning commission of the city.

*Plastic limit* means a soil moisture content, below which the soil may be manipulated for the purpose of installing a soil treatment system.

*Pollutant* means anything which causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

*Porch* means a covered but unenclosed projection from the main wall of a building that may or may not use columns or other ground supports for structural purposes.

*Potentially dangerous dog* means any dog that:

- (a) When unprovoked, inflicts bites on a human or domestic animal on public or private property;
- (b) When unprovoked, chases or approaches a person upon the streets, sidewalks, or any public property in an apparent attitude of attack; or
- (c) Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or

otherwise threatening the safety of humans or domestic animals.

*Practical difficulties*, as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control.

*Preceding or following* means next before or next after, respectively.

*Preliminary plat* means a tentative drawing or map of a proposed subdivision meeting requirements enumerated in the subdivision regulations codified in LEC title 103.

*Preschool* means a licensed facility for the organized instruction of children who have not reached the age for enrollment in kindergarten. The term "preschool" does not include school-aged childcare.

*Primary conservation area* means wetlands, hydric soils, restrictive soils, shorelands, and steep slopes which shall be preserved.

*Principal structure or use* means one which determines the predominant use as contrasted to accessory use or structure.

*Private open space* means open space owned by a private legal entity.

*Prohibited waste* means Solid Waste which is unacceptable for collection, processing, or disposal due to the physical or chemical nature of the material or due to a facility's inability to properly manage the waste.

*Proper enclosure* means securely confined indoors, or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the dog. A proper enclosure does not include a porch, patio, or any part of a house, garage, or other structure that would allow the dog to exit of its own volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

*Protective or restrictive covenants* means declarations made by an owner or contracts made between owners as to the manner in which land may be used, with the view to protecting and preserving the physical and economic integrity of any given area.

*Public improvement* means any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvements, or other improvements for which the city may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

*Public land* means land owned or operated by a municipality, school district, county, state, or other governmental unit.

*Public parks or park* means real property owned by the city devoted to recreational use.

*Public place* means any park, street, sidewalk, athletic field, or building which is maintained and controlled by the city and subject to use by the public at-large.

*Public waters* means any waters as defined in M.S.A. § 103G.005, subd. 15, as it may be amended from time to time.

*Race track* means any area where two or more power-driven vehicles or animals are raced for profit or pleasure.

*Reach (floodplain)* means a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river



between two consecutive bridge crossings would most typically constitute a reach.

*Recording studio* means the premises owned or leased by a production organization for the purpose of recording sound and/or video. The term "recording" shall mean capturing the original live performance of musicians and/or actors onto disc, tape, solid state device, or whatever medium is dictated by the state of the art. The function of a recording studio shall also include post-production in which sound and/or pictures are combined/edited and processed into a final form for broadcast, compact disc, or whatever media is currently in vogue.

*Recreation equipment* means play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding 25 feet in length, picnic tables, lawn chairs, barbecue stands, and similar equipment or structures, but not including tree houses, swimming pools, play houses exceeding 25 square feet in floor area, or sheds utilized for storage of equipment.

*Recreation vehicle parks* means a park, court, camp site, lot, parcel, or tract of land designed, maintained, or intended for the purpose of supplying the location or accommodations for any recreation vehicles as defined in this section, and upon which the recreation vehicles are parked. The term "recreation vehicle park" shall include all buildings used or intended for use as part of the equipment of the park, whether a charge is made for the use of the park and its facilities or not.

*Recreational fire* means:

- (a) A fire set for cooking, warming, recreational, or ceremonial purposes which does not exceed three square feet and three feet in height, and has had the ground five feet from the base of the fire cleared of all combustible material.
- (b) Fires which do not exceed four feet in diameter, and three feet in height. Fires which exceed this size must have a permit.

*Recreational vehicle* means a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of the floodplain management regulations, the term "recreational vehicle" shall be synonymous with the term "travel trailer/travel vehicle."

*Recyclable materials* means items of refuse which are part of any authorized recycling program and which are intended for transportation, processing, and manufacturing or reuse, including, but not limited to, paper, glass, aluminum and other metal cans and containers, corrugated cardboard, magazines, and certain types of plastics.

*Refuse* means putrescible and non-putrescible solid wastes, including garbage, rubbish, ashes, incinerator ash, and incinerator residue.

*Refuse collection service* means a private operation engaged in solid waste collection and solid waste transportation.

*Regional flood* means a flood which is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. The term "regional flood" is synonymous with the term "base flood" used in the flood insurance study.

*Registered owner of motor vehicle* means the owner and address as shown on the records of the office of motor vehicle registration of the state highway department.

*Regulatory flood protection elevation* means an elevation no lower than one foot above the elevation of the regional flood, plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

*Religious institutions* means establishments that are intended to primarily provide meeting areas for religious activities. Accessory uses include Sunday school facilities, parking, caretaker's housing, and group living facilities such as convents. Examples include churches, temples, synagogues, and mosques.

*Relocation costs* means the reasonable cost of relocating a manufactured home from a manufactured home park in the city to another manufactured home park within a 25-mile radius; the cost includes expenses incurred in the following categories:

- (a) *Preparation for move.* Reasonable costs incurred to prepare the manufactured home for transportation to another site. This category does include crane services but not the cost of wheel axles, tires, frame welding, or trailer hitches.
- (b) *Transportation to another site.* Reasonable costs incurred to transport the manufactured home to another manufactured home park within a 25-mile radius. This category includes the cost of insuring the manufactured home for its replacement value while the manufactured home is in the process of being relocated and the cost of obtaining moving permits, provided that the park owner shall not be required to pay delinquent taxes on a manufactured home if necessary in order to obtain a moving permit. This category does not include the cost of moving personal property.
- (c) *Hookup at new location.* The reasonable cost of connecting the manufactured home to utilities at the relocation site, provided that this category does include crane services. The park owner shall not be required to upgrade the electrical or plumbing systems of the manufactured home.

*Replacement costs (sewer systems)* means expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the design or useful life, whichever is longer, of the wastewater treatment facilities to maintain the capacity and performance for which the facilities were designed and constructed.

*Research* means medical, chemical, electrical, metallurgical, or other scientific research and quality control, in accordance with the provisions of this section.

*Residential dwelling* means a building used or intended to be used as a personal residence by an owner, part-time owner, or lessee of the residence. This includes both single-family residences and multi-unit residents.

*Residential user (sewer systems)* means those users which are connected to the public wastewater collection system as distinct from industrial, commercial, institutional, and governmental users.

*Resort* means any structure or group of structures containing more than two dwelling units or separate living quarters designed or intended to serve as seasonal or temporary dwellings on a rental or lease basis for profit with the primary purpose of the structure or structures being recreational in nature. Uses may include a grocery for guests only, fish cleaning house, marine service, boat landing and rental, recreational area and equipment, and similar uses normally associated with a resort operation.

*Restaurants.*

- (a) The term "restaurant" means any establishment, other than a hotel, having appropriate facilities for the serving of meals to not less than 30 guests at one time.

(b) To qualify as a restaurant, the establishment shall meet all of the following conditions:

- (1) Meals shall be regularly furnished at tables to the general public, in consideration of payment.
- (2) An adequate staff shall be employed to provide the usual and suitable services to its guests.
- (3) The principal part of its business shall be the serving of food.
- (4) It shall be under the control of a single proprietor or manager.
- (5) The ground floor of the establishment must comprise an area of not less than 2,000 square feet of usable floor space, which area may include the back bar area in addition to the area used for dining and drinking, but shall exclude the kitchen and storage areas.

*Rubbish* means non-putrescible solid wastes, including ashes, consisting of both combustible and non-combustible wastes, such as paper, cardboard, tin cans, yard clippings, fallen leaves, tree trimmings, parts of dead trees, wood, glass, bedding, crockery, or litter of any kind.

*Runway* means a surface of an airport landing strip.

*Runway instrument* means a runway equipped with navigation facilities suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.

*Rural hamlet* means a group of five to 25 housing units located in a contiguous group, with adjacent and fronting lots oriented towards each other in some geometric way as on a street or a village green or square, and forming a distinct boundary with the countryside.

*Safety throttle (deadman throttle)* means a device which, when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

*Sailboard* means a single passenger, non-motorized watercraft using a surfboard-type hull and a free sail system which, without capsizing, allows the sail to lie flat in the water when not supported by the operator.

*Sale or sell (intoxicating liquor)* means to directly or indirectly, by any pretense or by any device, sell, barter, keep for sale, or otherwise dispose of alcoholic beverages as part of a commercial transaction.

*Saloon* means an establishment, such as a bar or a lounge, which sells 3.2 percent malt liquor on sale at retail and which may also sell cigars, cigarettes, all forms of tobacco, beverages, and soft drinks.

*Sand* means a soil texture composed by weight of at least 85 percent of soil particles ranging in size between 0.05 and 2.0 mm.

*Sanitary sewer* means a sewer which carries sewage and to which stormwater, surface water, and groundwater are not intentionally discharged.

*Sanitary waste* means the liquid and water-carried wastes discharged from sanitary plumbing facilities.

*Satellite dish or satellite earth station antenna* means a round, conical, or cone-shaped device more than 18 inches in diameter and placed outdoors on the ground or on a structure and used to transmit and/or receive radio or electromagnetic waves.

*Scavenging* means the unauthorized collection of recyclable materials that have been specifically set out by residents of the city for the purpose of participating in curbside recycling programs.

*Schools, public and private*, means establishments at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before or after school day care. Examples include public and private daytime schools, boarding schools, and military academies. Exemptions:

- (a) Preschools are classified as day care facilities; and
- (b) Business schools and professional private trade schools.

*Screening:*

- (a) The term "screening" means fences at least five feet high or earthen berms at least three feet high with compact evergreen or deciduous hedges which extend at least three feet beyond the object to be screened, or vegetative or landscaping materials sufficient to provide a complete screen to the same height, to block direct visual access.
- (b) The term "screening" also means and includes earth mounds, berms, or ground forms, fences, and walls; landscaping (plant materials) or landscaped fixtures (such as timbers); used in combination or singularly, so as to block direct visual access to an object.

*Second conservation area* means woodlands, meadows, viewsheds/corridors, and historic structures.

*Secondary dwellings* means a residential dwelling unit, but not a manufactured home, located on the same lot as a single family dwelling unit, either within the principal structure, above a detached garage.

*Seepage pit (leaching pit or dry well)* means a lined underground pit into which sewage tank effluent or other liquid waste is discharged and from which seepage into the soil occurs through the bottom and sidewall openings. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Senior housing. See Elderly housing.*

*Septage* means those accumulated solids and liquids removed from a sewage tank or holding tank during regular periods of maintenance. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Septic tank* means a sound, durable, watertight sewage tank designed and constructed to receive the discharge of sewage from a building sewer, separate solids from liquids, digest organic matter, and store liquids through a period of detention. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Setback* means 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. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the structure at ground level. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Sewage* means any water carrying domestic water, exclusive of footing and roof drainage, from any dwelling, industrial, agricultural, commercial establishment, or other structure. Domestic waste includes, but is not limited to, liquid waste produced by bathing, laundry, and culinary operations, and liquid waste from toilets and floor drains, and specifically excludes animal waste and commercial process waste. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Sewage tank* means a watertight tank used for the retention of sewage, which includes, but is not limited to, septic tanks, holding tanks, and dumping chambers. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Sewage treatment system* means a septic tank and soil absorption system or other individual or cluster type sewage treatment system. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Sewer system* means the municipal sanitary sewer system.

*Shall, must* means the act referred to is mandatory.

*Shopping center* means any grouping of two or more principal retail uses whether on a single lot or on abutting lots under multiple or single ownership.

*Shore impact zone* means 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 structure setback.

*Shoreland* means land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or foliage; and 300 feet from a river or stream, or the landward extend of a floodplain designated by ordinance 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.

*Signature or subscription* means and includes a mark when the person cannot write.

*Site, previously developed*, means a lot or parcel upon which a dwelling or other establishment is in existence as of the enactment of the ordinance.

*Site, soil treatment*, means the area bounded by the dimension required for the proper location of a soil treatment system.

*Slope* means the ratio of vertical rise or fall to horizontal distance.

*Slow no-wake* means operation of a watercraft at the slowest possible speed necessary to maintain steerage and in no case greater than five miles per hour.

*Slug* means any discharge of water, wastewater, or industrial waste which in concentration of any given constituent, or in quantity of flow, exceeds, for any period of duration longer than 15 minutes, more than five times the average 24-hour concentration of flow during normal operation.

*Small engine repair* means the tune-up, winterizing, rebuilding, and general repair of internal combustion engines of 24 rated horsepower or less, together with repairs and replacement of mechanical components of the machines or tools powered by the engines, including, but not limited to, lawn mowers, snow blowers, garden tillers, chain saws, and pumps; and specifically excluding snowmobiles, ATVs, motorcycles, and personal watercraft. Retail or wholesale sales of any product are specifically excluded.

*Snowfall.*

- (a) The term "snowfall" means ground accumulation of snow two inches or more within a 24-hour period.
- (b) The 24-hour period shall be counted back from 8:00 a.m. of the day in determining whether there is an accumulation of two inches.

*Snowmobile* means a self-propelled vehicle designed for travel on snow or ice, steered by skis or runners.

*Soil characteristics, limiting*, means those soil characteristics which preclude the installation of a standard system, including, but not limited to, proximity to bedrock or water table, and percolation rates



which are excessively fast or excessively slow.

*Soil modification* means the alteration of natural soil conditions by means, including, but not limited to, placement of fill, removal of soil, or alteration of topography.

*Soil survey* means the U.S. Department of Agriculture, Soil Conservation Service, Soil Survey of Washington County, 1977.

*Soil textural classification.* Where soil particle sizes or textures are specified in this Code, they refer to the soil textural classification found in the Soil Survey Manual, Handbook No. 18, U.S. Department of Agriculture, 1951.

*Solid waste* means garbage, refuse, and other discarded solid materials, except animal waste used as fertilizer, including solid waste materials resulting from industrial, commercial, and agricultural operations; solid waste does not include earthen fill, boulders, rock, and other materials normally handled in construction operations.

*Solid waste collection* means the gathering of solid waste from public or private places.

*Solid waste transportation* means conveyance of solid waste from one place to another, by means of vehicle, rail car, water vessel, conveyor, or other means.

*Special items* means waste that cannot be disposed of through typical curbside services, and requires additional or specific handling for proper disposal.

*Special pickup* means any collection of materials other than garage, other refuse, organic waste, recyclables or yard waste including major appliances, furniture, oversized materials and construction debris.

*Stable, private,* means the keeping, breeding, raising, and uses of horses or ponies on open space owned and maintained by an association of adjacent property owners for the exclusive personal use and enjoyment of association members and for which commercial gain is not the primary objective.

*Standard system* means an individual sewage treatment system employing a building sewer, sewage tank, and the soil treatment system commonly known as a dram field or leach field.

*State* means the State of Minnesota.

*State disposal system (SDS) permit* means any permit, including any terms, conditions, and requirements of the permit, issued by the MPCA pursuant to M.S.A. § 115.07, as it may be amended from time to time, for a disposal system as defined by M.S.A. § 115.01, subd. 5, as it may be amended from time to time.

*State funds* means any bond revenues or any money appropriated or allocated by the legislature.

*Steep slope.*

- (a) The term "steep slope" means land where agricultural activity or development is either not recommended or described as poorly suited, due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this definition.
- (b) Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

*Stock in trade* means any equipment, merchandise, or materials necessary to or used in a trade or business.

*Storm drainage system* means publicly-owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and humanmade or altered drainage channels, reservoirs, and other drainage structures.

*Storm sewer or storm drain* means a drain or sewer intended to carry stormwater, surface runoff, groundwater, subsurface water, street wash water, drainage, and unpolluted water from any source.

*Stormwater* means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

*Stormwater management plan* means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

*Story* means the portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar, or unused under-floor space is more than six feet above grade as defined in this section for more than 50 percent of the total perimeter or is more than 12 feet above grade as defined in this section at any point, the basement, cellar, or unused under-floor space shall be considered as a story.

*Street* means a public right-of-way affording primary access by pedestrians or vehicles, or both, to abutting properties, whether designated as a street, highway, thoroughfare, parkway, road, avenue, or boulevard. The term "public," in the subdivision regulations, means that the right-of-way has been dedicated to public use for street purposes and has been accepted for maintenance by the city. Whenever the term "street" is used, it shall mean a public street unless the context indicates a different meaning.

*Street, arterial*, means those streets carrying larger volumes of traffic and serving as links between various communities of the area. Arterial streets are intended to provide for collection and distribution of traffic between highways and collector streets.

*Street, collector*, means those streets which carry traffic from local streets to the major system or arterials and highways. Collector streets primarily provide principal access to residential neighborhoods, including, to a lesser degree, direct land access.

*Street, cul-de-sac*, means a local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

*Street, local*, means those streets which are used primarily for access to abutting properties and for local traffic movement.

*Street, major or thoroughfare*, means a street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic generating areas.

*Street, marginal access*, means those local streets which are parallel and adjacent to thoroughfares and highways, which provide access to abutting properties and protection from through traffic.



*Street, minor*, means a street intended to serve primarily as an access to abutting properties.

*Street, pavement*, means the wearing or exposed surface of the roadway used by vehicular traffic.

*Street, width*, means the width of the right-of-way measured at right angles to the centerline of the street.

*Structural alteration* means any change, other than incidental repairs, which would affect the supporting member of a building, such as bearing walls, columns, beams, girders, or foundations.

*Structure* means anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, signs, recreation vehicles not meeting the exemption criteria specified in LEC 100.00.090(c)(1), and other similar items.

*Subchapter* means a division of a chapter, designated in this Code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

*Subdivision* means a described tract of land which is to be or has been divided into two or more lots or parcels for the purpose of transfer of ownership, building development, or for tax assessment purposes. The term "subdivision" includes re-subdivision and, where it is appropriate to the context, relates either to the process of subdividing, to the land subdivided, or to the development for which it is being subdivided.

*Substandard building* means any building or structure lawfully existing on the effective date of this Code or any amendment to this Code, which building or structure does not conform with the regulations, including dimensional standards, for the district in which it is located after the effective date of this Code or the amendment.

*Substandard structure*. See *Substandard building*.

*Substantial bodily harm* means bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

*Substantial damage* means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*Substantial improvement* means, within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. The term "substantial improvement" includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" does not, however, include either:

- (a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions.
- (b) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure. For the purpose of the floodplain management regulations, the term "historic structure" shall be as defined in 44 CFR 59.1.

