



PLANNING COMMISSION  
DATE: 4/14/14  
AGENDA ITEM: 5C – BUSINESS ITEM  
CASE # 2014 - 20

ITEM: Zoning Text Amendment – Shoreland Ordinance Update

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Community Development Director

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### **SUMMARY AND ACTION REQUESTED:**

The Planning Commission is asked to review a draft Shoreland Ordinance intended to update the City's shoreland provisions in advance of upcoming sewer growth in the community. The City will work with the DNR to review the draft ordinance in advance of a future public hearing.

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### **REQUEST DETAILS**

In an effort to update the City's shoreland provisions in advance of future sewer growth, staff has produced a draft ordinance that would address all anticipated development activity in the future. The proposed ordinance is modeled after the City of Woodbury's shoreland provisions. The reason that the City's existing shoreland provisions must be updated is that they only address activities and performance standards for rural development types in shoreland areas. As the City moves towards more sewer growth, the shoreland provisions must be updated accordingly. For example, the City's existing Shoreland Ordinance lists specific development standards by specific zoning district. Many of these zoning districts, such as R3, are longer in the City's Zoning Code. Moving forward, staff would like to provide standards that relate to whether the lot is riparian or non-riparian, or whether or not the lot is sewer or unsewered. This approach is different from the existing provisions which list performance standards by zoning district. In addition, staff is proposing to bring the shoreland provisions into the Zoning Code (Chapter 154).

TO update the Shoreland Ordinance to prepare for future sewer development, staff is proposing the following changes contained within the draft ordinance:

- Permitted and conditional uses within shoreland areas has been updated to reflect the City's updates list of use classifications and definitions (Article II – Definitions, §154.012).
- The biggest change to the provisions relate to the shoreland standards, which include performance standards and lot size requirements for various forms of residential development. The shoreland standards have been updated with the following changes:
  - Maximum impervious surface requirements have been updated according to riparian vs. non-riparian lots and sewer vs. non-sewer lots. The only exception proposed is to maintain the 15% or 6,000 square-foot maximum

standards for Rural Single Family (RS) lots. The reason for carrying this standard forward is that many RS lots are likely to get sewered within the City's Sanitary Sewer Service Areas.

- Lot size and width requirements have been updated according to riparian vs. non-riparian lots and sewered vs. unsewered lots.
- Provision have been added to require riparian dedications of 150' around both Goose and Kramer Lake, both of which are in the I-94 Corridor. Through the use of a riparian buffer, sewered development can proceed through the provisions of the base zoning district. Without this 150-foot riparian dedication, sewered developments would need to meet larger lot size requirements. These riparian dedications allow the City to take a more active role in ensuring surface water quality for public water bodies in and around developing areas.
- Per a previous request by the DNR, staff is proposing to change the allowed height of water oriented accessory structures from 13 feet to 10 feet. This change would make the City's ordinance consistent with the State model standard, as well as all other Metro communities researched by staff.

The attached draft ordinance is the first attempt to update these provisions. The City still must review the proposed shoreland ordinance with the DNR. In addition, as staff is proposing to bring the shoreland provisions into the Zoning Code, a future public hearing will also be necessary. To help facilitate the review of the shoreland ordinance at the meeting and in the future, staff will create a shoreland map to show the location and extent of these areas. Staff intends to present this map at the Planning Commission meeting.

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#### **RECCOMENDATION:**

No formal action is required at this time. The Planning Commission is asked to provide initial feedback regarding the draft shoreland ordinance. This feedback, along with DNR review, will inform a future draft, at which time staff intends to hold a public hearing.

#### **ATTACHMENTS:**

1. Draft Shoreland Ordinance, dated 4/14/14
2. Existing Shoreland Ordinance (§150.250)

#### **ORDER OF BUSINESS:**

- Introduction .....Planning Staff
- Report by Staff .....Planning Staff
- Questions from the Commission ..... Chair & Commission Members
- Discussion by the Commission ..... Chair & Commission Members



PLANNING COMMISSION

DATE: 5/28/14

AGENDA ITEM: 4A – PLANNING COMMISSION

CASE # 2014 - 20

ITEM: Zoning Text Amendment – Shoreland Ordinance Update

SUBMITTED BY: Nick Johnson, City Planner

REVIEWED BY: Kyle Klatt, Community Development Director  
John Hanson, Valley Branch Watershed District

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### **SUMMARY AND ACTION REQUESTED:**

The Planning Commission is asked to hold a public hearing on a draft Shoreland Ordinance intended to update the City's shoreland provisions in advance of upcoming sewer growth in the community. The Planning Commission reviewed the ordinance at the meeting on 4/28/14. Staff is recommending that the Planning Commission recommend approval the draft shoreland ordinance.

