



STAFF REPORT

DATE: 2/7/2017

REGULAR

ITEM #: 12

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

BACKGROUND:

The City amended its Shoreland Ordinance in 2014 by adoption of Ordinance 08-111. These amendments were significant and did not receive required approval from the Minnesota Department of Natural Resources (MNDNR).

The Planning Department has been working with the MNDNR to make amendments to the City's Shoreland Management Overlay District Ordinance to bring the ordinance in to compliance with shoreland regulations of the state, as set forth in Minnesota Rules Part 6120.2800, in order to obtain required approval from the MNDNR. The MNDNR provided conditional approval of the amended ordinance in December of 2016.

ISSUE BEFORE COUNCIL:

The Council is respectfully requested to consider recommended amendments to Section 154.800: Shoreland Management Overlay District of the Zoning Code.

PROPOSAL DETAILS/ANALYSIS:

In summary, the recommended amendments include the following:

- *Definitions are removed*, as these definitions are already in Chapter 11 of the zoning code.
- *Three water bodies are removed from the Shoreland Classifications table*, removing them from the Shoreland Management Overlay District. A map of these waterbodies is attached to this report.
 - These do not have MNDNR shoreland classification and therefore are not required to be included in the City's Shoreland Ordinance. These four water bodies were not included in the City's 1993 Shoreland Ordinance but were added in during the 2014 Shoreland Ordinance amendment, as Staff at the time included all waterbodies that were on MNDNR lakefinder and/or public waters inventory data, rather than only including those that received MNDNR shoreland classification.
 - **MNDNR and VBWD Responses.** While working with the MNDNR to amend its Shoreland Management Overlay District ordinance, the Shoreland Classification Table was discussed. The MNDNR recommended adding one waterbody and removing four. Both the MNDNR and Valley Branch Watershed District (VBWD) were contacted regarding the removal of the four waterbodies, and their exact responses can be viewed in the attached emails.

- **Summary of MNDNR Response:** Recommended removing four water bodies from the Shoreland Classification table (DNR ID#s 82041900, 82031300, 82041700, 82041400, 82019a, and 82016a) and adding one water body (DNR ID# 82010500).
 - **Summary of VBWD Response:** Developments still need to conform to VBWD buffer and minimum floor elevation standards, so this in and of itself may adequately protect these shorelands. MNDNR ID#82041700 is part of a somewhat natural greenway connection between Horseshoe Lake and Lake Elmo, which is part of a larger somewhat connected greenway from the St. Croix, up Afton along Valley Creek, up Raleigh Creek and Sunfish Lake to the Tri-Lakes and Long Lake and eventually to White Bear Lake.
- *Berschen's Pond was added to the Shoreland Classifications table.*
 - This water body has a MNDNR shoreland classification and therefore should be included.
- *Forest land conversion was added as a conditional use to Table 17-2, with standards outlined in MN Rules Chapter 6120.3300 Subp. 8 included in Subd. (C) (8).*
- *Changes were made to the Shoreland Standards Table 17-3 to bring standards in to compliance with the MNDNR shoreland standards.*
 - *Reference to riparian dedication is deleted.*
 - This was an amendment made during the 2014 shoreland ordinance amendment and not approved by the MNDNR.
 - *Setbacks from ROW and roads are outlined.*
 - *Certain lot width and size minimum standards were amended according to MNDNR standards.*
 - *Standards for triplexes and quads were added.*
 - *Minimum lot width standards for unsewered lots and non-riparian lots were added.*
 - *Impervious surface standards were kept.*
 - It should be noted that the MNDNR approved an increase in maximum impervious standards within sewerred shoreland areas (30% rather than 25%) in exchange for a lower impervious standards for unsewered shoreland areas (15% as opposed to 20%).
 - *Maximum structure height was added.*
 - It should be noted that the MNDNR approved an increase in maximum building height (35 feet as opposed to the standard of 25 feet) for a decrease to Planned Unit Development (PUD) flexibility (20%, which is lower than MNDNR standard but is aligned with the City's PUD ordinance).
 - *Standards for lots intended as controlled access to public waters or recreation areas for use by owners of nonriparian lots within subdivisions was added.*
 - These standards were taken from the MNDNR Model Shoreland Ordinance.
- *Restrictions on roads, driveways and parking area, as well as steep slopes, were added, pursuant to requirements set forth by Minnesota Rules Part 6120.2800.*
- *Language was added to the Subdivision Standards subpart:*
 - Prohibiting lots that require the use of holding tanks.
 - Added standards set forth in MN rules for duplexes, triplexes, and quads.
- *The Sand and Gravel Extraction Subdivision was eliminated, as extraction is not a permitted use within the shoreland district.*
- *PUD standards for PUDs within the shoreland were added, as requested by the MNDNR.*
 - *Requirement to hook up to public sewer or community septic.* The requirement that PUDs be connected to public water supply and sewer systems was kept, but language