*Supper club* means a building with facilities for the serving of meals and where meals are regularly served at tables to the general public. The building must be of sufficient size and design to permit the serving of meals to not less than 50 guests at one time. Intoxicating liquors may be sold on-sale and live entertainment and/or dancing shall be permitted.

*Surface water flooding* means the 100-year floodplain along rivers and streams as defined by the DNR, or in the absence of the data, as determined by the largest flood or record; on lakes, high water levels as determined or recorded by the DNR, or, in the case of no DNR record, by local records of information.

*Surface water management fee* means the yearly charge developed for each parcel of land.

*Suspended solids (SS)* means solids that either float on the surface of or are in suspension in water, sewage, or other liquids and which are removable by laboratory filtering in accordance with the latest edition of Standard Methods for the Elimination of Water and Waste Water.

*Swimming pool* means any permanently located pool, used for swimming and/or bathing, which is over 24 inches in depth, or which has a surface area exceeding 150 square feet.

*Swimming pool, private or residential*, means any pool which is used, or intended to be used, as a swimming pool in connection with a single-family residence, and which is available only to the family of the household and private guests.

*Swimming pool, public or semi-public*, means any swimming pool other than a private swimming pool.

*Targeted recyclables* means recyclable material that are separated from Solid Waste for the purpose of recycling or composting, including paper, glass, plastics, metals, automobile oil, batteries, source-separated compostable materials, sole source food waste streams that are managed through biodegradative processes, and other materials as defined by resolution.

*Tavern* means an establishment for the retail on-sale of 3.2 percent malt liquors, and which, in addition, provides dancing, singing, or vaudeville performances or entertainment for its guests, or provides for them the privilege of dancing.

*Ten-year flood* means the flood which can be expected to occur, on an average, of once in ten years; or the level to which floodwaters have a ten percent chance of rising in any given year.

*Terminal, bus/truck*, means an area and building where buses, trucks, and cargo are stored, where loading and unloading is carried on regularly, and where minor maintenance of these types of vehicles is performed.

*Therapeutic massage* means the process by which a practitioner applies massage therapy techniques, and may apply adjunctive therapies, with the intention of positively affecting the health, and well-being of the client. The rubbing, stroking, kneading, tapping, positioning, causing movement and applying touch and pressure to the body. Adjunctive therapies may include: application of heat, cold, water, mild abrasives, heliotherapy, topical preparations not classified as prescription drugs; the use of mechanical devices and tools which mimic or enhance manual actions; and instructed self-care and management. Massage therapy shall not include techniques traditionally practiced by chiropractors. Therapeutic massage shall be performed only by a person who has provided the city with proof of professional liability insurance and/or national certification.

*Toe of the bluff* means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.

*Toilet waste* means fecal matter, urine, toilet paper, and any water used for flushing.

*Top of the bluff* means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.

*Tower accessory equipment* means a structure located at the base of a tower housing radio receiving/transmitting equipment and other associated electronic equipment necessary for a communications facility.

*Tower height* means the vertical distance from the average grade at the base of a tower to the highest point of a tower or to the highest point of the highest wireless communications facilities on a tower, whichever is higher.

*Townhouse* means a grouping of three or more attached, single-family dwellings in which each unit has its own front and rear access to the outsides; no unit is located over any other unit; and each unit is separated from any other unit by one or more common walls.

*Toxic pollutant* means the concentration of any pollutant or combination of pollutants which, upon exposure to or assimilation into any organism, will cause adverse effects as defined in standards issued pursuant to section 307(a) of the Clean Water Act of 1977, 33 USC § 1251 et seq., as it may be amended from time to time.

*Trails* means areas constructed within the city for a designated use, such as walking, non-motorized biking, rollerblading, skateboarding, equestrian trails, if appropriate.

*Transportation terminal* means a truck, taxi, airplane, bus, train, and mass transit terminal and storage area, including motor freight (solid and liquid) terminal.

*Tree* means a wood plant reaching 30 feet or more in height at maturity.

*Truck stop* means a motor fuel station devoted principally to the needs of tractor-trailer units and trucks, and which may include eating and/or sleeping facilities.

*Unified residential area* means a residential grouping of lots that share a plat name over one or more additions.

*Use, accessory*, means a use subordinate to and serving the principal use or structure on the same lot and customarily incidental to the principal use.

*Use, nonconforming*. See zoning code, LEC title 105.

*Use, open*, means the use of land without a building or including a building incidental to open use.

*Use, principal*. See *Principal structure or use*.

*Use, substandard*. See zoning code, LEC title 105.

*User charge (sewer systems)* means a charge levied on users of a treatment works, for the user's proportionate share of the cost of operation and maintenance (including replacement) of the treatment works.

*User charge system (sewer systems)* means a system based on estimated use of wastewater treatment services where each user (or user class) pays its proportionate share of operation and maintenance (including replacement) costs of treatment works within the grantee's service area, based on the user's

proportionate contribution to the total wastewater loading from all users (or user class); the user's contribution shall be based on factors such as strength, volume, and delivery flow rate characteristics.

*Users (sewer systems)* means those residential, commercial, institutional, industrial, and governmental establishments which are connected to the public sewer collection system.

*Utility factor* means the amount of runoff per acre of land, per parcel for a particular land use divided by the amount of runoff from a 1.5-acre residential lot.

*Utility pole* means a structure which is owned by a governmental agency or utility company and which is used to support illumination devices or lines and other equipment carrying electricity or communications.

*Valve box* means any device which can stop sewage tank effluent from flowing to a portion of the soil treatment system. This definition shall not apply to LEC 5.08.010 through LEC 5.08.050.

*Varda* means a portable self-contained alarm system which is installed by the county sheriff's office with the sole purpose of detecting a possible break-in.

*Variance* means a modification of a specific permitted development standard required to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship as defined in the zoning code. Economic considerations alone shall not constitute a hardship.

*Vehicle repair* means general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, including bodywork, framework, welding, and major painting service.

*Veterinary* means those uses concerned with the diagnosis, treatment, and medical care of animals, including animal or pet hospitals.

*Village green* means an open space area surrounded by homes and designed as a central gathering area or park for residents of the neighborhood and/or residents of the community.

*Visible triangle* means the area created by drawing an imaginary line between points 30 feet back from where the curb lines of the intersection quadrant meet.

*Vision triangle* means a triangular area at an intersection, formed by the two roads or rights-of-way and a third line, which must be kept clear of visual obstructions so that approaching vehicles have an unobstructed view.

*Warehousing* means the storage, packing, and crating of materials or equipment within an enclosed building or structure.

*Warning notice* means a notification provided to the owner or person in charge of an alarm site by the county sheriff's office for false alarms due to system malfunction or when no reason can be determined for the false alarm. The warning notice will require that the alarm system be inspected and/or serviced within five working days with written documentation submitted to the city that the system is in working order.

*Wastewater* means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

*Wastewater service charge (sewer systems)* means the total of the charges for operation and maintenance, and replacement.

*Wastewater treatment facilities* means an arrangement of devices and structures used for treating wastewaters which have been constructed with state and federal grants.

*Water-oriented accessory structure or facility* means a small, above-ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of these structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

*Water table* means the highest elevation in the soil where all voids are filled with water, as evidenced by soil mottling, the presence of water, or other information.

*Watercraft* means any motorboat, paddle boat, personal watercraft, sailboard, or any other contrivance used or designed for navigation on water except:

- (a) Duck boats during the hunting season;
- (b) A rice boat during the harvest season; and/or
- (c) A seaplane.

*Watercraft, personal*, means a boat that:

- (a) Is powered by an inboard motor powering a water jet pump or by an outboard or propeller-driven motor; and/or
- (b) Is designed to be operated by a person or persons sitting, standing, or kneeling on the craft, rather than in the conventional manner of sitting or standing inside a motorboat.

*Waterfront use (residential)* means boat docks and storage, fish house, fish cleaning, water recreation, equipment, and other uses normally incidental to a lakeshore residence provided the uses are for the exclusive use of the occupants and nonpaying guests.

*Watertight* means constructed and maintained to prevent inflow of water or outflow of effluent.

*Wayside stand* means a temporary structure or vehicle used for the seasonal retail sale of agricultural goods, floriculture, and horticulture produced by the operator of the wayside stand, which is clearly a secondary use of the premises and does not change the character thereof.

*Weapon* means any gun, pistol, revolver, sling shot, shotgun, sand club, metal knuckles, daggers, dirk, bowie knife, razor, air rifle, air gun, BB gun, spring gun, bow and arrow, switch blade, firearm, or any similar device for the propulsion of shot or other metal pellet by whatever means, and any other dangerous or deadly weapon or instrument.

*Wedding ceremony* means the formal activities and observations during which people are united in marriage. A wedding ceremony typically involves an exchange of vows, presentation of a gift, and a public proclamation of marriage by an authority figure or leader. Music, poetry, or readings from religious texts or literature are also commonly incorporated into the ceremony.

*Wedding reception* means a party held after the completion of a marriage ceremony. A wedding reception is held usually as hospitality for those who have attended the wedding and typically occurs in a different venue than the wedding itself.

*Wetland* means a surface water feature classified as a wetland under current state and federal law. Wetlands are low areas permanently or seasonally covered with shallow water, referred to generally as marshes, swamps, bogs, wet meadows, sloughs or intermittent lakes.

*Wholesaling* means the selling of goods, equipment, and materials by bulk to another person who, in turn, sells the same to customers.



*Wind generator* means a machine which generates power from the wind and is extended from a horizontal shaft.

*Wine* means the beverage made from condensed grape must or from other agricultural products other than sound, ripe grapes; imitation wine; compounds sold as wine; vermouth; cider; perry and sake; in each instance containing not less than seven percent nor more than 24 percent alcohol by volume.

*Wireless communication facility* means cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications located or installed on or near a tower or antenna support structure, but not including a satellite earth station antenna (satellite dish) seven feet or less in diameter.

*Wireless communications tower* means a self-supporting monopole, poles, or lattice structure constructed at normal grade and extending into the air at least 20 feet and used to support wireless communications facilities.

*Written* means any representation of words, letters, or figures, whether by printing or otherwise.

*Yard* means the open space on an occupied lot which is not covered by any structure.

*Yard, front,* means a yard extending across the front of the lot between the inner side yard lines and lying between the front line of the lot and the nearest building line.

*Yard, rear,* means a yard extending across the rear of the lot between the inner side yard lines and lying between the rear line of the lot and the nearest building line.

*Yard, required,* means a yard area which may not be built on or covered by structures because of the dimensional setbacks for the structures within the zoning district.

*Yard, side,* means a yard between the sideline of the lot and the nearest building line.

*Yard waste* means uncontaminated leaves and grass clippings uncontaminated with foreign objects, such as tree trimmings or brush.

*Year* means a calendar year, unless otherwise expressed.

*Yearly surface water management revenue* means the estimated yearly expenditures for planning and inventories, capital expenditures, personnel and equipment, and operation of the surface water utility, in accordance with established city policy. The surface water management revenue and resulting surface water management fees shall be reviewed yearly by the city council.

*Zoning district* means an area or areas within the city in which the regulations and requirements of this Code are uniform.

#### HISTORY

Amended by Ord. [08-245](#) on 1/5/2021

Adopted by Ord. [08-253](#) on 11/3/2021



## ARTICLE XIX SHORELAND MANAGEMENT OVERLAY DISTRICT

### 105.12.1260 Shoreland Management Overlay District

#### **105.12.1260 Shoreland Management Overlay District**

- (a) *Purpose.* This article is adopted pursuant to the authorization and policies contained in M.S.A. 103F, Minn. R. parts 6120.2500—6120.3900, and the planning and zoning enabling legislation in M.S.A. ch. 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 LEC 1.08, 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 Minn. R. part 6120.3300, as: Natural Environment (NE), Recreational Development (RD) and Tributary (T) shorelands.

Table 17-1: Shoreland Classifications

<i>DNR ID #</i>	<i>Name</i>	<i>Location</i>	<i>Ordinary High Water Level</i>	<i>Class</i>
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 and 11, T29, R21	-	NE
82010100	DeMontreville	Sec. 4, 5 and 9, T29, R21	929.3	RD
82010500	Berschen's Pond			NE
82011000	Downs	Sec. 24, T29, R21	889.1	NE

8201 0900	Eagle Point	Sec. 22 and 27, T29, R21	896.5	NE
8201 0600	Elmo	Sec. 13, 14, 23, 24 and 26, T29, R21	885.6	R D
8201 0800	Friedrich Pond	Sec. 15 and 22, T29, R21	-	NE
8201 1300	Goose	Sec. 27, 34 and 35, T29, R21	924.4	NE
8201 1100	H.J. Brown Pond	Sec. 26, T29, R21	-	NE
8200 7400	Horseshoe	Sec. 25, T29, R21	876.8	NE
8201 0400	Jane	Sec. 9 and 10, T29, R21	924.0	R D
8201 1700	Kramer	Sec. 35, T29, R21	-	NE
8201 0300	Olson	Sec. 8 and 9, T29, R21	929.3	R D
N/A	Raleigh Creek North (to Eagle Point Lake)	Sec. 16, 21 and 22, T29, R21	-	T
N/A	Raleigh Creek South (Eagle Point Lake to Lake Elmo)	Sec. 22, 23 and 227, T29, R21	-	T
8201 1200	Rose	Sec. 25 and 36, T29, R21	-	NE
8201 0700	Sunfish	Sec. 14, T29, R21	896.4	NE
8201 0000	Unnamed	Sec. 4, T29, R21	-	NE
8203 1300	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 recreational	C	C	C
Agricultural and related uses <sup>b, c</sup>	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 <sup>a</sup>	50 feet	50 feet	50 feet
Minimum Structure Setback From The Ordinary High Water Level (OHWL): <sup>b, c, e</sup>			

Sewered <sup>d</sup>	75 feet	150 feet	50 feet
Unsewered <sup>d</sup>	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 <sup>e</sup>	30 percent	30 percent	30 percent
Unsewered	<del>15 percent</del> <u>25 percent</u>	<del>15 Percent</del> <u>25 percent</u>	<del>15 percent</del> <u>25 percent</u>
Minimum Lot Size <sup>f</sup> , Riparian Lots:			
Sewered:			
Single-family detached	20,000 s.f.	40,000 s.f.	Same as zoning district
Two-family or duplex	35,000 s.f.	70,000 s.f.	Same as zoning district
Triplex	120,000 s.f.	160,000 s.f.	Same as zoning district
Quad	160,000 s.f.	200,000 s.f.	Same as zoning district
Unsewered:			
Single-family detached	40,000 s.f.	80,000 s.f.	Same as zoning district
Two-family or duplex	80,000 s.f.	120,000 s.f.	Same as zoning district
Minimum Lot Size <sup>f</sup> , Non-Riparian Lots:			
Sewered:			
Single-family detached	15,000 s.f.	20,000 s.f.	Same as zoning district
Two-family or duplex	26,000 s.f.	35,000 s.f.	Same as zoning district

Triplex	38,000 s.f.	52,000 s.f.	Same as zoning district
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Quad	49,000 s.f.	65,000 s.f.	Same as zoning district
Unsewered:			
Single-family detached	40,000 s.f.	80,000 s.f.	Same as zoning district
Two-family or duplex	80,000 s.f.	160,000 s.f.	Same as zoning district
Minimum Lot Width, <sup>f, g</sup> Riparian Lots:			
Sewered:			
Single-family detached	75 feet	125 feet	75 feet
Two-family or duplex <sup>e</sup>	135 feet	225 feet	115 feet
Triplex <sup>e</sup>	195 feet	325 feet	150 feet
Quad <sup>e</sup>	255 feet	425 feet	190 feet
Unsewered:			
Single-family detached	150 feet	200 feet	100 feet
Two-family or duplex <sup>e</sup>	225 feet	300 feet	150 feet
Minimum Lot Width, Non-Riparian Lots:			
Sewered:			
Single-family detached	75 feet	125 feet	75 feet
Two-family or duplex <sup>e</sup>	135 feet	220 feet	115 feet
Triplex <sup>e</sup>	190 feet	315 feet	150 feet
Quad <sup>e</sup>	245 feet	410 feet	190 feet
Unsewered:			
Single-family detached	150 feet	200 feet	100 feet
Two-family or duplex <sup>e</sup>	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 an 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 subsection (c)(5)c of this section.

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 non-riparian 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 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:

<i>Controlled Access Lot Frontage Requirements</i>	
<i>Ratio of Lake Size to Shore Length (acres/mile)</i>	<i>Required Increase in Frontage (percent)</i>
Less than 100	25 percent
100--200	20 percent
201--300	15 percent
301--400	10 percent
Greater than 400	5 percent

They must be jointly-owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian 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 water-oriented accessory structure not meeting the normal structure setbacks if the structure

complies with the following provisions:

1. *Structure height.* The structure or facility must not exceed ten 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 feet above grade at any point.
  2. *Structure size.* Water-oriented accessory structures cannot occupy an area greater than 250 square feet.
  3. *Structure setback.* The setback of the structure or facility landward from the ordinary high water level (OHWL) must be at least ten feet on a recreational development lake and 50 feet on a natural environment lake.
  4. *Visibility screening.* 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.
  5. *Roof decking.* 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.
  6. *Habitation, water and sewage prohibited.* The structure or facility must not be used for human habitation and must not contain water supply or sewage treatment facilities.
  7. *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 400 square feet provided the maximum width of the structure is 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:
1. Stairways and lifts must not exceed four feet in width. Wider stairways may be used for public open space or recreation properties.
  2. Landings for stairways and lifts must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for public open space or recreation properties.
  3. Canopies or roofs are not allowed on stairways, lifts or landings.
  4. 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.
  5. 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.
  6. 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 (c)(4)b.1 through 5

of this section 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. 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:
  - 1. Each building must be set back at least 200 feet from the ordinary high water level.
  - 2. Each building must have common sewage treatment and water systems that serve all dwelling units in the building.
  - 3. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building.
  - 4. 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:
  1. Feedlots must be designed consistent with Minn. R. ch. 7020;
  2. 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;
  3. Old feedlots not currently in operation may resume operation consistent with M.S.A. § 116.0711;
  4. 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. *Bluff or shore impact zones.* 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 of this section.
- b. *Shore impact zones.* 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 subsection (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 or more cubic yards of material or involving more than 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:

1. The smallest amount of bare ground is exposed for the shortest time possible;
2. Ground cover such as mulch is used for temporary bare soil coverage and permanent ground cover, such as sod, is established;
3. Methods to prevent erosion and trap sediment during construction are employed;
4. Altered areas are stabilized to accepted erosion control standards;
5. Fill is not placed so as to create unstable slopes;
6. 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;
7. Alterations below the OHWL of public waters must first be authorized by the commissioner of the state department of natural resources per M.S.A. §§ 103G.245 and 103G.405;
8. 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;
9. Alterations of topography shall only be permitted if accessory to a permitted or conditional use;
10. 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:
  1. Shore and bluff impact zones must not be intensively cleared of vegetation.
  2. An erosion and sediment control plan is developed and approved by the city and local soil and water conservation district and is consistent LEC 105.04.710 before issuance of a conditional use permit for the conversion.