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### **REQUEST DETAILS:**

The Planning Commission last reviewed the proposed shoreland ordinance on 4/28/14. At that meeting, staff explained the purpose of the ordinance update is to adopt shoreland standards for sewer properties in Lake Elmo. The existing Shoreland Ordinance does not address dimensional and bulk standards for properties that are sewer. Alternatively, the current ordinance contains standards for individual zoning districts as opposed to sewer vs. non-sewer properties. As the City is now planning for sewer growth in both the I-94 Corridor and Village Planning Areas, it is critical to update the City's shoreland standards to account for these new types of land uses.

In terms of the review of the draft shoreland ordinance that was presented to the Planning Commission, staff has updated the ordinance based upon the discussion and other refinements intended to improve the document. The proposed changes in the document can be identified in redlines. The proposed refinements to the ordinance include the following:

- A definitions section was added to include key terminology that accompanies the shoreland standards. While the definitions of these terms are already included in the definition section of the City Code, staff thought it would be helpful to include these definitions in the ordinance itself.
- Table 17-1 was updated to include the known Ordinary High Water Level (OHWL) of various lakes and surface waters in the community. While the OHWL for some water bodies is undetermined, staff thought it is helpful to include this information for known lakes in the ordinance as a reference, which the current ordinance also provides.
- The list of public water bodies has been cross-referenced with the DNR's listed public waters database. In addition, staff has provided an updated shoreland map (Attachment

#3) identifying the locations of the registered public waters and their associated shoreland districts.

- The ordinance has been updated in the following areas in response to the review by the Valley Branch Watershed District:
  - Clarification was added to the title of Table 17-2 to identify what the abbreviation P (Permitted) and C (Conditional) refer to in terms of allowed land uses.
  - Table 17-3 was updated to reflect that the minimum low floor elevation allowed must be two feet above the 100-year flood elevation as opposed to Ordinary High Water Level.
  - Note c of Table 17-3 was updated to clarify that any exceptions to setback requirements must meet the rules and regulation of the applicable watershed district.
  - The section related to shoreland alterations was updated to reflect that all grading and filling activity must comply with the requirements of the Wetland Conservation Act.
  - Language was added to the section that relates to storm water management to clarify that wetlands and natural drainage ways should be used in a manner that is consistent with watershed district rules.
- The section related to water-oriented accessory structures was amended to clarify that rooftop decks on top of accessory structures must not be enclosed with an additional roof. This clarification has been requested by the DNR in the past.

These changes identified, most of which identified in redlines, summarize the refinements that have been completed by staff since the Planning Commission last reviewed the shoreland ordinance. In addition to some of these changes, the Planning Commission requested that staff review other public water bodies to see if any of them would benefit from required riparian buffering. In staff's judgment, no other lakes in the community other than Goose and Kramer would benefit from these provisions, as these are the only two lakes that are directly adjacent to areas guided for urban development.

In addition to the staff recommended changes, it should be noted that the Valley Branch Watershed District reviewed the proposed ordinance and submitted comments (Attachment #4). The draft ordinance was sent out to the DNR and the three watershed districts that are located in Lake Elmo (Valley Branch, Brown's Creek and South Washington). At the time of drafting this staff report, staff has not received any comments from the DNR, Brown's Creek Watershed District or the South Washington Watershed District. If any comments are submitted, staff will distribute the review comments electronically and address them at the Planning Commission meeting.

#### **RECCOMENDATION:**

*Staff is recommending that the Planning Commission recommend approval of the updated shoreland ordinance through the following motion:*