is also added that specifies that hen sewer is not available, individual septic systems are not allowed, and a community septic system is required.

- o *Open Space Preserved in Perpetuity.* Language from the 2014 City-approved Shoreland ordinance was kept, requiring the developer/owner to provide for the preservation and maintenance in perpetuity of open space and continuation of the development as a community.
- o *Open Space Calculations – What May and May Not be Included.* Since the Planning Commission meeting, language was added that allows for wetlands and public waters without shoreland classification to be included in open space calculations and clarifies that public waters and wetlands cannot be included as open space. This was in response to a question from a resident that arose on whether or not this could be included, and the previous language did not clarify this. Staff consulted the MNDNR, who explained that land below the Ordinary High Water Level of public waters cannot be included, and so Staff recommends that this language be included for clarification.
- *Non-Conformities.* The non-conformities section was revised to align more closely with State Statute requirements for nonconformities.
- *Surface Water-Oriented Uses.* Standards for surface water-oriented uses were added as recommended by the MNDNR. Language from the MNDNR Model Shoreland Ordinance was used.
- *Administration Section.* The administration section was updated to more closely align with Minnesota Rules.

The MNDNR has reviewed the ordinance and has given approval of the ordinance contingent upon adoption of the ordinance with recommended edits. After the Planning Commission has made recommendation and Council has approved any amendments to the Shoreland Ordinance, Staff will send the ordinance to the MNDNR for final approval.

FISCAL IMPACT:

None.

OPTIONS:

The Council may:

- Approve the recommended ordinance amendment.
- Make changes to and approve the ordinance amendment.
- Deny the recommended ordinance amendment.

PLANNING COMMISSION/PUBLIC HEARING:

A public hearing was held on the proposed amendment on January 9, 2017 at the Planning Commission meeting. Comments from the public included the following:

- Terry Emerson, 11678 20th St N, concern about:
 - Involving the MNDNR in approval processes of variances, conditional use permits, etc.
 - Requirement of a variance for additions or expansions to nonconforming structure.
 - Logic behind adding Berschen's Pond in the Shoreland Classification Table.
 - Requiring the same setback from Ordinary High Water Level from a Natural Environment water body in sewered areas as are required in non-sewered areas.
 - The proposed amendment was recommended by an affirmative vote of 5-0.

- Ann Buchek, 2301 Legion Ave, questions about:
 - If there is an open space requirement when developments meet lot area and size requirements.
 - Maintenance responsibility for open space.
 - Whether 50% open space requirement was per shoreland within a development or per the entire development within the shoreland.
- An email from John Hodler requesting that Goetschel be retained in the Shoreland Classifications Table was read.

The Planning Commission recommended making the following two changes, which have been amended in the attached, proposed ordinance:

- Do not remove Goetschel's Pond from the Shoreland Classification Table.
- Clarify that open space must constitute at least 50% of the total project area within the shoreland of a Planned Unit Development.

The Planning Commission also asked for clarification if lots served by community septic systems would be considered sewered by shoreland standards. MNDNR's response to this question is attached in an email.

The Planning Commission recommended the Council approve the ordinance as amended with an affirmative vote of 5-0.