(9) *Stormwater management.* Stormwater management shall be in accordance consistent LEC 105.04.710. In addition, the state pollution control agency's Minnesota Stormwater Manual shall be used as guidance. Within shoreland areas, the following standards also apply:

- a. Existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain stormwater 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 stormwater 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 Minn. R. ch. 7080 standards. Publicly-owned sewer systems shall be used where available.
- b.
  1. Any private water supply to be used for domestic purposes shall meet quality standards established by the state department of health and the state pollution control agency.
  2. 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 state 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 in this section 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 LEC 105.12, arts. XVI and 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:
  1. A property owners association agreement with mandatory membership, and consistent with subsection (c)(11)h.4.i of this section.
  2. Deed restrictions, covenants, permanent easements or other instruments that:
    - i. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
    - ii. Ensure preservation and maintenance of open space in perpetuity accordance with the criteria and analysis specified in subsection (c) (11)h of this section.



e. *Density determination.* Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures:

1. 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:

<i>Classification</i>	<i>Tier Depth</i>	
	<i>No Sewer (feet)</i>	<i>Sewer (feet)</i>
Recreational development lakes	267	267
Natural environment lakes	400	320
Tributary rivers	300	300

2. 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.
3. Step 3. Determine base density.
  - i. 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 first tier unless no lots within the first 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.
  - ii. All PUDs must meet the design standards in subsection (c)(11)f of this section.
4. Step 4. Determine if the site can accommodate increased density.
  - i. The PUD may provide for an increase in density of up to 20 percent allowed in the base zoning district or in Table 17-3, whichever is more restrictive, if: Structure setbacks from the ordinary high water level;
  - ii. Are increased to at least 50 percent greater than the minimum setback; or
  - iii. 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:

1. General design standards.
  - i. Dwelling units must be clustered into one or more groups and located on suitable areas of the development.
  - ii. Dwelling units must be designed and located to meet the

dimensional standards, other than those for lot area and width, in Table 17-3;

iii. Shore recreation facilities:

- (a) Must be centralized and located in areas suitable for them based on a suitability analysis (as explained in subsection (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.

iv. At least 50 percent of the total project area shall be preserved as open space and must meet standards outlined in subsection (c) (11)g of this section.

v. 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.

vi. Approval from the DNR is required to ensure compliance with additional regulations.

2. 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.

3. Accessory structures and facilities, except water-oriented accessory structures, must meet the required structure setback and must be centralized.

g. *Open space requirements.*

1. Open space must constitute at least 50 percent of the total project area within the shoreland and must include:

- i. Areas with physical characteristics unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries;
- ii. Portions of the shore impact zone preserved in its natural or existing state as follows:

(a) For existing residential PUDs, at least 50 percent of the shore impact zone

(b) For new residential PUDs, at least 70 percent of the shore impact zone.

2. Open space may include:

- i. Outdoor recreational facilities for use by owners of lots in the subdivision and by the general public;
- ii. 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;
- iii. Non-public water wetlands.

3. Open space shall not include:

- i. Road rights-of-way, or land covered by roads, structures or parking surfaces;
- ii. Lots, unless owned in common by an owners association;
- iii. Commercial facilities or uses;
- iv. Land below the OHWL of public waters.

h. *Open space maintenance and administration requirements.*

1. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved.
2. 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.
3. The instruments must prohibit:
  - i. Commercial uses;
  - ii. Vegetation and topographic alterations other than routine maintenance;
  - iii. Construction of additional buildings or storage of vehicles and other materials; and
  - iv. Uncontrolled beaching of watercraft.
4. Development organization and functioning. All planned unit developments must use an owners association with the following features:
  - i. Membership must be mandatory for each dwelling unit owner and any successive owner;
  - ii. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;
  - iii. Assessments must be adjustable to accommodate changing conditions; and
  - iv. 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 the ordinance codified in this section may continue, but will be managed according to M.S.A. § 462.357(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 article. 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:
    1. The structure existed on the date the structure setbacks were established.
    2. 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.
    3. 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.
    4. 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) *Variances*. Variances may only be granted in accordance with M.S.A. § 462.357 and are subject to the following:
  - a. A variance may not circumvent the general purposes and intent of this section; and
  - b. For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minn. R. § 7082.0700, subpt. 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 article, to protect adjacent properties, and the public interest:
    1. Advanced stormwater runoff management treatment;
    2. Reducing impervious surfaces;
    3. Increasing setbacks from the ordinary high water level;
    4. Restoration of wetlands;
    5. Limiting vegetation removal and/or riparian vegetation restoration;
    6. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
    7. 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 Minn. R. 6120.3000, subpt.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 Minn. R. 7082.0700 subpt. 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.

#### HISTORY

Adopted by Ord. [08-253](#) on 11/3/2021



# Shoreland Management Model Ordinance

## Introduction

This model is intended to help local governments develop new shoreland ordinances and amend existing ordinances. This model ordinance is consistent with Minnesota's shoreland management rules (6120.2500 – 6120.3800). The model ordinance includes some provisions that differ from those in rule. This is because the model is periodically updated to be consistent with changes made to statute and other agency rules since the rules were published in 1989. The model also contains administrative language not in rule to help clarify and administer provisions in the ordinance.

## Clarifications & Higher Standards

**Blue bold text** in the “Ordinance Language” column indicates any language that provides clarity on topics not sufficiently addressed in rule, or reflects a higher standard than the minimum in rule. This text is optional and is identified as such in the “Commentary” column. (Note that higher standards may be additions to or deletions from the rules.) There are many higher standards that communities can consider besides those mentioned in this model. Please see the [Innovative Standards Webpage](#) for examples of what other communities are doing.

## Implementation Flexibility

Some shoreland ordinance provisions provide greater levels of shoreland protection than other provisions. Many of these provisions deal with dimensional standards such as lot area/width, setbacks, impervious surface, etc. In general, they must be as strict as the model language, otherwise deviations must be approved by the DNR consistent with the implementation flexibility criteria in rule (6120.2800 Subp. 3). Approval to deviate from these provisions usually requires some type of offsetting higher standard on another provision in the ordinance, and must be negotiated and documented in an agreement with the DNR before the DNR will provide conditional approval of the ordinance or ordinance amendment.

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Ordinance Language	Commentary in Public Version of Model
<p><b>1.0 STATUTORY AUTHORIZATION AND POLICY</b></p>	
<p>1.1 <b>Statutory Authorization.</b> This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394 (for counties) or Chapter 462 (for municipalities).</p> <p>1.2 <b>Policy.</b> The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by (insert name of Community).</p>	<p>1.1. Ensures that LGU authority to administer and enforce the ordinance is connected to state regulatory policy.</p> <p>1.2. Reinforces the responsibility of local governments to regulate shorelands in their jurisdiction.</p>
<p><b>2.0 GENERAL PROVISIONS AND DEFINITIONS</b></p>	
<p>2.1 <b>Jurisdiction.</b> The provisions of this ordinance apply to the shorelands of the public water bodies as classified in Section 4.1 of this ordinance, <b>and to the shorelands of public water bodies greater than 10 acres in unincorporated areas in which the city has, by ordinance, extended the application of its zoning regulations as provided by Minnesota Statute, Chapter 462.357 Subd 1.</b> Pursuant to <a href="#">Minnesota Rules, Parts 6120.2500 - 6120.3900</a>, no lake, pond, or flowage less than 10 acres in size in municipalities or 25 acres in size in unincorporated areas 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 ordinance.</p> <p>2.2 <b>Enforcement.</b> The (insert name of local government or designated official) is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses constitutes a misdemeanor and is punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in Section 3.2 of this ordinance.</p> <p>2.3 <b>Severability.</b> If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.</p> <p>2.4 <b>Abrogation and Greater Restrictions.</b> It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.</p> <p>2.5 <b>Definitions.</b> Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the same meaning they have in common usage and to give this ordinance its most reasonable</p>	<p>2.1. Identifies the size of waterbodies that must be included in the ordinance as directed by rule. Water bodies meeting these thresholds must be listed in Section 4.0. Optional provision for cities that have extra-territorial zoning authority.</p> <p>2.2 – 2.4. If these provisions are already included in the zoning ordinance, they are not needed.</p> <p>2.5. These definitions are the minimum necessary for a compliant ordinance. Some definitions may not be needed if a given feature or land use is not present or not allowed in the community.</p>

**Ordinance Language**

**Commentary in Public Version of Model**

application. For the purpose of this ordinance, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.

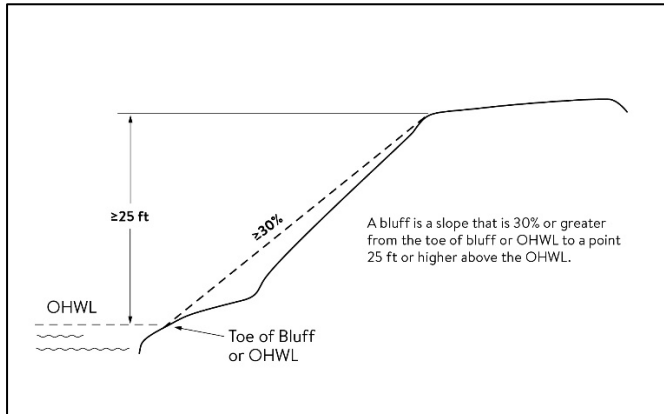
2.511 **Accessory structure or facility.** Any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks. **Examples include: swimming pools, saunas, detached garages, and storage sheds.**

2.512 **Animal feedlot.** A facility as defined by [Minnesota Rules, part 7020.0300](#).

2.513 **Bluff.** A topographic feature such as a hill, cliff, or embankment having the following characteristics:

- A. Part or all of the feature is located in a shoreland area;
- B. The slope must drain toward the waterbody;
- C. The slope rises at least 25 feet above the ordinary high water level; and
- D. 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 (see Figure 1), except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff (see Figure 2).

Figure 1. Illustration of Bluff

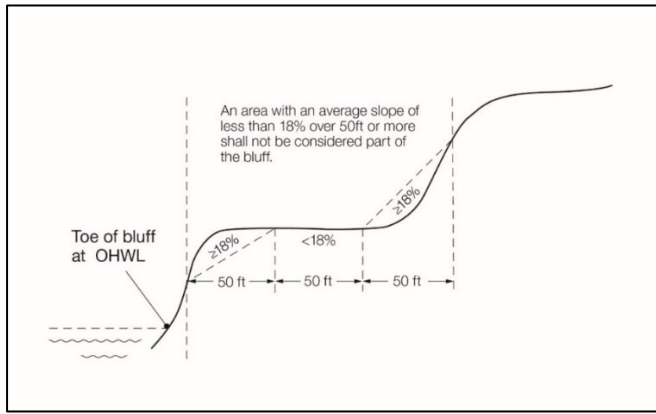


2.511. *Optional. Adding examples helps communicate what accessory structures or facilities are.*

2.513. *The DNR’s bluff mapping tool, a GIS script, is available for download from the [Minnesota Geospatial Commons](#). This tool is helpful for identifying bluffs for general mapping and planning purposes.*

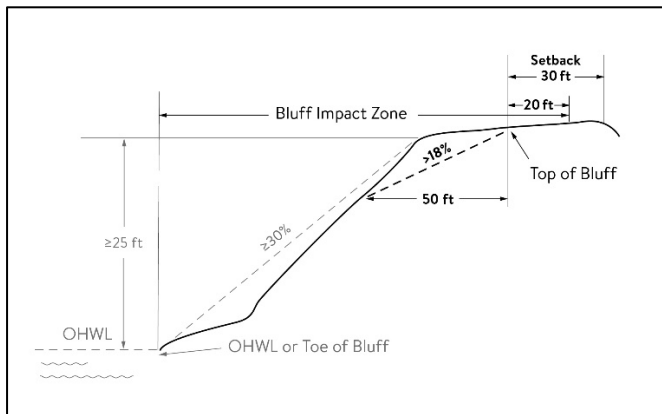
2.513.D. *The phrase “except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff,” identifies terraces or large relatively flat areas that separate bluff features above and below the terrace. According to the Shoreland Rules SONAR, these areas are buildable if setback standards can be met. This phrase is not to be used in conjunction with the top of bluff definition to reduce the size of the bluff.*

Figure 2. Exception to Bluff



2.514 **Bluff impact zone.** A bluff and land located within 20 feet of the top of a bluff. See Figure 3

Figure 3. Bluff Impact Zone and Top of Bluff



2.515 **Bluff, Toe of.** The lower point of a 50-foot segment with an average slope exceeding 18 percent **or the ordinary high water level, whichever is higher.**

2.516 **Bluff, Top of.** For the purposes of measuring setbacks, **bluff impact zone, and administering vegetation management standards,** the higher point of a 50-foot segment with an average slope exceeding 18 percent. See Figure 3.

2.517 **Boathouse.** A facility as defined by [Minnesota Statutes, Section 103G.245](#).

2.518 **Buffer.** A vegetative feature as defined by [Minnesota Statutes, Section 103F.48](#).

2.515. This optional text is added to improve clarity.

2.516 Optional language helps to clarify that the top of bluff is used for administering other provisions in addition to bluff setbacks.

2.517. Boathouses are prohibited by statute, and are different than water-oriented accessory structures (2.562) which are allowed in the rules.

Ordinance Language	Commentary in Public Version of Model
<p>2.519 <b>Building line.</b> A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.</p> <p>2.520 <b>Controlled access lot.</b> A lot used to access public waters or as a recreation area for owners of nonriparian lots within the same subdivision containing the controlled access lot.</p> <p>2.521 <b>Commercial planned unit developments.</b> Developments that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.</p> <p>2.522 <b>Commercial use.</b> The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.</p> <p>2.523 <b>Commissioner.</b> The commissioner of the Department of Natural Resources.</p> <p>2.524 <b>Conditional use.</b> A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.</p> <p>2.525 <b>Deck.</b> A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.</p> <p>2.526 <b>Duplex, triplex, and quad.</b> A dwelling structure on a single lot, having two, three, and four units, respectively, attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.</p> <p>2.527 <b>Dwelling site.</b> A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.</p> <p>2.528 <b>Dwelling unit.</b> Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.</p> <p>2.529 <b>Expansion.</b> Any increase in a dimension such as number of units or size, area, volume, or height of an existing structure or accessory structure or facility.</p> <p>2.530 <b>Extractive use.</b> The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under <a href="#">Minnesota Statutes, Sections 93.44 to 93.51</a>.</p> <p>2.531 <b>Forest land conversion.</b> The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.</p>	<p>2.525. Any feature meeting this definition is also a structure (see structure definition) and must meet structure setbacks. Decks must meet floodplain standards. Decks that are accessory to a residential use are prohibited in floodways. Optional language. Make all decks a structure subject to permitting by eliminating the “three-feet above ground” language.</p> <p>2.529. Optional. New definition to clarify nonconformity terms used in MS 462.357 and 394.36.</p>



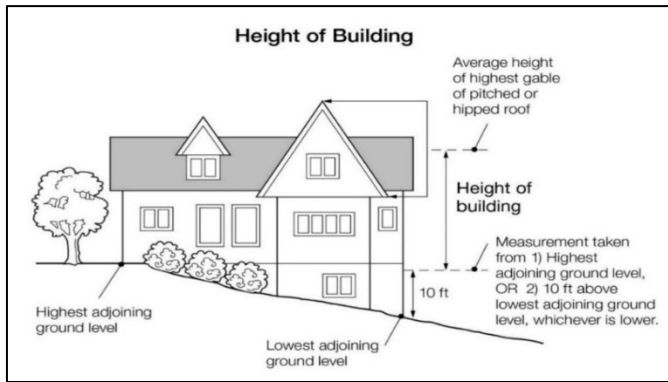
**Ordinance Language**

**Commentary in Public Version of Model**

2.532 **Guest cottage.** A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

2.533 **Height of building.** The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof (see Figure 3).

Figure 3. Height of Building



2.534 **Impervious surface.** A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, gravel driveways, or permeable pavers; and other similar surfaces.

2.535 **Improvement.** Making an existing structure or accessory structure or facility of better quality, more efficient, or more aesthetically pleasing, that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.

2.536 **Industrial use.** The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

2.537 **Intensive vegetation clearing.** The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

2.538 **Lot.** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

2.539 **Lot width.** The minimum distance between:

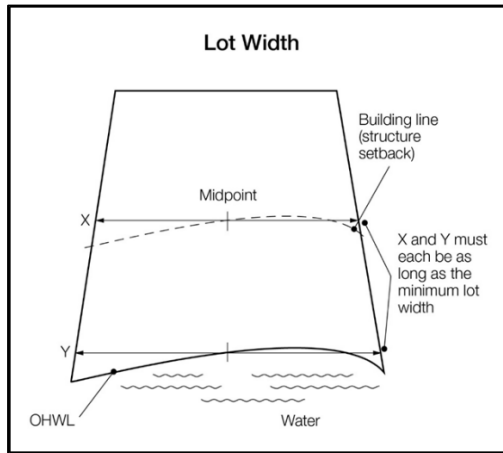
- A. Side lot lines measured at the midpoint of the building line; and

2.534. *Optional definition. An impervious surface definition is not in rule, but is very helpful for administering the required impervious surface standards in Section 8.4 of this model. Gravel driveways are defined as impervious since soils become compacted after use and impair infiltration of water, and they are often eventually paved over by property owners and such work doesn't usually require a permit. Permeable pavers are also included to eliminate their use as a "work around" to meeting impervious coverage standards in Section 8.4. Permeable pavement can reduce stormwater runoff, if maintained, but as a hard surface they remove habitat/vegetation and thus also impact shoreland aesthetics, both of which are shoreland protection goals.*

2.535. *Optional. New definition to clarify nonconformity terms used in MS 462.357 and 394.36.*

B. Side lot lines at the ordinary high water level, if applicable (see Figure 4).

Figure 4. Lot Width



**2.540 Maintenance and repair.** Upkeep or preservation of an existing structure or accessory structure or facility against normal wear and tear or degradation over time that does not change exterior dimensions. Examples include the rehabilitation or replacement of windows, siding, a roof, or exterior finishes such as paint or stain.