***“Move to recommend approval of the updated Shoreland Ordinance (§154.800)”***

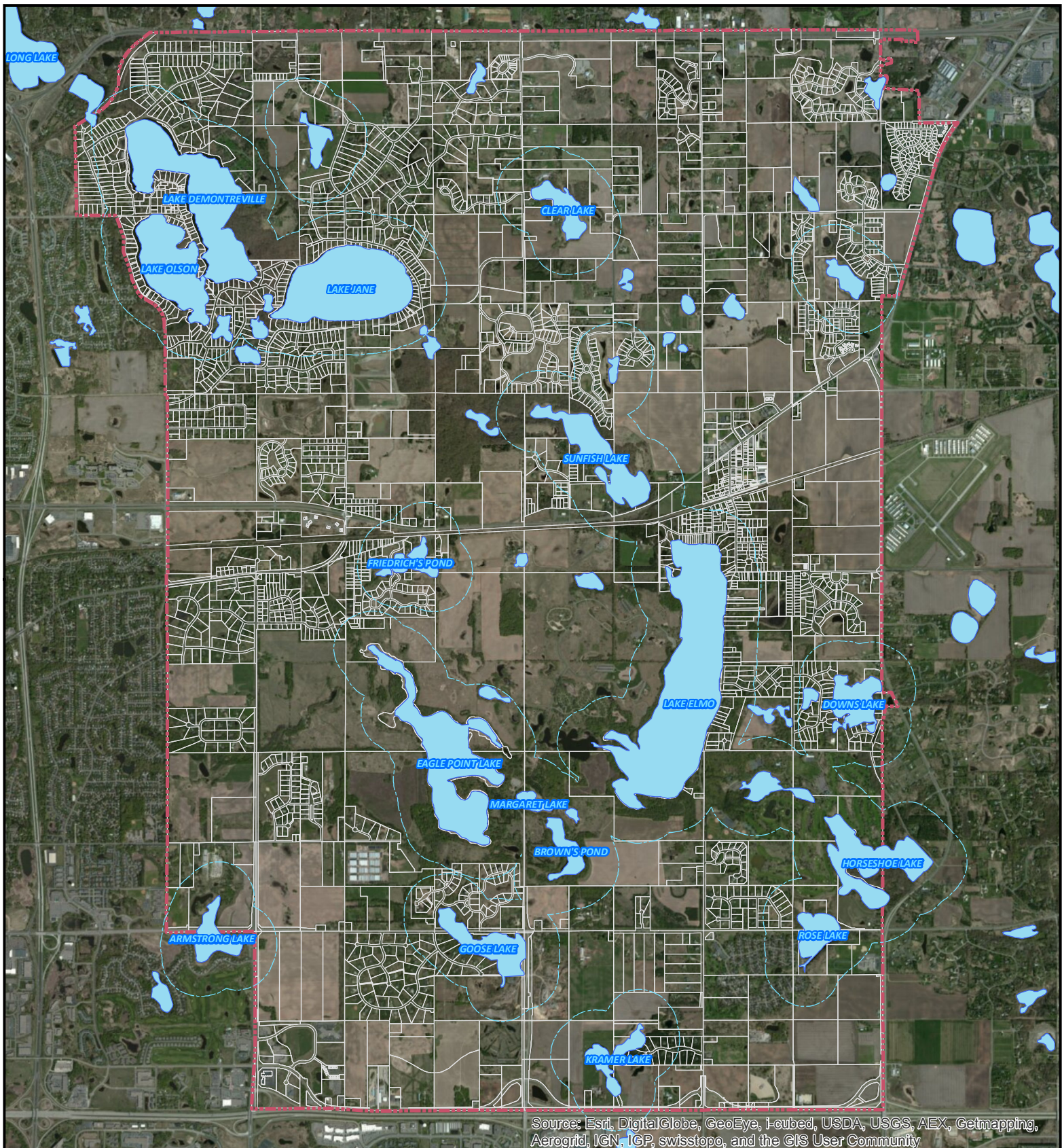
**ATTACHMENTS:**

1. Draft Shoreland Ordinance (§154.800), dated 5/28/14
2. Existing Shoreland Standards (§150.250) (hard copies distributed previously)
3. Shoreland Map (Updated)
4. Valley Branch Watershed District Review Letter

**ORDER OF BUSINESS:**

- Introduction.....Planning Staff
- Report by Staff .....Planning Staff
- Open the Public Hearing .....Chair
- Close the Public Hearing.....Chair
- Questions from the Commission ..... Chair & Commission Members
- Discussion by the Commission ..... Chair & Commission Members





# Shoreland Areas (Updated) - Lake Elmo, MN



- Lakes/Public Water Bodies
- Shoreland District
- Municipal Boundary

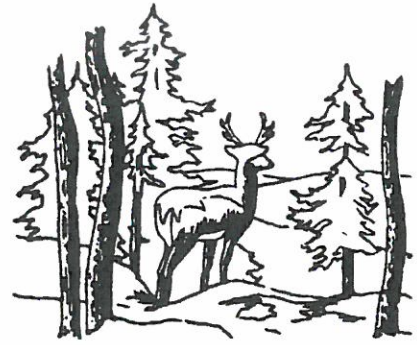
City of Lake Elmo  
5-22-2014  
Data Source:  
Washington County, MN





May 20, 2014

Mr. Nick Johnson  
City Planner  
City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, MN 55042



**Re: Shoreland Management Overlay District Ordinance Amendment**

Dear Mr. Johnson:

Thank you for submitting the proposed Shoreland Management Overlay Ordinance to me for review. On behalf of the Valley Branch Watershed District (VBWD), this letter provides my comments.