RECOMMENDATION:

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

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

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

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

ATTACHMENTS:

- Ord. 08-166
- MNDNR Comments and Contingent Approval Letter
- Resolution 2017-012
- Planning Commission meeting minutes, 1/9/2017
- MNDNR email clarifying community septic system standards.
- Map showing water bodies affected by changes to Shoreland Classification Table
- Email request to retain Goetschel in Shoreland Classification Table.

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-166

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

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Section 800 to read the following:

ARTICLE 17. SHORELAND MANAGEMENT OVERLAY DISTRICT

§154.800 Shoreland Management Overlay District

§154.800 Shoreland Management Overlay District

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

Table 17-1: Shoreland Classifications

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

82011602	Armstrong (south of CSAH 10)	Sec 28, T29, R21	1019.3	NE
82009900	Clear	Sec 2 & 11, T29, R21	-	NE
82010100	DeMontreville	Sec 4, 5 & 9, T29, R21	929.3	RD
82010500	Berschen's Pond			NE
82011000	Downs	Sec 24, T29, R21	889.1	NE
82010900	Eagle Point	Sec 22 & 27, T29, R21	896.5	NE
82010600	Elmo	Sec 13, 14, 23, 24 & 26, T29, R21	885.6	RD
82010800	Friedrich Pond	Sec 15 & 22, T29, R21	-	NE
82011300	Goose	Sec 27, 34 & 35, T29, R21	924.4	NE
82011100	H.J. Brown Pond	Sec 26, T29, R21	-	NE
82007400	Horseshoe	Sec 25, T29, R21	876.8	NE
82010400	Jane	Sec 9 & 10, T29, R21	924.0	RD
82011700	Kramer	Sec 35, T29, R21	-	NE
82010300	Olson	Sec 8 & 9, T29, R21	929.3	RD
N/A	Raleigh Creek North (to Eagle Point Lake)	Sec 16, 21 & 22, T29, R21	-	T
N/A	Raleigh Creek South (Eagle Point Lake to Lake Elmo)	Sec 22, 23 & 227, T29, R21	-	T
82011200	Rose	Sec 25 & 36, T29, R21	-	NE
82010700	Sunfish	Sec 14, T29, R21	896.4	NE
82010000	Unnamed	Sec 4, T29, R21	-	NE
82031300	Unnamed	Sec 12, T29, R21	-	NE
N/A	Unnamed to Wilmes Lake	Sec 33, T29, R21	-	T
N/A	Unnamed Tributary	Sec 25, T29, R21	-	T

Classifications

RD = Recreational Development Lake Classification

NE = Natural Environment Lake Classification

T = Tributary River Classification

Notes to Table 17-1:

a. As measured from and perpendicular to the ordinary high water level (OHWL)

2. Land Uses in Shoreland Districts. All uses of land shall be regulated by the applicable zoning district subject to applicable conditions. Notwithstanding the underlying zoning district, the following uses shall be regulated in shoreland districts as specified in Table 17-2:

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

Land Uses	Shoreland Classification		
	Recreational Development	Natural Environment	Tributary River
Residential	P	P	P
Commercial	P	C	C
Public and Civic Uses	P	C	C
Outdoor Recreation ^a	C	C	C
Agricultural and Related Uses ^{b, c}	P	P	P
Industrial and Extractive Uses	-	-	-
Utilities, Transportation and Communications	C	C	C
Accessory Uses	P	P	P
Planned Developments (PUDs)	C	C	C
Forest Land Conversion	C	C	C

Notes to Table 17-2:

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

Table 17-3: Shoreland Standards

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

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

Two-family or duplex ^e	265 feet	400 feet	150 feet
Maximum Structure Height	35 feet	35 feet	35 feet

Notes to Table 17-3:

- a. Reduction of the required setback from a historic site is permitted with the approval of the office of the Minnesota State Archeologist.
- b. Where structures exist on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the Ordinary High Water Level (OHWL), provided the proposed building is not located in a shore impact zone or bluff impact zone.
- c. Roads, driveways and parking areas shall meet the minimum structure setback. Where no alternative exists, such improvements may be placed within the required structure setbacks provided they are designed to adapt to the natural landscape, soil erosion is minimized and no construction shall occur in shore or bluff impact zones. Exceptions to setback requirements must comply with the rules and regulations of local watershed districts.
- d. Commercial, public and civic uses located on lots with public waters frontage shall be setback double the required setback or be substantially screened from the water by vegetation or topography, assuming summer, leaf-on conditions.
- e. Subdivisions of duplexes, triplexes, and quads within Natural Environment Shoreland districts must also meet standards set forth in Section (C)(5)(c).
- f. Minimum lot size and width requirements apply to residential uses only.
- g. *Lots Intended As Controlled Accesses to Public Waters or as Recreation Areas for Use by Owners of Nonriparian Lots within Subdivisions.* Must meet or exceed the following standards:
They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
 - i. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements

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

- ii. They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total

number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

4. Design Criteria for Structures

- a. *Water Oriented Accessory Structures.* Each lot may have one (1) water oriented accessory structure not meeting the normal structure setbacks if the structure complies with the following provisions:
 - i. *Structure Height.* The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, from the average grade of the structure to the peak of the roof. Detached decks must not exceed eight (8) feet above grade at any point.
 - ii. *Structure Size.* Water oriented accessory structures cannot occupy an area greater than two-hundred and fifty (250) square feet.
 - iii. *Structure Setback.* The setback of the structure or facility landward from the Ordinary High Water Level (OHWL) must be at least ten (10) feet on a recreational development lake and fifty (50) feet on a natural environment lake.
 - iv. *The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.*
 - v. *The roof of the structure may be used as a deck with safety rails, but must not be enclosed or used as a storage area.*
 - vi. The structure or facility must not be used for human habitation and must not contain water supply or sewage treatment facilities.
 - vii. *Watercraft Storage Facilities.* As an alternative for recreational development water bodies, water oriented accessory structures used solely for watercraft storage, and including the storage of related boating and water oriented sporting equipment, may occupy up to four hundred (400) square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the configuration of the shoreline.
- b. *Stairways, Lifts and Landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
 - i. Stairways and lifts must not exceed four (4) feet in width. Wider stairways may be used for public open space or recreation properties.
 - ii. Landings for stairways and lifts must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for public open space or recreation properties.
 - iii. Canopies or roofs are not allowed on stairways, lifts or landings.
 - iv. Stairways, lifts and landings may be either constructed above ground on posts or pilings or placed into the ground, provided that they are designed and built in a manner that ensures control of soil erosion.
 - v. Stairways, lifts and landing must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.

- vi. Facilities such as public and private watercraft access ramps, lifts, access-related parking areas, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subsections (i) through (v) above are satisfied and provided the vegetative screening and erosion control requirements are met.
 - c. *Roads, Driveways, and Parking Areas.* Public and private roads, driveways, and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
 - d. *Steep slopes.* Local government officials must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
5. *Subdivision Standards.* The following standards shall apply to subdivisions in shoreland areas:
- a. Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. In determining suitability the City will consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision, or of the community at large.
 - b. Subdivisions must conform to all other official controls adopted by the City of Lake Elmo. Subdivisions will not be approved that are designed so variances from one or more standards in official controls would be needed to use the lots for their intended purpose. Lots that would require use of holding tanks must not be approved.
 - c. On natural environment lakes, subdivisions of duplexes, triplexes, and quads must also meet the following standards:
 - i. Each building must be set back at least 200 feet from the ordinary high water level.
 - ii. Each building must have common sewage treatment and water systems that serve all dwelling units in the building.
 - iii. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building.
 - iv. No more than 25 percent of a lake's shoreline can be in a duplex, triplex, or quad environment.
6. *Agricultural Activities.* The following standards shall apply to agricultural activities in shoreland areas:
- a. The shore impact for parcels with permitted agricultural uses is equal to a line parallel to and 50 feet from the OHWL.