**2.541 Metallic minerals and peat.** “Metallic minerals and peat” has the meaning given under [Minnesota Statutes, Sections 93.44 to 93.51](#).

**2.542 Nonconformity.** Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not have been permitted to become established under the terms of the official controls as now written.

**2.543 Ordinary high water level.** The boundary of public waters and wetlands, and shall be 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 flowages, the ordinary high water level is the operating elevation of the normal summer pool.

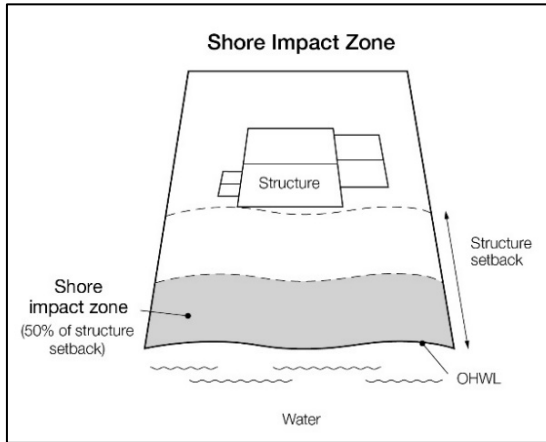
**2.544 Planned unit development.** A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any

*2.540. Optional. New definition to clarify nonconformity terms used in MN 462.357 and 394.36.*

*2.543. This is the same definition as 103G.005 Subd. 14.*

Ordinance Language	Commentary in Public Version of Model
<p>combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, dwelling grounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.</p> <p>2.545 <b>Public waters.</b> Any water as defined in <a href="#">Minnesota Statutes, Section 103G.005, Subd. 15, 15a.</a></p> <p><b>2.546 Replacement and restoration. Reconstruction of part or all of an existing structure or accessory structure or facility that closely matches or replicates the preexisting structure or facility.</b></p> <p>2.547 <b>Residential planned unit development.</b> A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.</p> <p>2.548 <b>Resort.</b> “Resort” has the meaning in <a href="#">Minnesota Statute, Section 103F.227.</a></p> <p>2.549 <b>Semipublic use.</b> The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.</p> <p>2.550 <b>Setback.</b> 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.</p> <p>2.551 <b>Sewage treatment system.</b> “Sewage treatment system” has the meaning given under <a href="#">Minnesota Rules, part 7080.1100, Subp. 82.</a></p> <p>2.552 <b>Sewer system.</b> 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.</p> <p>2.553 <b>Shore impact zone.</b> 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 structure setback (see Figure 5).</p>	<p>2.546. <i>Optional. New definition to clarify nonconformity terms used in MS 462.357 and 394.36.</i></p>

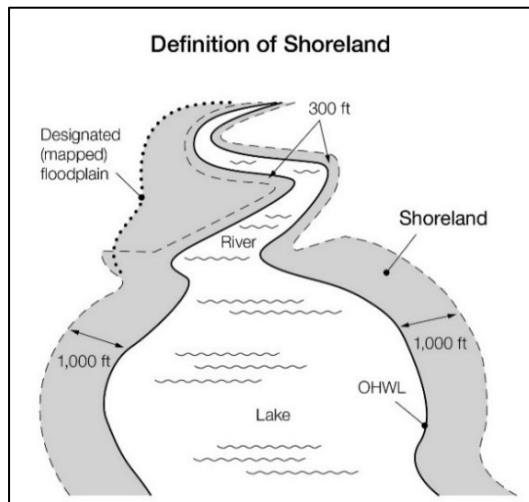
Figure 5. Shore Impact Zone



2.554 **Shoreland.** "Shoreland" means land located within the following distances from public waters:

- A. 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and
- B. 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater (see Figure 6).

Figure 6. Definition of Shoreland



2.555 **Shore recreation facilities.** Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.

Ordinance Language	Commentary in Public Version of Model
<p>2.556 <b>Significant historic site.</b> Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of <a href="#">Minnesota Statutes, Section 307.08</a>. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.</p> <p>2.557 <b>Steep slope.</b> <del>Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are</del> Lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.</p> <p>2.558 <b>Structure.</b> Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.</p> <p>2.559 <b>Subdivision.</b> Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.</p> <p>2.560 <b>Suitability analysis.</b> An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.</p> <p>2.561 <b>Variance.</b> "Variance" means the same as that defined in <a href="#">Minnesota Statutes, Section 394.27 Subd. 7</a> (for counties) or <a href="#">Section 462.357 Subd. 6 (2)</a> (for municipalities).</p> <p>2.562 <b>Water-oriented accessory structure or facility.</b> A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include, watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, <b>patios</b>, and detached decks. Boathouses and boat storage structures given the meaning under <a href="#">Minnesota Statutes, Section 103G.245</a> are not a water-oriented accessory structures.</p> <p>2.563 <b>Water-dependent use.</b> The use of land for commercial, industrial, public or semi-public purposes, where access to and use of a public water is an integral part of the normal conduct of operation. Marinas,</p>	<p>2.557. <i>Optional deletion. This is a difficult definition to administer. Simplifying this definition to include only average slopes over 12% will make administration easier and improve resource protection.</i></p> <p>2.562. <i>Optional addition. Local governments may consider, decks and patios as water-oriented accessory structures (WOAS) to help clarify administration. The treatment of patios, specifically, in the shore impact zone (SIZ) is a common source of confusion. As a WOAS, patios could be allowed in the SIZ and counted towards the size limitation of WOAS in Section 7.3.</i></p> <p>2.563. <i>"Water-dependent use" is used instead of the term "surface water-oriented commercial use" and is expanded to include industrial, public, and semi-public uses with similar needs to have access to and use of public waters. This helped to streamline the standards in Section 6.1 of the model..</i></p>

Ordinance Language	Commentary in Public Version of Model
<p>resorts, and restaurants with transient docking facilities are examples of uses typically found in shoreland areas.</p> <p>2.564 <b>Wetland.</b> “Wetland” has the meaning given under <a href="#">Minnesota Rule, part 8420.0111</a>.</p> <p><b>3.0 ADMINISTRATION</b></p> <p>3.1 <b>Purpose.</b> The purpose of this Section is to identify administrative provisions to ensure the ordinance is administered consistent with its purpose.</p> <p>3.2 <b>Permits.</b></p> <p>3.21 A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 8.3 of this ordinance.</p> <p>3.22 A certificate of compliance, consistent with <a href="#">Minnesota Rules Chapter 7082.0700 Subp. 3</a>, 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 deficiency is the system’s improper setback from the ordinary high water level.</p> <p>3.3 <b>Application materials.</b> Application for permits and other zoning applications such as variances shall be made to the <i>(insert designated official)</i> on the forms provided. The application shall include the necessary information so that the <i>(insert designated official)</i> can evaluate how the application complies with the provisions of this ordinance.</p> <p>3.4 <b>Certificate of Zoning Compliance.</b> The <i>(insert designated official)</i> shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 3.2 of this ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section 2.2 of this ordinance.</p> <p>3.5 <b>Variances.</b> Variances may only be granted in accordance with <a href="#">Minnesota Statutes, Section 394.27</a> <i>(for counties)</i> or <a href="#">Section 462.357</a> <i>(for municipalities)</i> and are subject to the following:</p> <p>3.51 A variance may not circumvent the general purposes and intent of this ordinance; and</p> <p>3.52 For properties with existing sewage treatment systems, a certificate of compliance, consistent with <a href="#">Minnesota Rules Chapter 7082.0700 Subp. 3</a>, 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.</p> <p>3.6 <b>Conditional Uses.</b> 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:</p>	<p>3.1. <i>All purpose statements in the model are optional but strongly encouraged. They help explain the intent of zoning provisions, which is useful to local governments for explaining provisions to property owners and developing findings for variance decisions.</i></p> <p>3.5. <i>The statutory criteria for evaluating variance applications are broad, one-size-fits-all, for use with all variances. Variances to shoreland protection standards affect public waters, resources to be protected for all state residents. Because of the special status of these waters, communities may want to establish special criteria for evaluating shoreland variances to ensure variances do not adversely affect public water resources.</i></p>



Ordinance Language	Commentary in Public Version of Model
<p>3.61 The prevention of soil erosion or other possible pollution of public waters, both during and after construction;</p> <p>3.62 The visibility of structures and other facilities as viewed from public waters is limited;</p> <p>3.63 There is adequate water supply and on-site sewage treatment; and</p> <p>3.64 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 watercrafts.</p>	
<p><b>3.7 Mitigation.</b></p>	
<p>3.71 In evaluating all variances, conditional uses, zoning and building permit applications, the zoning authority shall require the property owner to address, <del>when appropriate</del>, the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:</p> <ul style="list-style-type: none"> <li>A. Advanced storm water runoff management treatment;</li> <li>B. Reducing impervious surfaces;</li> <li>C. Increasing setbacks from the ordinary high water level;</li> <li>D. Restoration of wetlands;</li> <li>E. Limiting vegetation removal and/or riparian vegetation restoration;</li> <li>F. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and</li> <li>G. Other conditions the zoning authority deems necessary.</li> </ul> <p>3.72 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.</p>	<p>3.71. This language is consistent with Minnesota Statute, sections 394.36 Subd. 5(f) (counties) and 462.357 Subd. 1e(i)(municipalities). Conditions come verbatim from statute or are a slight modification of statutory conditions and those from 6120.3900 Subp. 3A (b). Optional deletion provides stronger authority to apply conditions. The phrase “when related to and proportional to the impact” makes clear that conditions will be appropriately applied.</p>
<p><b>3.8 Nonconformities.</b></p>	
<p>3.81 All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to <a href="#">Minnesota Statutes, Sections 394.36 Subd. 5</a> (for counties) and <a href="#">462.357 Subd. 1e</a> (for cities) and other regulations of this community for alterations and additions; repair after damage; discontinuance of use; and intensification of use.</p>	<p>3.81. Variances to statutory requirements (394.36 Subd. 5 (d) or 462.357 Subd. 1e (g)) to combine contiguous nonconforming lots under common ownership are prohibited. See “<a href="#">Considerations in Managing Nonconforming Lots in Shoreland Areas.</a>”</p>
<p>3.82 All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, lowest floor elevations, and other requirements of Sections 5.0 to 8.0 of this ordinance. Any deviation from these requirements must be authorized by a variance.</p>	<p>3.82. Consistent with Minnesota Statutes, sections 394.36, Subd. 4 (counties) and 462.357, Subd. 1e (municipalities).</p>

Ordinance Language	Commentary in Public Version of Model
<p><b>3.9 Notifications to the Department of Natural Resources.</b></p> <p>3.91 All amendments to this shoreland ordinance must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. <b>The (insert local government name) will submit the proposed ordinance amendments to the commissioner or the commissioner’s designated representative at least 30 days before any scheduled public hearings.</b></p> <p>3.92 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 (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.</p> <p>3.93 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.</p> <p>3.94 Any request to change the shoreland management classification of public waters within (insert local government name) 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 <a href="#">Minnesota Rules, part 6120.3000, subp.4.</a></p> <p>3.95 Any request to reduce the boundaries of shorelands of public waters within (insert local government name) must be sent to the commissioner or the commissioner’s designated representative for approval and must include a resolution and supporting data. 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.</p> <p><b>3.10 Mandatory EAW.</b> An Environmental Assessment Worksheet consistent with Minnesota Rules, Chapter 4410 must be prepared for projects meeting the thresholds of <a href="#">Minnesota Rules, part 4410.4300, Subparts 19a, 20a, 25, 27, 28, 29, and 36a.</a></p>	<p>3.9. DNR’s preferred notification method is via email to the appropriate DNR <a href="#">Area Hydrologist.</a></p> <p>3.91. Submittal of ordinances and amendments to the DNR is required under statute. The optional language provides for submittal of amendments earlier than the 10-day notification required of public hearings (Section 3.92). Submittal of amendments 30 days prior to public hearing is mutually beneficial; it provides DNR with sufficient time to complete a review and make an approval decision in time for public hearings, thus minimizing delays in the local government’s adoption schedule. Amendments involving rezonings or zoning map changes that affect shorelands (e.g. changes to underlying zoning when shoreland provisions refer to underlying zoning) also require DNR review and approval.</p> <p>3.94. Reclassifications require a formal request, and are usually only approved to correct an error in the original classification. Provisions for implementation flexibility (6120.2800, Subp. 3), rather than reclassification, may be used for requesting changes in standards for certain areas. Local governments may also adopt special protection classifications, a useful approach for applying higher standards around waters in need of greater protection.</p> <p>3.10. Mandatory EAWs are required for many projects in shorelands. In most cases, the local government is the Responsible Government Unit (RGU) for completing the EAW.</p>
<p><b>4.0 SHORELAND CLASSIFICATION SYSTEM AND LAND USES</b></p> <p><b>4.1 Shoreland Classification System.</b></p> <p>4.11 Purpose. To ensure that shoreland development on the public waters of (insert local government name) is regulated consistent with the classifications assigned by the commissioner under <a href="#">Minnesota Rules, part 6120.3300.</a></p>	<p>4.1. The ordinance must list all public water shoreland within the community’s jurisdiction including public waters not in the jurisdiction but with surrounding shoreland that is in the jurisdiction.</p>

Ordinance Language	Commentary in Public Version of Model																														
<p><b>4.12 The shoreland area for the waterbodies listed in Sections 4.13 to 4.15 are defined in Section 2.550 and are shown on the Official Zoning Map.</b></p> <p>4.13 <u>Lakes</u> are classified as follows:</p> <p>A. General development (GD);</p> <table border="1" data-bbox="352 321 1344 456"> <thead> <tr> <th>General Development Lake Name</th> <th>DNR Public Waters I.D. #</th> </tr> </thead> <tbody> <tr> <td>(Insert lake name)</td> <td>(Insert DNR Public Waters I.D. #)</td> </tr> <tr> <td>(Insert lake name)</td> <td>(Insert DNR Public Waters I.D. #)</td> </tr> </tbody> </table> <p>B. Recreational development (RD); and</p> <table border="1" data-bbox="352 558 1344 693"> <thead> <tr> <th>Recreational Development Lake Name</th> <th>DNR Public Waters I.D. #</th> </tr> </thead> <tbody> <tr> <td>(Insert lake name)</td> <td>(Insert DNR Public Waters I.D. #)</td> </tr> <tr> <td>(Insert lake name)</td> <td>(Insert DNR Public Waters I.D. #)</td> </tr> </tbody> </table> <p>C. Natural environment (NE).</p> <table border="1" data-bbox="352 795 1344 930"> <thead> <tr> <th>Natural Environment Lake Name</th> <th>DNR Public Waters I.D. #</th> </tr> </thead> <tbody> <tr> <td>(Insert lake name)</td> <td>(Insert DNR Public Waters I.D. #)</td> </tr> <tr> <td>(Insert lake name)</td> <td>(Insert DNR Public Waters I.D. #)</td> </tr> </tbody> </table> <p>4.14 <u>Rivers and Streams</u> are classified as follows:</p> <p>A. Urban;</p> <table border="1" data-bbox="352 1084 1344 1219"> <thead> <tr> <th>Urban River Name</th> <th>Legal Description</th> </tr> </thead> <tbody> <tr> <td>(Insert river name)</td> <td>(Insert legal description)</td> </tr> <tr> <td>(Insert river name)</td> <td>(Insert legal description)</td> </tr> </tbody> </table> <p>Agriculture;</p> <table border="1" data-bbox="352 1305 1344 1440"> <thead> <tr> <th>Agriculture River Name</th> <th>Legal Description</th> </tr> </thead> <tbody> <tr> <td>(Insert river name)</td> <td>(Insert legal description)</td> </tr> <tr> <td>(Insert river name)</td> <td>(Insert legal description)</td> </tr> </tbody> </table>	General Development Lake Name	DNR Public Waters I.D. #	(Insert lake name)	(Insert DNR Public Waters I.D. #)	(Insert lake name)	(Insert DNR Public Waters I.D. #)	Recreational Development Lake Name	DNR Public Waters I.D. #	(Insert lake name)	(Insert DNR Public Waters I.D. #)	(Insert lake name)	(Insert DNR Public Waters I.D. #)	Natural Environment Lake Name	DNR Public Waters I.D. #	(Insert lake name)	(Insert DNR Public Waters I.D. #)	(Insert lake name)	(Insert DNR Public Waters I.D. #)	Urban River Name	Legal Description	(Insert river name)	(Insert legal description)	(Insert river name)	(Insert legal description)	Agriculture River Name	Legal Description	(Insert river name)	(Insert legal description)	(Insert river name)	(Insert legal description)	<p>4.12. <i>Optional provision. It is helpful to show the shoreland areas for lakes and rivers on the zoning map along with their classifications.</i></p> <p>4.13. <i>Cities must list lakes that are 10 or more acres, and counties 25 or more acres (Minnesota Rules, part 6120.2500, Subp. 13). Cities that annex land or townships that incorporate with lakes that are 10 acres or more must amend their ordinances to include those lakes. List lakes along with the DNR public waters ID number.</i></p> <p>4.14. <i>List river names here along with township, range and section number of the river reach.</i></p> <p><i>Optional. Communities with sensitive shorelines or waters that are at risk to degradation due to nonpoint source nutrient pollution may designate those waters (lakes and rivers) with a special protection classification and regulate the shoreland of those waters with more restrictive development standards such as lot area, setback, riparian buffers, etc.</i></p>
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<p>4.15 All public rivers and streams shown on the Public Waters Inventory Map for <i>(insert name of county)</i>, a copy of which is adopted by reference, not given a classification in Section 4.14 shall be considered “Tributary.”</p> <p>4.2 Land Uses.</p> <p>4.21 Purpose. To identify land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality.</p> <p>4.22 Shoreland district land uses listed in Sections 4.23 and 4.24 are regulated as:</p> <p>A. Permitted uses (P). These uses are allowed, provided all standards in this ordinance are followed;</p> <p>B. Conditional uses (C). These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in Section 3.6 of this ordinance and any additional conditions listed in this ordinance; and</p> <p>C. Not permitted uses (N). These uses are prohibited.</p> <p>4.23 Land uses for lake classifications:</p>	<p>4.15. <i>Instead of this provision, local governments may list all tributaries in the table in Section 4.14, and/or provide a map of all watercourses subject to the tributary class. This is a practical alternative if the number of tributaries is relatively small.</i></p> <p>4.22. <i>Land uses in the shoreland district are listed as permitted, not permitted, or conditional for each water body classification. Land uses for each lake classification are in Section 4.23, and uses for each river classification are in 4.24. The allowed land uses in these two tables were consolidated from the “land use district” tables in MR 6120.3200. In situations where the allowable use classification (P, C, N) varied for a given land use in different districts, the most restrictive allowable use classification was used for these two tables. There may be some situations where the less</i></p>																		