- Table 17-2 on page 3 includes P's and C's, but neither is defined.
- Note "a" of Table 17-2 on page 3 appears to automatically allow City-owned structures in shorelands. City-owned structures will need to conform to VBWD Rules and Regulations.
- Table 17-3 on page 4 indicates that minimum floor elevations of structures need to be 2 feet above the OHWL. This is not in compliance with the VBWD Rules and Regulations. Minimum floor elevations need to be at least 2 feet above the adjacent water's 100-year flood level. As the 100-year flood level is likely always higher than the DNR's OHWL, the row in the table should be changed to be comply with the VBWD Rules and Regulations.
- Note "c" to Table 17-3 on page 5 could create confusion. The VBWD limits the amount of fill that can be placed below the 100-year flood level of a water. Note "c" should be revised and/or include a statement that any exception will still need to comply with other entities' rules and regulations.
- Item C.7.e on page 7 should be clarified. All grading and filling must be in conformance with the Wetland Conservation Act. By having item "i" a subset of paragraph "e," there could be some confusion that only activities that move 10 cubic yards or 50 cubic yards must conform to the Wetland Conservation Act.
- With Item C.7.e.vii on page 8, please note that the VBWD requires permits for all activities below the 100-year flood level of waters. Waters are defined as a watercourse or a natural or constructed water basin, including the area around lakes, wetlands, stormwater ponds, lowlands, and intermittent and perennial streams.
- A revision might be needed to Item C.9.a on page 8. The VBWD has several requirements regarding stormwater discharges to wetlands. In some cases, the statement, "Existing...wetlands...must be used to convey, store, and retain storm water..." could be in conflict with the VBWD Rules and Regulations and the Wetland Conservation Act.

Sincerely,

John P. Hanson  
Barr Engineering Company  
Engineers for the Valley Branch Watershed District



DAVID BUCHECK • LINCOLN FETTER • DALE BORASH • JILL LUCAS • EDWARD MARCHAN

VALLEY BRANCH WATERSHED DISTRICT • P.O. BOX 838 • LAKE ELMO, MINNESOTA 55042-0538

[www.vbwd.org](http://www.vbwd.org)

# Minnesota Department of Natural Resources

Division of Ecological and Water Resources  
1200 Warner Road  
Saint Paul, MN 55106-6793



May 28, 2014

Nick Johnson  
City of Lake Elmo  
3800 Laverne Ave. N.  
Lake Elmo, MN 55042

RE: Shoreland Ordinance Revisions/Hammes Plat

Dear Mr. Johnson:

I have taken a preliminary look at the proposed revisions to your shoreland ordinance. It will take me more time to complete a thorough review without a redline version to compare to your old ordinance. It is also extremely time consuming to have to look in other parts of the ordinance for some of the standards. I may need to meet with you again so that you can highlight the changes.

The revision you are most interested in I think, is the riparian dedication so that you can apply it to the Hammes plat to increase density. You also mentioned that there may be other developments coming up. That is the section I will comment on at this time. Riparian buffers do have value when applied to undeveloped lakes so that the buffer functions to protect the riparian zone from individual property owner alterations that effect water quality and habitat. The city really only has 1 partially developed and one mostly undeveloped water body that these would be applicable to. The other water bodies are fully developed.

If approved, the riparian dedications areas must remain largely undeveloped and free of impervious surfaces. It seems like the standards for use contained in the ordinance would allow significant alteration for common spaces. For the Hammes Plat, the riparian dedication is small compared to the size of the lake. Such uses should be clustered for minimal impact and restricted to the greatest extent possible. Facilities and alterations must be setback the greatest amount possible to keep the buffer nearest the lake intact. It is also extremely important that the buffer areas be marked with monuments and signs to prevent yard creep. There should be deed restrictions and clear rules and enforcement.

Regarding the Hammes plat, we noticed that the riparian dedication does not cover the southern-most extension of the lake. As this is part of Goose Lake, the riparian dedication should also extend to protect the entire south end of the lake, including the extension. It is unknown to me whether this was natural or manmade, but at this point, it is considered part of the lake. It is unlikely that we could approve a flexibility request by the city to allow a riparian dedication of a 150' buffer without including the whole portion of the lake contained within the proposed plat.

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Another consideration for flexibility approval will be to evaluate the section of the ordinance regarding water oriented structures. We would still like to receive a written response to our letter regarding the Leonard structure. We appreciate that the city has revised the height to conform to the state standard in the new ordinance, but if our interpretations differ, we need to assure that we are on the same page going forward. This may involve inserting some additional language.

We likely need additional conversations regarding the steps forward in order to implement and approve flexibility for reduced standards. Unfortunately our time is very limited for land use related activities, but we are sensitive to the fact that the city needs to move forward and will try to prioritize reaching a conclusion of these issues.

Please contact me at (651) 259-5845 or [molly.shodeen@state.mn.us](mailto:molly.shodeen@state.mn.us) to discuss your thoughts.

Sincerely,

A handwritten signature in black ink that reads "Molly Shodeen". The signature is written in a cursive, flowing style.

Molly Shodeen  
Area Hydrologist

cc: Kyle Klatt, City Planning Director  
Dan Petrik, DNR EWR Land Use Unit