- b. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore impact zones are maintained in permanent vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the local soil and water conservation district or the USDA Natural Resources Conservation Service.
 - c. New animal feedlots are not allowed in shoreland. Modifications or expansions to existing feedlots or resumption of old feedlots are conditional uses and must meet the following standards:
 - i. Feedlots must be designed consistent with Minnesota Rules Chapter 7020;
 - ii. Feedlots must not further encroach into the existing ordinary high water level setback or the bluff impact zone and must not expand to a capacity of 1,000 animal units or more; and,
 - iii. Old feedlots not currently in operation may resume operation consistent with Minnesota Statute Section 116.0711.
 - d. The use of pesticides, fertilizers or animal wastes within shoreland areas shall be done in such a way as to minimize impacts on shore impact zones by proper application or use of earth or vegetation.
7. *Shoreland Alterations.* The purpose of this section is to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent back slumping and protect fish and wildlife habitat. Shoreland alterations shall be allowed in accordance with the following standards:
- a. No principal or accessory structure or use shall be placed within bluff or shore impact zones other than agricultural activities as permitted by subsection (C)(6)(b).
 - b. Shore impact zones shall be maintained in permanent vegetation or operated under an approved conservation plan consistent with the field office technical guides of the local soil and water conservation district.
 - c. *Intensive Vegetative Clearing.* Intensive vegetation clearing within shore and bluff impact zones and/or steep slopes is not permitted. Intensive clearing within shoreland areas outside of bluff or shore impact zones and steep slope areas is subject to standards set forth in Subp. (C) (8) of this Section.
 - d. *Limited Tree Clearing.* Limited clearing of trees and shrubs and the cutting, pruning and trimming of trees within bluff and shore impact zones or steep slopes to accommodate picnic areas, trails and water access and to provide a view to the water from a principal dwelling site shall be permitted provided the screening of structures, as viewed from the water, is not substantially reduced and that the shading of water surface is along rivers is preserved. These provisions do not apply to the removal of tree limbs or branches that are dead or pose a safety hazard.
 - e. *Grading in Shoreland Areas.* All grading and filling activities must be in conformance with the Wetland Conservation Act. Any grading or filling on steep slopes or within shore or bluff impact zones involving the movement of ten (10) or more cubic yards of material or involving more than fifty (50) cubic yards of material elsewhere in a shoreland area shall require the submission of a Grading Permit. Approval shall be granted only if the following conditions are met:
 - i. The smallest amount of bare ground is exposed for the shortest time possible;
 - ii. Ground cover such as mulch is used for temporary bare soil coverage and permanent ground cover, such as sod, is established;
 - iii. Methods to prevent erosion and trap sediment during construction are employed;

- iv. Altered areas are stabilized to accepted erosion control standards;
 - v. Fill is not placed so as to create unstable slopes;
 - vi. Plans to place fill or excavated material on steep slopes are certified by qualified professionals as to slope stability and must not create finished slopes of 30 percent or greater;
 - vii. Alterations below the OHWL of public waters must first be authorized by the Commissioner of the Minnesota Department of Natural Resources per Minn. Stats. § 103G.245 and 103G.405;
 - viii. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the OHWL and the height of the riprap above the OHWL does not exceed three feet; and
 - ix. Alterations of topography shall only be permitted if accessory to a permitted or conditional use.
 - x. Fill or excavated material must not be placed in bluff impact zone.
8. *Forest management standards.* The harvesting of timber and associated reforestation or conversion of forested use to a nonforested use must be conducted consistent with the following standards:
- a. Timber harvesting and associated reforestation must be conducted consistent with the Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers
 - b. Forest land conversion to another use requires issuance of a conditional use permit and adherence to the following standards:
 - i. Shore and bluff impact zones must not be intensively cleared of vegetation.
 - ii. An erosion and sediment control plan is developed and approved by the City and local soil and water conservation district and is consistent with the City's Storm Water and Erosion and Sediment Control Ordinance (150.270) before issuance of a conditional use permit for the conversion.
9. *Stormwater Management.* Stormwater management shall be in accordance with the City's Storm Water and Erosion and Sediment Control Ordinance (§150.270). In addition, the Minnesota Pollution Control Agency's Minnesota Stormwater Manual shall be used as guidance. Within shoreland areas, the following standards also apply:
- a. Existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain storm water in a manner consistent with local watershed district rules and regulations before discharge to public waters.
 - b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, and erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as grading is complete and facilities or methods used to retain sediment on the site are removed.
 - c. Use of fertilizers, pesticides or animal wastes within shoreland areas must be done in a way to minimize impact on the shore impact zone or public water by proper application.
 - d. New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
10. *Private Utilities.* The following provisions shall apply in shoreland areas:

a. Private subsurface sewage treatment systems shall meet applicable City and County requirements and Minnesota Pollution Control Agency's Chapter 7080 standards. Publicly owned sewer systems shall be used where available.