Ordinance Language				Commentary in Public Version of Model
Land Uses	General Development	Recreational Development	Natural Environment	
Single residential	P	P	P	<p>restrictive standard may be relevant for a specific community. If so, please explain why when you submit your ordinance to the DNR</p> <p>Local governments may further clarify if the listed “permitted” uses are allowed <u>with or without a permit</u>. Uses listed as “conditional” require a Conditional Use Permit (CUP). Underlying zoning should be consistent with these uses to alleviate potential conflicts.</p> <p>Optional. Add solar power as a conditional use including criteria or conditions of approval. See “Consideration in Siting Solar Power Facilities in Shoreland Areas” for ideas for conditions.</p> <p>New feedlots are prohibited in shorelands per Minnesota Rules, part 7020. Minnesota statute 116.0711 allows the resumption of existing feedlots.</p>
Duplex, triplex, quad residential	P	P	C	
Residential PUD	C	C	C	
Water-dependent (Resorts are also Commercial PUDs)	C	C	C	
Commercial	P	P	C	
Commercial PUD (Expansion of PUD involving up to six additional units or sites allowed as a permitted use provided the provisions of Section 10.0 are satisfied.)	C	C	C	
<b>Solar Power Facilities (principal land use)</b>	<b>C</b>	<b>C</b>	<b>C</b>	
Parks & historic sites	C	C	C	
Public, semipublic	P	P	C	
Industrial	C	C	N	
Agricultural: cropland and pasture	P	P	P	
Agricultural feedlots: New	N	N	N	
Agricultural feedlots: Expansion or resumption of existing	C	C	C	
Forest management	P	P	P	
Forest land conversion	C	C	C	
Extractive use	C	C	C	
Mining of metallic minerals and peat	P	P	P	

Ordinance Language							Commentary in Public Version of Model
4.24 Land uses for river and stream classifications:							
Land Uses	Remote	Forested	Transition	Agriculture	Urban	Tributary	
Single residential	P	P	P	P	P	P	
Duplex, triplex, quad residential	C	P	P	P	P	P	
Residential PUD	C	C	C	C	C	C	
Water-dependent commercial - Accessory to residential PUD	C	C	C	C	C	C	
Commercial	C	C	C	C	P	P	
Commercial PUD - Expansion of PUD involving up to six additional units or sites allowed as a permitted use provided the provisions of Section 10.0 are satisfied.	C	C	C	C	C	C	
<b>Solar Power Facilities (principal land use)</b>	<b>C</b>	<b>C</b>	<b>C</b>	<b>C</b>	<b>C</b>	<b>C</b>	<i>Optional. Add solar power as a conditional use including criteria or conditions of approval. See "Consideration in Siting Solar Power Facilities in Shoreland Areas" for ideas for conditions.</i>
Parks & historic sites	C	C	C	C	C	C	
Public, semipublic	C	C	C	C	P	P	
Industrial	N	C	N	N	C	C	
Agricultural: cropland and pasture	P	P	P	P	P	P	
Agricultural feedlots: New	N	N	N	N	N	N	<i>New feedlots are prohibited in shorelands per Minnesota Rules, part 7020. Minnesota statute 116.0711 allows the resumption of existing feedlots.</i>
Agricultural feedlots: Expansion or resumption of existing	C	C	C	C	C	C	
Forest management	P	P	P	P	P	P	
Forest land conversion	C	C	C	C	C	C	
Extractive use	C	C	C	C	C	C	
Mining of metallic minerals and peat	P	P	P	P	P	P	
<b>5.0 SPECIAL LAND USE PROVISIONS</b>							
5.1 Commercial, Industrial, Public, and Semipublic Use Standards.							
5.11 Water-dependent uses may be located on parcels or lots with frontage on public waters provided that:							
A. The use complies with provisions of Section 7.0;							<i>5.0. The uses and their special conditions in this section must be in the shoreland ordinance if the use is allowed. If not, the provision may be excluded from this section, however, it should be added to the land use tables in 4.23 and 4.24 and listed as "N." Note that some of these uses are conditional uses and must be identified as such in use tables 4.23 and 4.24.</i>



Ordinance Language	Commentary in Public Version of Model
<p>B. The use is designed to incorporate topographic and vegetative screening of parking areas and structures;</p> <p>C. 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; and</p> <p>D. Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:</p> <p>(1) Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff; and</p> <p>(2) Signs placed within the shore impact zone are:</p> <p>(a) No higher than ten feet above the ground, and no greater than 32 square feet in size; and</p> <p>(b) If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and</p> <p>(3) Other lighting may be located within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination across public waters. This does not preclude use of navigational lights.</p> <p>5.12 Commercial, industrial, public, and semi-public uses that are not water-dependent 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 ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.</p> <p><b>5.2 Agriculture Use Standards.</b></p> <p>5.21 Buffers.</p> <p>A. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.</p> <p>B. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in perennial vegetation or operated under an approved conservation plan <del>that includes alternative riparian water quality practices</del> consistent with the field office technical guides of the local soil and water conservation district or the Natural Resource Conservation Service, and as approved by the local soil and water conservation district.</p> <p>5.22 New animal feedlots are not allowed in shoreland. Modifications or expansions to existing feedlots or resumption of old feedlots are <u>conditional uses</u> and must meet the following standards:</p>	<p>5.11.D. This provision was modified from rules for consistency with the Supreme Court decision in <i>Reed vs Town of Gilbert</i> regarding the first amendment and signage.</p> <p>5.21. The DNR will consider a 50-foot average, 30-foot minimum buffer and language defining alternative water quality practices consistent with Minnesota Statutes, section 103F.48 as being consistent with 6120.3300, Subp. 7. Please see <a href="#">guidance and model language</a> for acceptable language.</p> <p>5.21.B. Optional deletion. Eliminating the option to use alternative practices instead of the required buffer will reduce nutrient runoff and improve surface water quality.</p>

Ordinance Language	Commentary in Public Version of Model
<p>A. Feedlots must be designed consistent with <a href="#">Minnesota Rules, Chapter 7020</a>;</p> <p>B. 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,</p> <p>C. Old feedlots not currently in operation may resume operation consistent with <a href="#">Minnesota Statutes, Section 116.0711</a>.</p> <p><b>5.3 Forest Management Standards.</b></p> <p>5.31 The harvesting of timber and associated reforestation must be conducted consistent with the applicable provisions of the Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers.</p> <p>5.32 Intensive vegetation clearing for forest land conversion to another use is a conditional use subject to an erosion control and sedimentation plan developed and approved by the soil and water conservation district.</p> <p><b>5.4 Extractive Use Standards.</b> Extractive uses are conditional uses and must meet the following standards:</p> <p>5.41. Site Development and Restoration Plan. A site development and restoration plan must be developed, approved, and followed over the course of operation. The plan must:</p> <p>A. Address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations;</p> <p>B. Identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion; and</p> <p>C. Clearly explain how the site will be rehabilitated after extractive activities end.</p> <p>5.42 Setbacks for Processing Machinery. Processing machinery must meet structure setback standards from ordinary high water levels and from bluffs.</p> <p><b>5.5 Metallic and Peat Mining Standards.</b> Mining of metallic minerals and peat is a permitted use provided the provisions of <a href="#">Minnesota Statutes, Sections 93.44 to 93.51</a>, are satisfied.</p> <p><b>6.0 DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS</b></p> <p>6.1 <b>Purpose.</b> To establish dimensional and performance standards that protect shoreland resources from impacts of development.</p> <p>6.2 <b>Lot Area and Width Standards.</b> After the effective date of this ordinance, all new lots must meet the minimum lot area and lot width requirements in Sections 6.25 and 6.26, subject to the following standards:</p>	



**Ordinance Language****Commentary in Public Version of Model**

<b>Lot Type</b>	<b>Riparian Lot Area (sf)</b>	<b>Riparian Lot Width (ft)</b>	<b>Nonriparian Lot Area (sf)</b>	<b>Nonriparian Lot Width (ft)</b>
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490

## D. Recreational development lake – Sewer

<b>Lot Type</b>	<b>Riparian Lot Area (sf)</b>	<b>Riparian Lot Width (ft)</b>	<b>Nonriparian Lot Area (sf)</b>	<b>Nonriparian Lot Width (ft)</b>
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245

## E. Natural environment lake – No sewer

<b>Lot Type</b>	<b>Riparian Lot Area (sf)</b>	<b>Riparian Lot Width (ft)</b>	<b>Nonriparian Lot Area (sf)</b>	<b>Nonriparian Lot Width (ft)</b>
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

**Ordinance Language**

**Commentary in Public Version of Model**

F. Natural environment lake – Sewer

Lot Type	Riparian Lot Area (sf)	Riparian Lot Width (ft)	Nonriparian Lot Area (sf)	Nonriparian Lot Width (ft)
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

6.26 River/Stream Minimum Lot Width Standards. There are no minimum lot area requirements for rivers and streams. The lot width standards in feet are:

Lot Type	Remote	Forested	Transition	Agriculture	Urban & Tributary No Sewer	Urban & Tributary Sewer
Single	300	200	250	150	100	75
Duplex	450	300	375	225	150	115
Triplex	600	400	500	300	200	150
Quad	750	500	625	375	250	190

**6.3 Special Residential Lot Provisions.**

6.31 Subdivisions of duplexes, triplexes, and quads are conditional uses on Natural Environment Lakes and must also meet the following standards:

- A. Each building must be set back at least 200 feet from the ordinary high water level;
- B. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
- C. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
- D. No more than 25 percent of a lake’s shoreline can be in duplex, triplex, or quad developments.

6.32. One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sections 6.25 and 6.26, provided the following standards are met:

- A. For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within an area equal to the smallest duplex-sized lot that could be created including the principal dwelling unit;

6.26. Local governments may want to establish minimum lot area requirements and require larger lot width and area standards than those listed.

6.31. If a community does not have NE lakes this provision may be omitted. If a community has NE lakes but prohibits duplex, triplex or quads on NE lakes, this provision may be omitted. However, duplex, triplex or quad structures must be listed in the land use tables 4.23 and 4.24 as “N.”

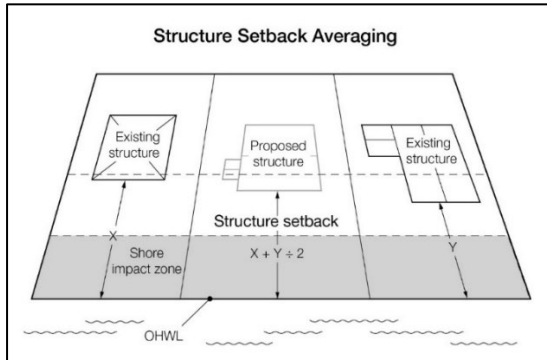
6.32. If a community does not allow guest cottages or secondary dwelling units, this provision may be omitted. However, guest cottages must be listed in the land use tables 4.23 and 4.24 as “N.”

Ordinance Language	Commentary in Public Version of Model												
<p>B. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and</p> <p>C. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.</p> <p>6.33 Controlled access lots are permissible if created as part of a subdivision and in compliance with the following standards:</p> <p>A. The lot must meet the area and width requirements for residential lots, and be suitable for the intended uses of controlled access lots as provided in item D;</p> <p>B. 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 a percentage of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:</p> <table border="1" data-bbox="352 662 947 964"> <thead> <tr> <th>Ratio of lake size to shore length (acres/mile)</th> <th>Required percent increase in frontage</th> </tr> </thead> <tbody> <tr> <td>Less than 100</td> <td>25%</td> </tr> <tr> <td>100 – 200</td> <td>20%</td> </tr> <tr> <td>201 – 300</td> <td>15%</td> </tr> <tr> <td>301 – 400</td> <td>10%</td> </tr> <tr> <td>Greater than 400</td> <td>5%</td> </tr> </tbody> </table> <p>C. 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; and</p> <p>D. Covenants or other equally effective legal instruments must be developed that:</p> <ol style="list-style-type: none"> <li>(1) Specify which lot owners have authority to use the access lot;</li> <li>(2) Identify what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking;</li> <li>(3) 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;</li> <li>(4) Require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations; and</li> </ol>	Ratio of lake size to shore length (acres/mile)	Required percent increase in frontage	Less than 100	25%	100 – 200	20%	201 – 300	15%	301 – 400	10%	Greater than 400	5%	<p>6.33. <i>Controlled access lots are the only method to allow riparian access for non-riparian property and are only allowed at the time of subdivision. Communities concerned about overcrowding of surface waters may choose to prohibit controlled access lots. If a community does not allow controlled access lots, this provision may be omitted. However, controlled access lots must be listed in the land use tables in 4.23 and 4.24 as “N.”</i></p>
Ratio of lake size to shore length (acres/mile)	Required percent increase in frontage												
Less than 100	25%												
100 – 200	20%												
201 – 300	15%												
301 – 400	10%												
Greater than 400	5%												



Ordinance Language	Commentary in Public Version of Model																												
<p>(5) 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.</p> <p><b>6.34 Access Easements. Easements providing access to boat docking and mooring facilities to non-riparian property owners are prohibited.</b></p> <p><b>6.4 Placement, Height, and Design of Structures.</b></p> <p><b>6.41 OHWL Setback for Structures and Sewage Treatment Systems.</b> When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following OHWL setback provisions. <b>The structure setback standards for sewered properties can only be used if publicly owned sewer system service is available.</b></p>	<p><i>6.34. Optional. Communities concerned about crowding of surface waters may want to prohibit access easements and the additional boats that result from their use.</i></p> <p><i>6.4. Local governments may apply stricter standards than those listed here. Increasing structure setbacks can help reduce the risk of erosion in near shore areas and enhance the aesthetic character of lakes and shorelands. Larger setbacks also allow room for larger riparian buffers. Increasing septic system setbacks increases reduces the risk of subsurface effluent reaching surface waters.</i></p> <p><i>6.41 Optional addition. This language clarifies that the "sewer" standards only apply if a publicly owned sewer system is available to the property to be consistent with similar language in Section 6.23 which is specified in rule.</i></p> <p><i>6.41.A. Optional language. Keeping impervious surfaces away from the riparian edge is important for reducing the risk of erosion in the near shore area and nutrient loading into surface waters due to runoff. Section 7.3 of this ordinance allows for some exceptions for impervious surfaces in the near shore area. ALL accessory structures must meet floodplain standards and are prohibited in floodways.</i></p> <p><i>6.41.B. Local governments may choose to exclude this provision from their ordinance or only apply it to nonconforming lots. Optional addition of "principal" is helpful to ensure that new structures are not sited based on location of nonconforming accessory structures.</i></p>																												
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<p>A. <i>OHWL Setbacks.</i> Structures, <b>impervious surfaces</b>, and sewage treatment systems must meet setbacks from the Ordinary High Water Level (OHWL), except that one water-oriented accessory structure or facility, designed in accordance with Section 7.3 of this ordinance, may be set back a minimum distance of ten (10) feet from the OHWL:</p> <p>B. <i>Setback averaging.</i> Where <b>principal</b> 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 <b>principal structure</b> setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone (see Figure 7);</p>																													

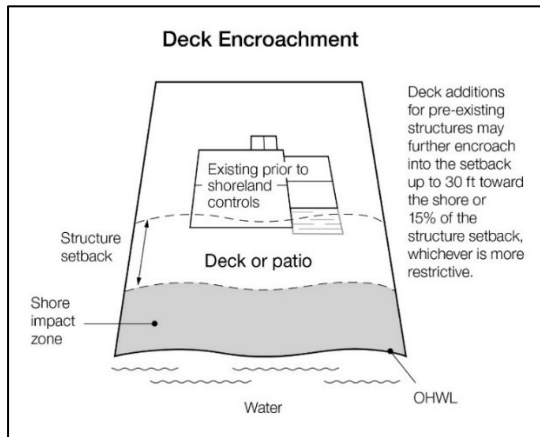
Figure. 7 Structure Setback Averaging



- C. *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 are met:
- (1) The structure existed on the date the structure setbacks were established;
  - (2) 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;
  - (3) 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 is no closer than 30 feet from the OHWL, whichever is more restrictive; and
  - (4) The deck is constructed primarily of wood, and is not roofed or screened (see Figure 8).

6.41.C. Local governments may choose to exclude this provision from their ordinance.

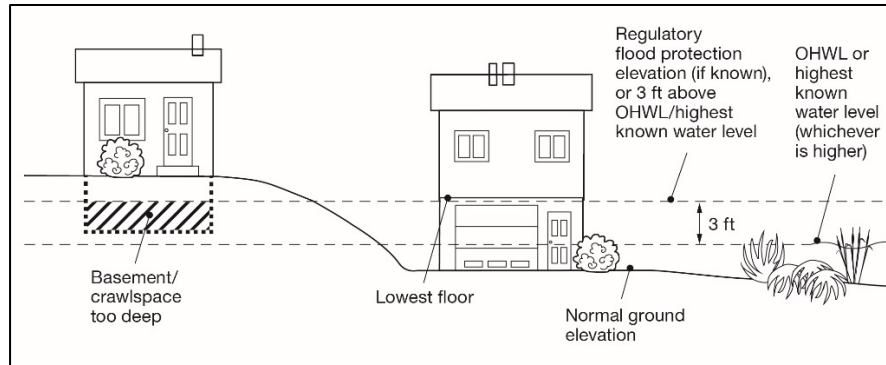
Figure 8. Deck Encroachment



Ordinance Language	Commentary in Public Version of Model										
<p>D. <i>Additional structure setbacks.</i> Structures must also meet the following setbacks, regardless of the waterbody classification:</p> <table border="1" data-bbox="327 215 1415 438"> <thead> <tr> <th>Setback from:</th> <th>Setback (ft)</th> </tr> </thead> <tbody> <tr> <td>Top of bluff</td> <td>30</td> </tr> <tr> <td>Unplatted cemetery</td> <td>50</td> </tr> <tr> <td>Right-of-way line of federal, state, or county highway</td> <td>50</td> </tr> <tr> <td>Right-of-way line of town road, public street, or other roads not classified</td> <td>20</td> </tr> </tbody> </table> <p>E. <i>Bluff Impact Zones.</i> Structures, <b>impervious surfaces</b>, and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.</p> <p>6.42 <u>Height of Structures.</u> All structures in residential districts in cities, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.</p> <p>6.43 <u>Lowest Floor Elevation.</u></p> <p>A. Determining elevations. Structures must be placed at an elevation consistent with the applicable floodplain regulatory elevations. Where these elevations are not known, the lowest floor, including basement, must be placed or flood-proofed at an elevation determined using the following methodology:</p> <ol style="list-style-type: none"> <li>(1) For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher (see Figure 9);</li> <li>(2) For rivers and streams, by placing the lowest floor at least three feet above the highest known flood elevation. If highest known flood elevation is not available, by placing the lowest floor at least three feet above the ordinary high water level (see Figure 9), or by conducting a technical evaluation to establish a flood protection elevation. Technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules, parts 6120.5000 to 6120.6200.</li> </ol> <p>B. Methods for placement.</p> <ol style="list-style-type: none"> <li>(1) In addition to the lowest floor, all service utilities must be elevated or water-tight to the elevation determined in part A.</li> <li>(2) <b>If elevation methods involving fill would result in filling in the SIZ, then structures must instead be elevated through floodproofing methods in accordance with 6.43(B)(3) below;</b></li> </ol>	Setback from:	Setback (ft)	Top of bluff	30	Unplatted cemetery	50	Right-of-way line of federal, state, or county highway	50	Right-of-way line of town road, public street, or other roads not classified	20	<p>6.41.D. <i>Local governments may apply stricter standards than those listed. The presence of permeable soils on top of bedrock, combined with steep slopes or bluffs, can increase risk of septic effluent leakage out the sides of slopes or bluffs. Establishing septic system setbacks from the top of bluffs can reduce this risk.</i></p> <p>6.41.E. <i>Optional. Keeping impervious surfaces out of the bluff impact zone is important for reducing the risk of slope erosion and failure and nutrient loading into surface waters due to runoff.</i></p> <p>6.42. <i>Height standards only apply to residential districts in cities (MR 6120.3300 Subp. 3.G.).</i></p> <p>6.43.A. <i>If flood elevations are known along all public waters and stream reaches in the community, everything in part A after the first sentence can be deleted (this would only typically apply to small cities with few waterbodies).</i></p> <p>6.43.B(2) <i>Optional. Elevation on fill can often lead to significant alterations and vegetation removal in the highly sensitive shore impact zone. The addition of this standard would help to minimize near shore impacts.</i></p>
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- (3) If the structure is floodproofed, then it must be built to resist hydrostatic pressure through elevation methods such as blocks, pilings, filled stem walls, elevated concrete pad, internally flooded enclosed areas, or through other accepted engineering practices consistent with FEMA technical bulletins 1, 2 and 3.

Figure 9. Lowest Floor Elevation



6.44 Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

**6.5 Water Supply and Sewage Treatment.**

6.51 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.

6.52 Sewage treatment. Any premises used for human occupancy must be connected to a publicly-owned sewer system, where available or comply with [Minnesota Rules, Chapters 7080 – 7081](#).

**7.0 PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES**

7.1 Placement and Design of Roads, Driveways, and Parking Areas. These facilities must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters. They must be constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local SWCD and comply with the following standards:

7.11 Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts;

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<p>7.12 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;</p> <p><b>7.13 Private watercraft access ramps, approach roads, and access-related parking areas are prohibited.</b></p> <p><del>7.13 Private facilities must comply with the grading and filling provisions of Section 8.3 of this ordinance; and</del></p> <p>7.14 For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they 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.</p> <p>7.2 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, lifts, and landings must meet the following design requirements:</p> <p>7.21 Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments;</p> <p>7.22 Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public-space recreational uses, and planned unit developments;</p> <p>7.23 Canopies or roofs are not allowed on stairways, lifts, or landings;</p> <p>7.24 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;</p> <p>7.25 Stairways, lifts, and landings 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; and</p> <p>7.26 Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, if they are consistent with the dimensional and performance standards of sub items 7.21 to 7.25 and the requirements of <a href="#">Minnesota Rules, Chapter 1341</a>.</p> <p>7.3 Water-oriented Accessory Structures or Facilities. Each residential lot may have one water-oriented accessory structure or facility if it complies with the following provisions:</p> <p>7.31 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. The structure or facility may include detached decks not exceeding eight feet above grade at any point or at-grade <b>patios</b>;</p> <p>7.32 The structure or facility is not in the Bluff Impact Zone;</p>	<p>7.13. <i>Optional higher standard to minimize spread of Aquatic Invasive Species (AIS). If this optional standard used, old provision 7.13 MUST be deleted. Alternatively, private facilities could be prohibited only on lakes with existing public access. If this approach used, old provision 7.13 should be kept and renumbered.</i></p> <p>7.3. <i>If a community does not allow water-oriented accessory structures or facilities (WOAS), this provision may be omitted. However, such structures and facilities must be listed in the land use tables in 4.23 and 4.24 as "N."</i></p> <p>7.31. <i>Optional addition. Including "patios" as a water-oriented accessory structure (WOAS) or facility makes patios subject to the limitations of this provision. This</i></p>

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<p>7.33 The setback of the structure or facility from the ordinary high water level must be at least ten feet;</p> <p>7.34 The structure is not a boathouse or boat storage structure as defined under <a href="#">Minnesota Statutes, Section 103G.245</a>;</p> <p>7.35 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;</p> <p>7.36 The roof may be used as an open-air deck with safety rails, but must not be enclosed <b>with a roof or sidewalls</b> or used as a storage area;</p> <p>7.37 The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;</p> <p>7.38 As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for storage of watercraft and boating-related equipment may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the shoreline; and</p> <p>7.39 Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 6.43 if the structure is designed to accommodate internal flooding, constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.</p>	<p><i>helps to simplify administration and limit the amount of impervious surfaces within the shore impact zone. "Patios" should only be included here if they are also included in the definition of WOAS in Section 2.562. It's acceptable to allocate the 250 SF limit between multiple structures and facilities.</i></p> <p><i>7.36. Optional addition. The additional language helps to clarify structure design and keep such structures smaller and less noticeable. Rules don't specifically prohibit roofs but they do say "must not be enclosed" A reasonable interpretation is that roofs constitute and enclosure.</i></p>
<p><b>7.4. Fences. Fences between principal structures and the waterbody are allowed if fences are:</b></p> <p><b>7.41 Not higher than six feet.</b></p> <p><b>7.42 Not located within the SIZ and BIZ, except for farm fences.</b></p> <p><b>7.43 Not located in the regulatory floodplain, except for farm fences.</b></p> <p><b>7.5 Lighting. Within the OHWL setback:</b></p> <p><b>7.51 Lighting shall be fully shielded and directed away from the water.</b></p> <p><b>7.52 Uplighting viewable from the water is prohibited.</b></p>	<p><i>7.4. Optional. Fence regulation can help eliminate conflicts between property owners and minimize impacts to shoreland and floodplain resources.</i></p> <p><i>7.5. Optional. Lighting regulation can help eliminate conflicts between property owners and minimize impacts to shoreland resources, especially waterfowl.</i></p>
<p><b>8.0 VEGETATION AND LAND ALTERATIONS</b></p>	<p><i>8.0. These standards prohibit or limit vegetation removal in specified areas. These are difficult to administer and enforce, and once vegetation has been removed there are no requirements to restore it. Communities concerned about the loss of riparian vegetation and habit, erosion control and aesthetics may consider establishing a requirement to maintain a</i></p>
<p>8.1 <b>Purpose.</b> Alterations of vegetation and topography are regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, sustain water quality, and protect fish and wildlife habitat.</p>	<p><i>8.0. These standards prohibit or limit vegetation removal in specified areas. These are difficult to administer and enforce, and once vegetation has been removed there are no requirements to restore it. Communities concerned about the loss of riparian vegetation and habit, erosion control and aesthetics may consider establishing a requirement to maintain a</i></p>



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<p>8.2 <b>Vegetation Management.</b></p> <p><b>8.21 A vegetation permit is required prior to to vegetative clearing in the shore impact zone and bluff impact zone and on steep slopes. No clearing is allowed until a plan is submitted and approved consistent with these vegetation management provisions.</b></p> <p>8.22 Removal or alteration of vegetation must comply with the provisions of this subsection except for:</p> <p>A. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities;</p> <p>B. The construction of public roads and parking areas if consistent with Section 7.1 of this ordinance;</p> <p>C. Forest management uses consistent with Section 5.3 of this ordinance; and</p> <p>D. Agricultural uses consistent with Section 5.2 of this ordinance.</p> <p>8.23 Intensive vegetation clearing in the shore and bluff impact zones and on steep slopes is prohibited. Intensive clearing outside of these areas is allowed if consistent with the forest management standards in Section 5.3 of this ordinance.</p> <p>8.24 Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes, is allowed to provide a view to the water from the principal dwelling 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:</p> <p>A. <b>Vegetation be maintained to The screening of structures, vehicles, or other facilities by at least 50% as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced. The maximum view corridor shall be less than 50 feet or one-third of the parcel width, whichever is less;</b></p> <p>B. Existing shading of water surfaces along rivers is preserved;</p> <p><b>C. Cutting debris or slash shall be scattered and not mounded on the ground; and</b></p> <p><b>D. Perennial ground cover is retained.</b></p> <p><b>E. Picnic areas, access paths, livestock watering areas, beaches and watercraft access areas are prohibited in bluff impact zones.</b></p> <p>8.25 Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards is allowed without a permit.</p> <p>8.26 Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.</p>	<p><i>riparian buffer and restoration to the required standard as a condition of any permit approval. This is one of the most important actions any community can take – See the <a href="#">Innovative Standards Webpage</a> .</i></p> <p><i>8.21. Optional higher standard. Requiring a permit for vegetation clearance in sensitive areas provides opportunity for LGU staff to guide the clearing activities and ensure activities are consistent with regulations. See <a href="#">Section 9.0 of the DNR MRCCA model ordinance</a> for specific ideas on permitting vegetation management activities.</i></p> <p><i>8.24 A. Optional. Having quantitative measures helps to communicate standards to property owners as well as enforce the ordinance.</i></p> <p><i>8.23 C, D, and E. Optional. These standards provide additional protection for vegetation and reduce land disturbance in bluff impact areas that enhance habitat and protect water quality.</i></p> <p><i>8.26. Optional. Requiring restoration and maintenance for violations of vegetation standards communicates that there are consequences for cutting vegetation. These provisions may be modified to address local concerns.</i></p>

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<p><b>8.27</b> Violations of the vegetation standards shall be subject to a Restoration Order including vegetation restoration plan and a three-year maintenance plan prepared by the land owner and approved by the zoning administrator. Near shore or highly erodible locations are to be restored with a mix of deep-rooted woody and herbaceous vegetation with high stem-density, suitable for the location.</p> <p><b>8.3 Grading and Filling.</b></p> <p>8.31 Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section 7.1 of this ordinance.</p> <p>8.32 Permit Requirements.</p> <p>A. Grading, filling and excavations necessary for the construction of structures, sewage treatment systems, <b>and driveways</b>, if part of an approved permit, do not require a separate grading and filling permit. However, the standards in Section 8.33 of this ordinance must be incorporated into the permit.</p> <p>B. For all other work, <b>including driveways not part of another permit</b>, a grading and filling permit is required for:</p> <ol style="list-style-type: none"> <li>(1) the movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones; and</li> <li>(2) the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.</li> <li>(3) <b>placement of retaining walls, including boulder walls within the SIZ and BIZ provided that:</b> <ol style="list-style-type: none"> <li>a. <b>if the project includes work at or below the OHWL, the commissioner has already approved or permitted the project.</b></li> <li>b. <b>the structures are used only to correct a documented existing erosion problem and not for aesthetic reasons.</b></li> <li>c. <b>the height and length are the minimum necessary to control the erosion problem and are not higher than 4 feet or longer than 10 feet, unless the zoning administrator determines that a larger wall is necessary to correct the erosion problem; and</b></li> <li>d. <b>walls are screened by vegetation to not be visible from the waterbody.</b></li> </ol> </li> <li>(4) Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket is permitted if: <ol style="list-style-type: none"> <li>a. <b>if the project includes work at or below the OHWL, the commissioner has already approved or permitted the project;</b></li> </ol> </li> </ol>	<p>8.3. Note that Minnesota Rules, part <a href="#">4410.4300, Subp. 36a</a> provides thresholds for mandatory EAWs for certain land conversions and alterations in shoreland. The local government is the Responsible Government Unit (RGU) unless otherwise specified.</p> <p>8.32.A. The 1999 model ordinance included driveways in this provision even though they are not included in rule. If ordinances include driveways in this provision they should also include the driveway language in 8.32.B. to communicate that driveways, as a stand-alone project, do need a permit if they meet the stated disturbance thresholds.</p> <p>8.32.B. Optional. In addition to a cubic yard threshold for permitting, also include a square footage threshold. Most property owners can visualize square footage better than cubic yards and will thus aid in permitting compliance. An area that is 270 square feet (16.43 ft. X 16.43 ft.) by 1 foot deep is 270 cubic feet or 10 cubic yards. An area that is 1,350 square feet (36.74 ft. X 36.74 ft.) by 1 foot deep is 1,350 cubic feet or 50 cubic yards.</p> <p>8.32.B.(1). Optional. Consider prohibiting filling in the SIZ or if filling is allowed, require conditions of approval that, at a minimum, require vegetation restoration.</p> <p>8.32 B. (3). Optional. The SL rules and SONAR are not clear on how to address retaining walls in the SIZ/BIZ. LGUs may prohibit them or require a permit subject to conditions (as provided in this example). These conditions may be modified to address local concerns.</p> <p>8.32. B. (4). This provision and items b. – d. are required under the SL rules. By locating this provision here, a permit is always required for placing rip rap. Under the rules, a permit is only needed for placing rip</p>

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<p>b. the finished slope does not exceed three feet horizontal to one-foot vertical;</p> <p>c. the landward extent of the riprap is within ten feet of the ordinary high water level; and</p> <p>d. the height of the riprap above the ordinary high water level does not exceed three feet (see Figure 10).</p> <p>e. <b>A vegetative buffer, consisting of deep rooted and woody vegetation, is to be established at a distance no less than ten feet from the landward extent of the riprap.</b></p> <p>f. Figure 10. Riprap Guidelines</p> <div data-bbox="585 526 1144 894" data-label="Diagram"> </div> <p>8.33 Grading, filling and excavation activities must meet the following standards:</p> <p>A. Grading or filling of any wetland must meet or exceed the wetland protection standards under <a href="#">Minnesota Rules, Chapter 8420</a> and any other permits, reviews, or approvals by other local state, or federal agencies such as watershed districts, the DNR or US Army Corps of Engineers;</p> <p>B. Land alterations must be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:</p> <ol style="list-style-type: none"> <li>(1) Limiting the amount and time of bare ground exposure;</li> <li>(2) Using temporary ground covers such as mulches or similar materials;</li> <li>(3) Establishing permanent, <b>deep-rooted and dense</b> vegetation cover as soon as possible;</li> <li>(4) Using sediment traps, vegetated buffer strips or other appropriate techniques;</li> <li>(5) Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;</li> </ol>	<p><i>rap if it disturbs more than 10 cubic yards. To keep the rule based-approach, 8.32 B (4) and items b. – d. can be located as item (10) under 8.33 B (its original location).</i></p> <p><i>8.32.B.(4).a. Optional. It is good practice to coordinate rip rap installation with the DNR – may avoid violations of public water rules and restorations.</i></p> <p><i>8.32.B.(4)e. Optional. This provision provides replacement habitat and aesthetic screening, as well as enhanced protection against erosion.</i></p> <p><i>8.33.B.(3). Optional addition of deep-rooted and dense vegetation to improve soil stability.</i></p>

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<p>(6) Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;</p> <p>(7) Fill or excavated material must not be placed in bluff impact zones;</p> <p>(8) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under <a href="#">Minnesota Statutes, Section 103G; and</a></p> <p>(9) Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties</p> <p>8.34 Connections to public waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with <a href="#">Minnesota Rules, Chapter 6115</a>.</p> <p><b>8.4 Stormwater Management.</b></p> <p>8.41 General Standards:</p> <p>A. When possible, existing natural drainageways, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.</p> <p>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 as soon as possible and appropriate facilities or methods used to retain sediment on the site.</p> <p>C. When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.</p> <p>8.42 Specific Standards:</p> <p>A. Impervious surfaces of lots must not exceed 25 percent of the lot area.</p> <p>B. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.</p> <p>C. New constructed stormwater outfalls to public waters must be consistent with <a href="#">Minnesota Rules, part 6115.0231</a>.</p> <p><b>9.0 SUBDIVISION/PLATTING PROVISIONS</b></p>	<p><i>8.34. DNR permits for public water excavations require that the local government have a DNR-approved shoreland zoning ordinance (Minnesota Statute, Section 103G.245, Subd. 8(1)) as a condition of a public water permit approval. The DNR may deny a permit for public waters excavations if there is no shoreland ordinance or if the current ordinance is not consistent with the ordinance the DNR has approved.</i></p> <p><i>8.41. These are common stormwater management BMPs. If any of these specific provisions exist elsewhere in a local ordinance and are similar, they may be omitted here.</i></p> <p><i>8.42.A. Local governments may reduce the maximum amount of impervious surface allowed. Reducing the amount of allowed impervious surface will reduce the runoff volume and rate reducing the risk of erosion and nutrient loading into surface waters. Requiring a lower minimum (15% or 20%) only on new lots avoids the creation of nonconformities.</i></p>

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<p>9.1 <b>Purpose.</b> To ensure that new development minimizes impacts to shoreland resources and is safe and functional.</p> <p>9.2 <b>Land suitability.</b> Each lot created through subdivision, including planned unit developments authorized under Section 10.0 of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.</p> <p>9.3 <b>Consistency with other controls.</b> Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed later to use the lots for their intended purpose.</p> <p>9.4 <b>Water and Sewer Design Standards.</b></p> <p>9.41 A potable water supply and a sewage treatment system consistent with <a href="#">Minnesota Rules, Chapters 7080 – 7081</a> must be provided for every lot.</p> <p>9.42 Each lot must include at least two soil treatment and dispersal areas that support systems described in <a href="#">Minnesota Rules, parts 7080.2200 to 7080.223</a> or site conditions described in <a href="#">part 7081.0270, subparts 3 to 7</a>, as applicable.</p> <p>9.43 Lots that would require use of holding tanks are prohibited.</p> <p>9.5 <b>Information requirements.</b></p> <p>9.51 Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;</p> <p>9.52 The surface water features required in <a href="#">Minnesota Statutes, section 505.021, Subd. 1</a>, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources;</p> <p>9.53 Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;</p> <p>9.54 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;</p> <p>9.55 Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and</p> <p>9.56 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.</p>	<p>9.51. In addition to paper based topographic information, <a href="#">MnTOPO</a> is a web-based application for viewing, printing and downloading high-resolution elevation data. It can also be used to generate elevation profiles for locating bluffs, watershed boundaries or other topographical features of interest.</p>