b. Any private water supply to be used for domestic purposes shall meet quality standards established by the Minnesota Department of Health and the Minnesota Pollution Control Agency.

- i. Private wells must be located, constructed, maintained, and sealed in accordance with or in a more thorough manner than the Water Well Construction Code of the Minnesota Department of Health.

11. *Planned Unit Developments (PUD)*

- a. *Purpose.* To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential uses.
- b. *Density.* Deviation from the minimum lot size standards of Table 17-3 of this ordinance is allowed if the standards in this Section are met.
- c. *Processing of PUDs.* Planned unit developments are processed according to the procedures in Section 154.758 and the standards of Article XVI and Article XVII, whichever is more restrictive. Approval cannot occur until all applicable environmental reviews are complete.
- d. *Application for a PUD.* The applicant for a PUD must submit the following documents prior to final action on the application request:
 - i. A property owners association agreement with mandatory membership, and consistent with 11 (h) (iv) of this ordinance.
 - ii. Deed restrictions, covenants, permanent easements or other instruments that:
 - 1. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
 - 2. Ensure preservation and maintenance of open space in perpetuity accordance with the criteria and analysis specified in 11 (h) of this ordinance.
- e. *Density Determination.* Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.
 - i. *Step 1. Identify Density Analysis Tiers.* Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high water level at the following intervals, proceeding landward:

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

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

- iii. Step 4. Determine if the Site can Accommodate Increased Density.

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

Structure setbacks from the ordinary high water level:

- 1. Are increased to at least 50 percent greater than the minimum setback; or
- 2. The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least 25 percent greater than the minimum setback.

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

- i. General Design Standards.

- 1. Dwelling units must be clustered into one or more groups and located on suitable areas of the development.
- 2. Dwelling units must be designed and located to meet the dimensional standards, other than those for lot area and width, in Table 17-3:
- 3. Shore recreation facilities:
 - 1. Must be centralized and located in areas suitable for them based on a suitability analysis (as explained in Subd. (C) (5) (a) of this Section).
 - 2. 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.
 - 3. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units located in other tiers.
- 4. At least 50 percent of the total project area shall be preserved as open space and must meet standards outlined in 11 (g) of this ordinance.

5. PUDs shall be connected to public water supply and sewer systems. When sewer is not available, individual septic systems are not allowed; community sewage treatment systems are required.
 6. Approval from the DNR is required to ensure compliance with additional regulations.
 - ii. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
 - iii. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.
- g. Open Space Requirements.*
- i. Open space must constitute at least 50 percent of the total project area within the shoreland and must include:
 1. Areas with physical characteristics unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries;
 2. Portions of the shore impact zone preserved in its natural or existing state as follows:
 - i. For existing residential PUD's, at least 50 percent of the shore impact zone
 - ii. For new residential PUDs, at least 70 percent of the shore impact zone.
 - ii. Open space may include:
 1. Outdoor recreational facilities for use by owners of lots in the subdivision and by the general public; and
 2. Stormwater detention facilities, subsurface sewage treatment systems (if the use of the space is restricted to avoid adverse impacts on the systems), and other required site improvements not prohibited herein may be applied to this requirement.
 3. Non-public water wetlands
 - i. Open space shall not include:
 1. Road rights-of-way, or land covered by roads, structures or parking surfaces;
 2. Lots, unless owned in common by an owners association;
 3. Commercial facilities or uses;
 4. Land below the OHWL of public waters.
- h. Open Space Maintenance and Administration Requirements.*
- i. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved.