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<p>9.6 <b>Dedications.</b> 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.</p> <p>9.7 <b>Platting.</b> All subdivisions that <b>cumulatively</b> create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapters 462.358 Subd. 3a (<i>cities</i>) and 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after the adoption of this ordinance unless the lot was previously approved as part of a formal subdivision.</p> <p>9.8 <b>Controlled Access Lots.</b> Controlled access lots within a subdivision must meet or exceed the lot size criteria in Section 6.33 of this ordinance.</p>	<p>9.7. <i>Optional. "Cumulatively" is recommended to close a loophole where a parcel is subdivided at different times, each time creating fewer than 5 parcels to avoid the requirement to plat. Both Minnesota Statutes, sections 462 and 394 say official controls are to provide for "orderly" development. Applying this provision cumulatively to parcels supports this purpose.</i></p>
<p><b>10.0 PLANNED UNIT DEVELOPMENTS (PUDs)</b></p>	
<p>10.1 <b>Purpose.</b> To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.</p> <p>10.2 <b>Types of PUDs Permissible.</b> Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of Section 6.2 of this ordinance is allowed if the standards in this Section are met.</p> <p>10.3 <b>Processing of PUDs.</b> Planned unit developments <b>in the shoreland district</b> must be processed as a conditional use <b>and comply with the provisions of this section in addition to those standards outlined elsewhere in the zoning and subdivision regulations. When there is a conflict in requirements, the more stringent of the requirements shall be applied.</b> An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 10.5. Approval cannot occur until all applicable environmental reviews are complete.</p>	<p>10.0 <i>Shoreland PUDs require a conditional use permit (CUP) and are best thought of as a conditional use to allow higher density in shoreland areas. Provisions in this section are conditions of approval that are <u>required</u> to approve a Shoreland PUD (CUP) and cannot be weakened through the negotiation process of a local government's general PUD ordinance.</i></p> <p>10.3. <i>Optional addition to ensure that a community's "general PUD" ordinance isn't used to undermine the shoreland standards in these shoreland PUD provisions. If a community does not allow PUDs in shoreland, Section 10.0 should be omitted. However, PUDs must be listed in the land use tables in 4.23 and 4.24 as "N."</i></p>
<p>10.4 <b>Application for a PUD.</b> The applicant for a PUD must submit the following documents prior to final action on the application request:</p> <p>10.41 Site plan and/or plat showing:</p> <ul style="list-style-type: none"> <li>A. Locations of property boundaries;</li> <li>B. Surface water features;</li> <li>C. Existing and proposed structures and other facilities;</li> <li>D. Land alterations;</li> <li>E. Sewage treatment and water supply systems (where public systems will not be provided);</li> <li>F. Topographic contours at ten-foot intervals or less; and</li> </ul>	<p><i>If the local government does not have DNR-approved shoreland PUD provisions in its ordinance but still allows PUDs in shoreland, Minnesota Rules, part 6120.3800, Subp. 1 gives the DNR authority to review PUDs in shoreland for compliance with state rules. In this case, the ordinance must have a provision that states "The DNR must approve all PUDs located in shorelands."</i></p>



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<p>G. Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (if project combines commercial and residential elements).</p> <p>10.42 A property owner’s association agreement (for residential PUD’s) with mandatory membership, and consistent with Section 10.6 of this ordinance.</p> <p>10.43 Deed restrictions, covenants, permanent easements or other instruments that:</p> <p>A. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and</p> <p>B. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 10.6 of this ordinance.</p> <p>10.44 A master plan/site plan describing the project and showing floor plans for all commercial structures.</p> <p>10.45 Additional documents necessary to explain how the PUD will be designed and will function.</p> <p>10.5 <b>Density Determination.</b> Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.</p> <p>10.51 <u>Step 1. Identify Density Analysis Tiers.</u> 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:</p> <table border="1" data-bbox="233 797 1444 1062"> <thead> <tr> <th>Waterbody Classification</th> <th>No Sewer (ft)</th> <th>Sewer (ft)</th> </tr> </thead> <tbody> <tr> <td>General Development Lakes – 1st tier</td> <td>200</td> <td>200</td> </tr> <tr> <td>General Development Lakes – all other tiers</td> <td>267</td> <td>200</td> </tr> <tr> <td>Recreational Development Lakes</td> <td>267</td> <td>267</td> </tr> <tr> <td>Natural Environment Lakes</td> <td>400</td> <td>320</td> </tr> <tr> <td>All Rivers</td> <td>300</td> <td>300</td> </tr> </tbody> </table> <p>10.52 <u>Step 2. Calculate Suitable Area for Development.</u> Calculate the suitable area within each tier by excluding all <b>road rights-of way or easements</b>, wetlands, bluffs, or land below the ordinary high water level of public waters.</p> <p>10.53 <u>Step 3. Determine Base Density:</u></p> <p>A. For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area is not specified, divide the tier width or river frontage by the minimum single residential lot width.</p> <p>B. For commercial PUDs:</p>	Waterbody Classification	No Sewer (ft)	Sewer (ft)	General Development Lakes – 1st tier	200	200	General Development Lakes – all other tiers	267	200	Recreational Development Lakes	267	267	Natural Environment Lakes	400	320	All Rivers	300	300	<p>10.5. Determining and evaluating proposed project density may be complex depending on the project. Please review the <a href="#">Residential PUD Guidance Document</a> for determining density and/or contact your <a href="#">Area Hydrologist</a> for assistance.</p> <p>10.52. Optional. Road rights-of-way or easements are not developable and should thus not be included in area considered suitable for development on which allowable density is calculated.</p> <p>10.53.A. For LGUs that have specified a minimum lot area for river lots, the process for determining base density for lakes and rivers will be the same – tier area divided by lot area. Note that tier width is the same thing as the river frontage along a given parcel.</p>
Waterbody Classification	No Sewer (ft)	Sewer (ft)																	
General Development Lakes – 1st tier	200	200																	
General Development Lakes – all other tiers	267	200																	
Recreational Development Lakes	267	267																	
Natural Environment Lakes	400	320																	
All Rivers	300	300																	

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- (1) Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.
  - (a) For dwelling units, determine the average inside living floor area of dwelling units in each tier. Do not include decks, patios, garages, or porches and basements, unless they are habitable space.
  - (b) For dwelling sites (campgrounds), determine the area of each dwelling site as follows:
    - For manufactured homes, use the area of the manufactured home, if known, otherwise use 1,000 sf.
    - For recreational vehicles, campers or tents, use 400 sf.
- (2) Select the appropriate **floor area/dwelling site area ratio** from the following table for the floor area or dwelling site area determined in Section 10.53 B. 1.

Inside Living Floor Area or Dwelling Site Area (sf)	General Development Lakes <u>w/Sewer</u> – all tiers General Development Lakes <u>w/no sewer</u> – 1 <sup>st</sup> tier Agricultural, Urban and Tributary Rivers	General Development Lakes <u>w/no sewer</u> – all other tiers Recreational Development Lakes Forested and Transition Rivers	Natural Environment Lakes Remote Rivers
≤ 200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036

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<table border="1" data-bbox="352 131 1402 175"> <tr> <td data-bbox="352 131 478 175">≥ 1,500</td> <td data-bbox="478 131 835 175">.150</td> <td data-bbox="835 131 1150 175">.075</td> <td data-bbox="1150 131 1402 175">.038</td> </tr> </table> <p data-bbox="352 228 1423 326">(3) Multiply the suitable area within each tier determined in Section 10.52 by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.</p> <p data-bbox="352 350 1423 480">(4) Divide the total floor area or dwelling site area for each tier calculated in Section 10.53 B. 3 by the average inside living floor area for dwelling units or dwelling site area determined in 10.53 B 1. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.</p> <p data-bbox="300 505 1423 570">C. 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.</p> <p data-bbox="300 594 1423 618">D. All PUDs with densities at or below the base density must meet the design standards in Section 10.6</p> <p data-bbox="226 643 1024 667"><b>10.54 Step 4. Determine if the Site can Accommodate Increased Density:</b></p> <p data-bbox="300 691 1423 789">A. The following increases to the dwelling unit or dwelling site base densities determined in Section 10.53 are allowed if the design criteria in Section 10.6 of this ordinance are satisfied as well as the standards in Section 10.54, item B:</p> <table border="1" data-bbox="352 813 926 1114"> <thead> <tr> <th data-bbox="352 813 562 886">Shoreland Tier</th> <th data-bbox="562 813 926 886">Maximum density increase within each tier (percent)</th> </tr> </thead> <tbody> <tr> <td data-bbox="352 886 562 935">1<sup>st</sup></td> <td data-bbox="562 886 926 935">50</td> </tr> <tr> <td data-bbox="352 935 562 984">2<sup>nd</sup></td> <td data-bbox="562 935 926 984">100</td> </tr> <tr> <td data-bbox="352 984 562 1032">3<sup>rd</sup></td> <td data-bbox="562 984 926 1032">200</td> </tr> <tr> <td data-bbox="352 1032 562 1081">4<sup>th</sup></td> <td data-bbox="562 1032 926 1081">200</td> </tr> <tr> <td data-bbox="352 1081 562 1114">5<sup>th</sup></td> <td data-bbox="562 1081 926 1114">200</td> </tr> </tbody> </table> <p data-bbox="300 1170 926 1195">B. Structure setbacks from the ordinary high water level:</p> <p data-bbox="352 1219 1199 1243">(1) Are increased to at least 50 percent greater than the minimum setback; or</p> <p data-bbox="352 1268 1346 1365">(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.</p> <p data-bbox="153 1390 919 1414"><b>10.6 Design Criteria.</b> All PUDs must meet the following design criteria.</p> <p data-bbox="226 1438 590 1463">10.61 General Design Standards.</p>	≥ 1,500	.150	.075	.038	Shoreland Tier	Maximum density increase within each tier (percent)	1 <sup>st</sup>	50	2 <sup>nd</sup>	100	3 <sup>rd</sup>	200	4 <sup>th</sup>	200	5 <sup>th</sup>	200	<p data-bbox="1455 634 1990 1008"><i>10.54. This provision allows very high densities leading to overcrowding of surface waters and increases the risk to phosphorus sensitive lakes and sensitive shoreline areas. Even without this density bonus provision, the Shoreland PUD allows for significantly greater density over standard lot and block subdivisions due to design flexibility of not requiring a minimum lot size. Local governments concerned about overuse of surface waters, degradation of water quality, compatibility with adjacent development, and overall community character should omit or reduce this density bonus provision.</i></p>
≥ 1,500	.150	.075	.038														
Shoreland Tier	Maximum density increase within each tier (percent)																
1 <sup>st</sup>	50																
2 <sup>nd</sup>	100																
3 <sup>rd</sup>	200																
4 <sup>th</sup>	200																
5 <sup>th</sup>	200																

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<p>A. All residential planned unit developments must contain at least five dwelling units or sites.</p> <p>B. On-site water supply and sewage treatment systems must be centralized and meet the standards in Section 6.5 of this ordinance. Sewage treatment systems must meet the setback standards of Section 6.41, item A of this ordinance.</p> <p>C. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.</p> <p>D. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Sections 6.41, 6.42, and 6.43:</p> <p>E. Shore recreation facilities:</p> <ol style="list-style-type: none"> <li>(1) Must be centralized and located in areas suitable for them based on a suitability analysis.</li> <li>(2) The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).</li> <li>(3) Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.</li> </ol> <p>F. 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.</p> <p>G. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.</p> <p>H. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 7.3 of this ordinance and are centralized.</p>	<p><i>10.61.D MR 6120.3800 Subp. 5.B.3.(b) states that dwelling units must be designed to meet/exceed the dimensional standards for OHWL setback, elevation, height.</i></p>
<p>10.62 Open Space Requirements.</p> <p>A. Open space must constitute at least 50 percent of the total project area and must include:</p> <ol style="list-style-type: none"> <li>(1) Areas with physical characteristics unsuitable for development in their natural state;</li> <li>(2) Areas containing significant historic sites or unplatted cemeteries;</li> <li>(3) Portions of the shore impact zone preserved in its natural or existing state as follows: <ol style="list-style-type: none"> <li>(a) For existing residential PUD's, at least 50 percent of the shore impact zone</li> </ol> </li> </ol>	<p><i>10.62. Open space provides significant ecological, recreational, and economic benefits. Local governments may want to add additional specifications for its design and maintenance. This could include specifying the amount and type of native vegetation, its long-term maintenance, and connectivity to adjacent natural areas. Other options include limiting the amount of open space that may be used for high intensity recreational areas (trails, playgrounds, etc.), stormwater and sewage treatment, etc.</i></p>

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<p>(b) For new residential PUDs, at least 70 percent of the shore impact zone.</p> <p>(c) For all commercial PUD's, at least 50 percent of the shore impact zone.</p> <p>B. Open space may include:</p> <p>(1) Outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;</p> <p>(2) Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and</p> <p>(3) Non-public water wetlands.</p> <p>C. Open space shall not include:</p> <p>(1) Dwelling sites <b>or lots, unless owned in common by an owners association;</b></p> <p>(2) Dwelling units or structures, except water-oriented accessory structures or facilities;</p> <p>(3) Road rights-of-way or land covered by road surfaces and parking areas;</p> <p>(4) Land below the OHWL of public waters; and</p> <p>(5) Commercial facilities or uses.</p> <p>10.63 Open Space Maintenance and Administration Requirements.</p> <p>A. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means. The instruments must prohibit:</p> <p>(1) Commercial uses (for residential PUD's);</p> <p>(2) Vegetation and topographic alterations other than routine maintenance;</p> <p>(3) Construction of additional buildings or storage of vehicles and other materials; and</p> <p>(4) Uncontrolled beaching of watercraft.</p> <p>B. Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners association with the following features:</p> <p>(1) Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;</p>	<p><i>10.62.B.(3). WCA or other non-public water wetlands may be included in open space. Public waters, including public water wetlands, are already public open space and cannot be counted as open space.</i></p> <p><i>10.62.C.(1). Optional. "Dwelling sites" are not the same as lots (see definition in Section 2). Dwelling sites in a residential subdivision is the area within a lot not covered by a dwelling unit or structure (plus a buffer area around the sites or structures) that can be included as open space. Privately owned residential "open space" is very difficult to manage and maintain for ecological benefits, even with the required conservation easements. Communities concerned about developing and maintaining valuable habitat and water quality through open space preservation or about the ability to "administer" protection of open space on residential lots, may choose to add "lots, unless owned in common by an owner's association."</i></p> <p><i>10.62.C.(4) clarifies that open space cannot include land below the OHWL of public waters. Use of the water above this land is already a "public" open space. The purpose of the open space is to set-aside and permanently protect private land for recreation, habitat, and water quality purposes and to offset higher development densities allowed.</i></p>

Ordinance Language	Commentary in Public Version of Model
<p>(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;</p> <p>(3) Assessments must be adjustable to accommodate changing conditions; and</p> <p>(4) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.</p> <p>10.64 Erosion Control and Stormwater Management.</p> <p>A. Erosion control plans must be developed and must be consistent with the provisions of Section 8.3 of this ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.</p> <p>B. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff.</p> <p>(1) For residential PUDs, impervious surface for the entire project site must not exceed 25%.</p> <p>(2) For commercial PUDs, impervious surfaces within any tier must not exceed 25 percent of the tier area, <del>except that 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 8.0 of this ordinance.</del></p> <p>10.7 Conversions. Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUDs if all of the following standards are met:</p> <p>10.71 Proposed conversions must be evaluated using the same procedures for residential PUDs involving new construction. Inconsistencies between existing features of the development and these standards must be identified;</p> <p>10.72 Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit;</p> <p>10.73 Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:</p> <p>A. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;</p> <p>B. Remedial measures to correct erosion, improve vegetative cover and improve screening of buildings and other facilities as viewed from the water; and</p> <p>C. Conditions attached to existing dwelling units located in shore or bluff impact zones that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide</p>	<p><i>10.64.B.(1) Optional higher standard to ensure that the impervious surface for the entire development does not exceed 25%</i></p> <p><i>10.64.B.(2) Optional deletion. Local governments may choose to require a 25% impervious surface limit in all tiers for commercial PUDs by deleting the provisions that allows a 35% impervious surface limit. This spreads out the impervious surface and limits it in near shore areas thus preserving habitat and shoreland aesthetics.</i></p>

<b>Ordinance Language</b>	<b><i>Commentary in Public Version of Model</i></b>
<p>for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.</p> <p>10.74 Existing dwelling unit or dwelling site densities that exceed standards in Section 10.5 of this ordinance may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.</p>	



**From:** [Jack Griffin](#)  
**To:** [Ben Hetzel](#)  
**Cc:** [Molly Just](#); [Marty Powers](#)  
**Subject:** Re: Impervious Surface Zoning Text Amendments  
**Date:** Wednesday, August 3, 2022 11:37:24 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)

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**Caution:** This email originated outside our organization; please use caution.

Ben,

The only comment I have is on the definition change. The issue of gravel surfaces is often debated as being impervious or not pervious. Your definition revisions remove this clarification and is likely an issue that will continue to come up over time.

Thanks ~Jack

John (Jack) W. Griffin, P.E.  
Principal / Sr. Municipal Engineer

**FOCUS** ENGINEERING, INC.  
651.300.4264  
[jack.griffin@focusengineeringinc.com](mailto:jack.griffin@focusengineeringinc.com)

On Mon, Jul 18, 2022 at 3:49 PM Ben Hetzel <[BHetzel@lakeelmo.org](mailto:BHetzel@lakeelmo.org)> wrote:

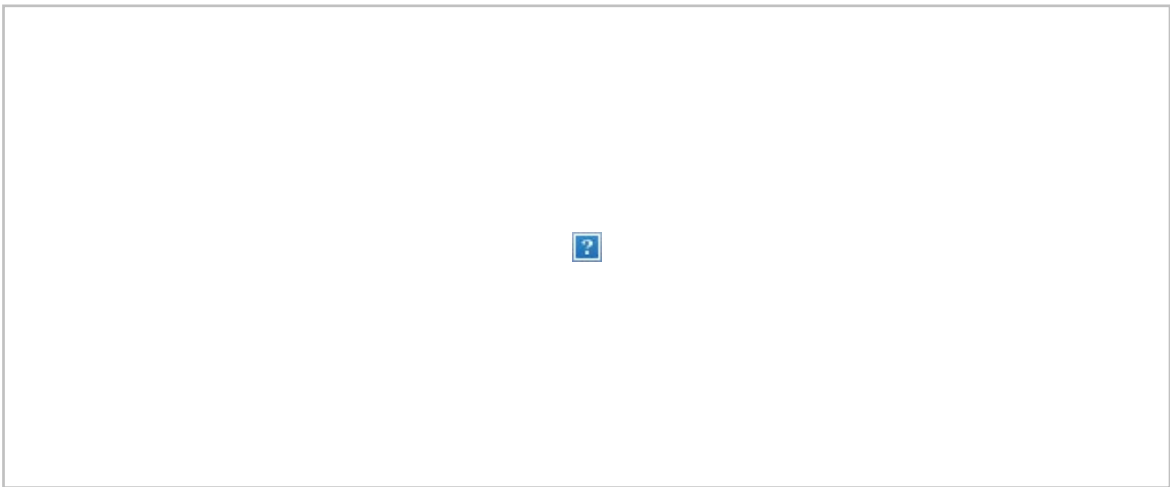
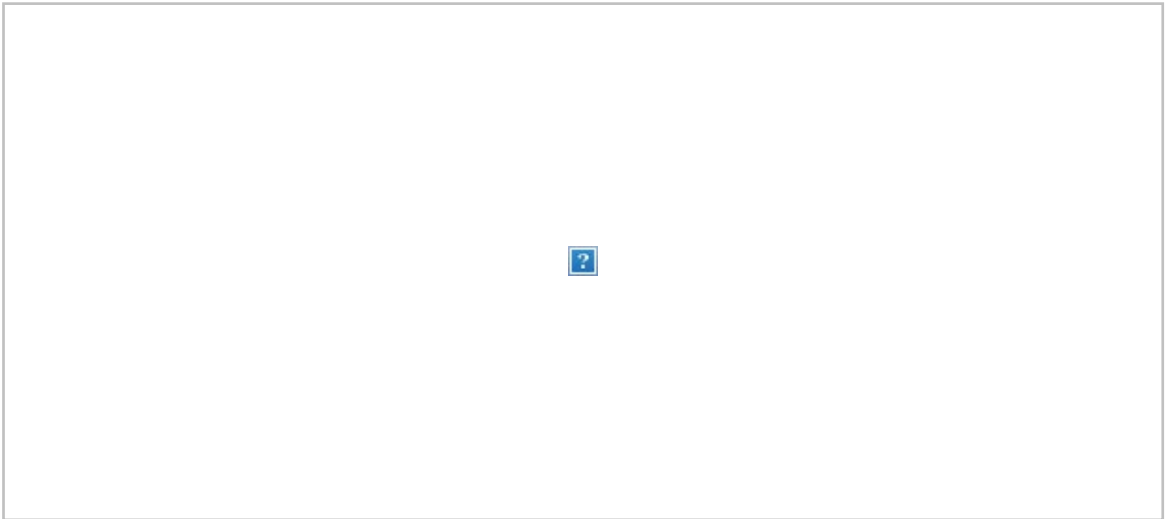
All,

The City of Lake Elmo has self-initiated zoning text amendments in regards to impervious surfaces. I have attached copies of the code to be amended with a brief description of each below:

1. Amend Section 1.08 Definitions to change Impervious Surface definition as shown below:

*Impervious surface* means any structure or surface which interferes to any degree with the direct absorption of water into the ground, ~~including, but not limited to, building footprints, sidewalks, paved or gravel driveways and parking areas, patios, sport courts, or any other similar surface.~~ Decks, pervious landscaping fabric, the water surface of pools, and retaining walls shall not be included as impervious surface.

2. Amend Section 105.12.1260 Shoreland Management Overlay District Table 17-3 to change maximum impervious surface lot coverage from 15% to 25% for unsewered lots classified as Recreational Development Shoreland :



**Please have your feedback back to me by  
Wednesday, August 3<sup>rd</sup>!**

Ben Hetzel

City Planner

City of Lake Elmo

3800 Laverne Ave. N.

Lake Elmo, MN 55042

651-747-3911



**From:** [Karen Kill](#)  
**To:** [John P. Hanson](#); [Ben Hetzel](#); [Marty Powers](#); [Jack Griffin](#); "[Scollan, Daniel \(DNR\)](#)"; [mmoore@ciwoodbury.mn.us](mailto:mmoore@ciwoodbury.mn.us)  
**Cc:** [Molly Just](#); [Gary Bruns](#)  
**Subject:** RE: Impervious Surface Zoning Text Amendments  
**Date:** Tuesday, July 19, 2022 11:12:08 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)

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**Caution:** This email originated outside our organization; please use caution.

Ben,

As with VBWD, Brown's Creek Watershed District considers the water surface of a pool as an impervious surface. Our stormwater management rules would apply to a land disturbing activity where there is >10,000 square feet of impervious net. A pool would be included in this total. I frequently have people misunderstand that gravel driveways are impervious. Is there a reason why you are taking this out or do you define it elsewhere?

BCWD has recently been discussing decks. Currently we include them in the impervious total because they are generally not built to allow water to flow through them, they are concentrating the flow, often the soil below is compacted, and we are generally not notified when a resident adds a patio below a second story deck or adds a screen porch. Nearby city of Stillwater includes decks in the impervious surface total.

As John also inquired, I would be interested to understand why an increase to 25% impervious is being proposed. I am not clear on whether the Sanctuary development is considered sewered or unsewered since there is a community sewage for the development. Could you clarify? This small portion of Lake Elmo is the only portion in BCWD.

Best Regards,  
Karen

Karen Kill, Administrator  
Brown's Creek Watershed District  
455 Hayward Ave N  
Oakdale, MN 55128  
651-331-8316 (cell)

---

**From:** John P. Hanson [mailto:JHanson@barr.com]  
**Sent:** Monday, July 18, 2022 4:48 PM  
**To:** 'Ben Hetzel' <BHetzel@lakeelmo.org>; Marty Powers <MPowers@lakeelmo.org>; Jack Griffin <Jack.Griffin@focusengineeringinc.com>; 'Scollan, Daniel (DNR)' <daniel.scollan@state.mn.us>; Karen Kill <KKill@mnwcd.org>; mmoore@ciwoodbury.mn.us  
**Cc:** Molly Just <MJust@lakeelmo.org>; Gary Bruns <Gary.Bruns@co.washington.mn.us>  
**Subject:** RE: Impervious Surface Zoning Text Amendments

Hi Ben,

Thanks for providing the opportunity to comment on these proposed changes.

The Valley Branch Watershed District considers the water surface of a pool an impervious surface, but VBWD doesn't consider a pool a structure. These VBWD definitions require stormwater management and vegetative buffers be considered with pools but minimum elevations are not considered.

While unclear, it appears Lake Elmo considers a swimming pool a structure. (City definition of structure is anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, signs, recreation vehicles not meeting the exemption criteria specified in LEC 100.00.090(c)(1), and other similar items.) If a swimming pool is considered a structure by the City, it appears the City would require the lowest elevation of pool to be at least 2 feet higher than the adjacent public water's 100-year flood level based on Table 17-3 of the City's Shoreline Management Overlay District code. Is this the City's intent? If not, the City might want to specifically exempt swimming pools from the minimum floor elevation requirement.

Has the City evaluated the implications to water resources with the proposed change in maximum amount of impervious surface coverage? Why is 25% being proposed? The proposal would allow more impervious surfaces to unsewered areas around Lakes DeMontreville, Olson, Jane, and Elmo. These lakes are the jewels of the many lakes and ponds in the City. Increases in impervious surfaces without thoughtful mitigation could negatively affect these lakes.

As the City reviews its requirements, I suggest that the City consider requiring the bottoms of septic tanks, drain fields, etc. be at least 2 feet higher than the adjacent water's 100-year flood level. Perhaps City code already requires this based on the City's definition of structure.

Thanks,  
John

John P. Hanson, PE  
Valley Branch Watershed District Engineer  
Barr Engineering Co. | 4300 MarketPointe Drive | Bloomington, MN 55435  
office: 952.832.2622 | cell: 612.590.1785  
[JHanson@barr.com](mailto:JHanson@barr.com) | [www.barr.com](http://www.barr.com) | [www.vbwd.org](http://www.vbwd.org)



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**From:** Ben Hetzel <[BHetzel@lakeelmo.org](mailto:BHetzel@lakeelmo.org)>  
**Sent:** Monday, July 18, 2022 3:49 PM  
**To:** Marty Powers <[MPowers@lakeelmo.org](mailto:MPowers@lakeelmo.org)>; Jack Griffin <[Jack.Griffin@focusengineeringinc.com](mailto:Jack.Griffin@focusengineeringinc.com)>; 'Scollan, Daniel (DNR)' <[daniel.scollan@state.mn.us](mailto:daniel.scollan@state.mn.us)>; John P. Hanson <[JHanson@barr.com](mailto:JHanson@barr.com)>; [karen.kill@mnwcd.org](mailto:karen.kill@mnwcd.org);  
[mmoore@ciwoodbury.mn.us](mailto:mmoore@ciwoodbury.mn.us)  
**Cc:** Molly Just <[MJust@lakeelmo.org](mailto:MJust@lakeelmo.org)>  
**Subject:** Impervious Surface Zoning Text Amendments

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All,

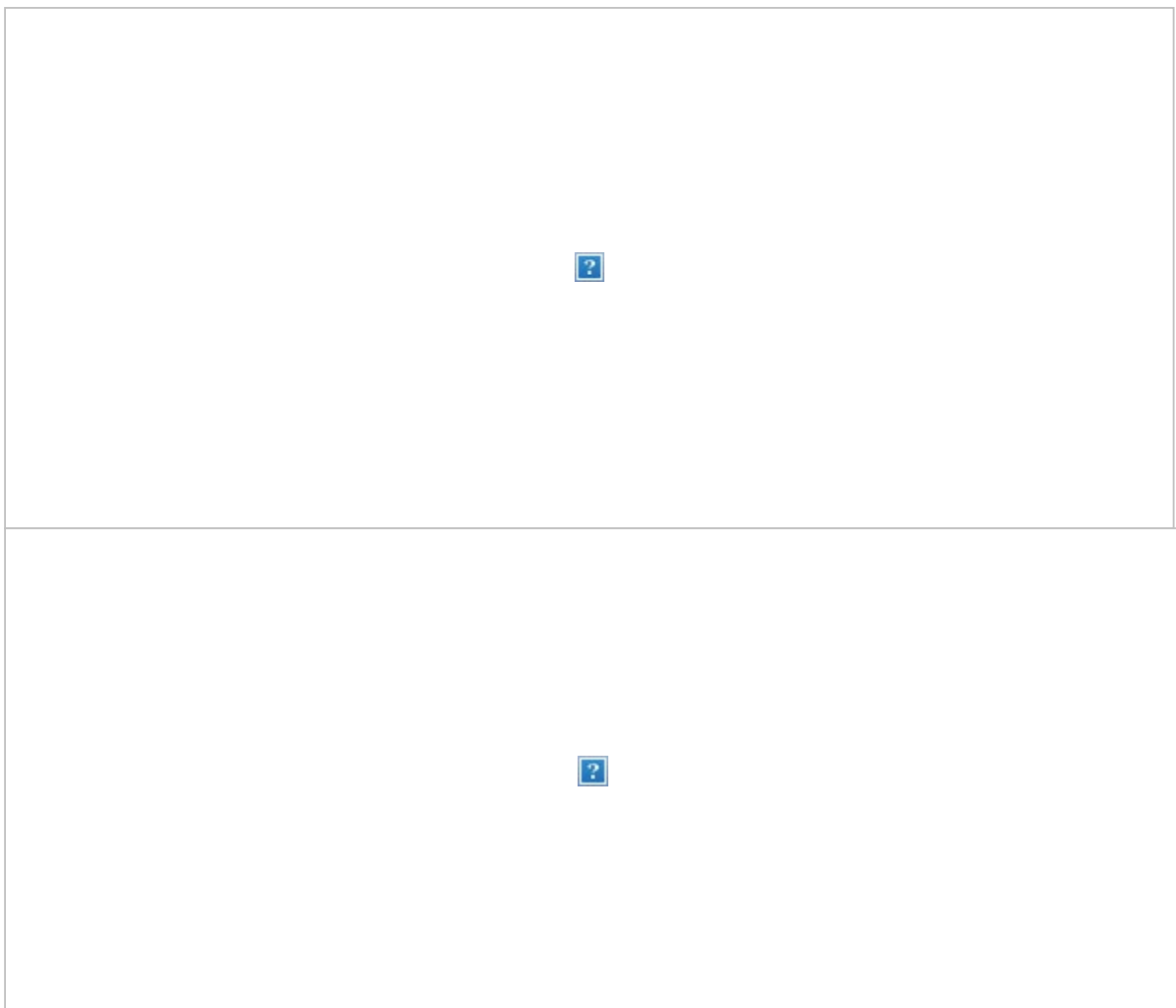
The City of Lake Elmo has self-initiated zoning text amendments in regards to impervious surfaces. I have

attached copies of the code to be amended with a brief description of each below:

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2. Amend Section 105.12.1260 Shoreland Management Overlay District Table 17-3 to change maximum impervious surface lot coverage from 15% to 25% for unsewered lots classified as Recreational Development Shoreland :



Please have your feedback back to me by  
Wednesday, August 3<sup>rd</sup>!

Ben Hetzel  
City Planner  
City of Lake Elmo  
3800 Laverne Ave. N.  
Lake Elmo, MN 55042  
651-747-3911



**From:** Scollan, Daniel (DNR)  
**To:** Ben Hetzel  
**Cc:** MN Ordinance Review (DNR); Petrik, Daniel (DNR)  
**Subject:** RE: Zoning Text Amendments to Shoreland Code  
**Date:** Tuesday, July 19, 2022 3:22:11 PM  
**Attachments:** jmaoe002.ono  
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jmaoe003.ono  
jmaoe005.ono  
2017\_06-09.LakeElmoSI\_OrtFinalApproval.pdf

**Caution:** This email originated outside our organization; please use caution.

Hello Ben,

I'll will prepare a formal preliminary comment letter in response to the proposed amendments to the City's shoreland code. More information on the process is available at DNR's [Adopting and Amending Shoreland Ordinances](#) webpage.

I will need more time to complete this review. In the meantime, I'd like to bring your attention to a few items:

- Please see the attached June 9, 2017 letter from DNR to the City of Lake Elmo approving the city's shoreland ordinance with an [implementation flexibility](#) agreement. As noted in the letter, DNR and the City of Lake Elmo agreed to allow a 35-foot maximum building height (state standard = 25 feet) and 30% maximum impervious surface coverage of lots in sewered areas (state standard = 25%), in return for higher standards including 15% impervious surface coverage on unsewered lots (standard = 25%) and a 20% bonus density increase for PUDs (standard = 200%).
- Note that the impervious surface limits approved by DNR (see the approved ordinance in the attached PDF) applied to all shoreland areas, not just the shoreland areas of recreational development lakes.
- DNR's recommended impervious surface definition is available in our [model ordinance](#).

Best Regards,

**Dan Scollan**

East Metro Area Hydrologist – Ramsey and Washington Counties  
Division of Ecological and Water Resources

**Minnesota Department of Natural Resources**

1200 Warner Road  
St. Paul, MN 55106  
Phone: 651-259-5732

Fax: 651-772-7977  
Email: [daniel.scollan@state.mn.us](mailto:daniel.scollan@state.mn.us)  
[mndnr.gov](http://mndnr.gov)



**From:** Ben Hetzel <BHetzel@lakeelmo.org>  
**Sent:** Friday, July 15, 2022 2:18 PM  
**To:** Scollan, Daniel (DNR) <daniel.scollan@state.mn.us>  
**Subject:** Zoning Text Amendments to Shoreland Code

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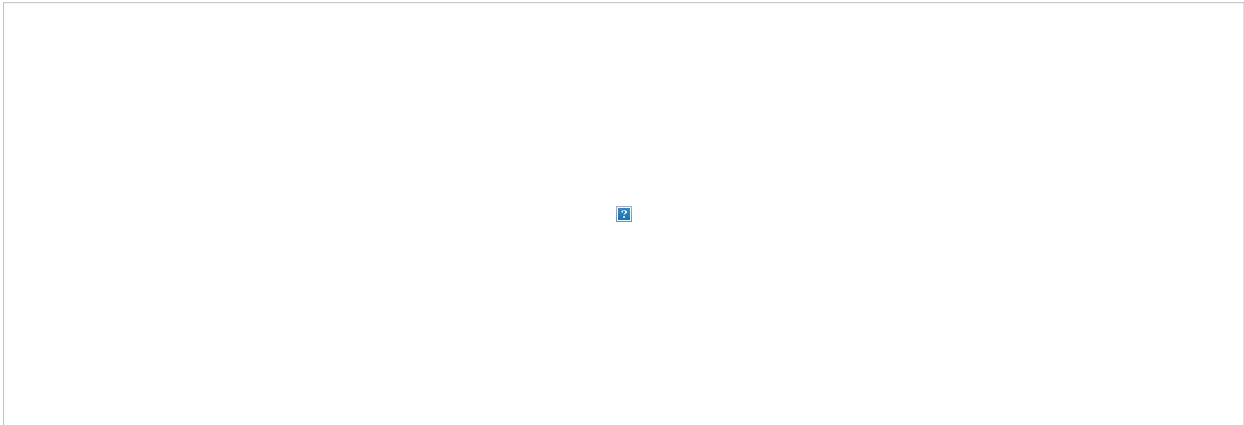
Hello Dan,

A few weeks ago I spoke to you about possible changes to our Impervious Surface Definition and Impervious Surface percentage maximums. After meeting with City Council at our most recent workshop, Council wishes to pursue the following changes:

**Change Impervious Surface Definition (Chapter 1.08 Definitions)**

*Impervious surface* means any structure or surface which interferes to any degree with the direct absorption of water into the ground, **including, but not limited to, building footprints, sidewalks, paved or gravel driveways and parking areas, patios, sport courts, or any other similar surface.** Decks, pervious landscaping fabric, the water surface of pools, and retaining walls shall not be included as impervious surface.

**Increase Maximum Impervious lot coverage for lots in Shoreland classified as Recreational Development from 15% to 25% for unsewered lots (Section 105.12.1260(c)(3) Table 17-3**



The change will impact unsewered lots in the areas of Lakes Elmo, Jane, Olson, and DeMontreville.

Ben Hetzel  
City Planner  
City of Lake Elmo  
3800 Laverne Ave. N.  
Lake Elmo, MN 55042  
651-747-3911