- ii. Before final approval of a PUD is granted, the developer/owner shall provide for the preservation and maintenance, in perpetuity, of open space and the continuation of the development as a community.
- iii. The instruments must prohibit:
 - 1. Commercial uses ;
 - 2. Vegetation and topographic alterations other than routine maintenance;
 - 3. Construction of additional buildings or storage of vehicles and other materials; and
 - 4. Uncontrolled beaching of watercraft.
- iv. Development organization and functioning. All planned unit developments must use an owners association with the following features:
 - 1. Membership must be mandatory for each dwelling unit owner and any successive owner;
 - 2. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;
 - 3. Assessments must be adjustable to accommodate changing conditions; and
 - 4. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

12. *Nonconformities.*

- a. All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to Minnesota Statutes, Section 462.357 Subd. 1e and other regulations of this community for alterations and additions; repair after damage; discontinuance of use; and intensification of use.
- b. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this ordinance. Any deviation from these requirements must be authorized by a variance.

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:

- i. 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.
- ii. 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.
- iii. 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.
- iv. 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.

- v. 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 Minnesota Statutes, Section 462.357 and are subject to the following:
 - a. A variance may not circumvent the general purposes and intent of this ordinance; and
 - b. For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required for variance approval. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.
2. *Conditional Uses.* All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:
 - a. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 - b. The visibility of structures and other facilities as viewed from public waters is limited;
 - c. There is adequate water supply and on-site sewage treatment; and
 - d. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
3. *Mitigation.*
 - a. In evaluating all variances, conditional uses, zoning and building permit applications, the zoning authority shall require the property owner to address, when related to and proportional to the impact, the following conditions to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:
 1. Advanced storm water 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 Minnesota Rules, part 6120.3000, subp.4.

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

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

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

SECTION 43 Adoption Date. This Ordinance 08-166 was adopted on this 7th day of February 2017, by a vote of ___ Ayes and ___ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

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



MINNESOTA DEPARTMENT OF NATURAL RESOURCES
CENTRAL REGION
1200 WARNER ROAD
SAINT PAUL, MN 55106
651-259-5800

Date: 12/29/2016

Steve Wensman
Planning Director, City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042

Re: MNDNR Conditional Approval of City of Elmo's Shoreland Regulations and DNR Flexibility to State Shoreland Standards

Steve –

MNDNR has reviewed Lake Elmo's draft Article 17 – Shoreland Management Overlay District (submitted to our Central Region Office for review on 12/28/16) for compliance with the State Shoreland Management Regulations. Contingent on changes requested by MNDNR in the attached draft Article 17 dated 12/29/16, the attached Article 17 with additions and deletions is compliant with MN Rules, Parts 6120.2500 – 6210.3900 and is conditionally approved by MNDNR.

Under shoreland flexibility, MNDNR and the City of Lake Elmo agree to allow a 35-foot maximum building height (standard = 25 feet) and 30% maximum impervious surface coverage of lots in sewered areas (standard = 25%), in return for 15% impervious surface coverage on unsewered lots (standard = 25%) and a 20% bonus density increase for PUDs (standard = 200%). The 20% bonus density increase for PUDs is consistent with the City's existing PUD provisions. It is found that these flexibility requests involve circumstances that take into account the existing development patterns of Lake Elmo. MNDNR provides conditional approval for your request for implementation flexibility.

If you have questions regarding the contents of this letter, please contact Jenifer Sorensen, Area Hydrologist (651-259-5754; jenifer.sorensen@state.mn.us). Thank you for Lake Elmo's efforts in developing standards that will protect the water resources of the state.

Sincerely,

Terri Yearwood
Central Region Manager
MNDNR, Division of Ecological & Water Resources
1200 Warner Road, St. Paul, MN 55106
651-259-5766 | terri.yearwood@state.mn.us

mndnr.gov



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CITY OF LAKE ELMO - ~~12-29-16~~
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 08-____

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

SECTION 1. The City Council of the City of Lake Elmo hereby amends Title XV: Land Usage; Chapter 154: Zoning Code; Section 800 to read the following:

ARTICLE 17. SHORELAND MANAGEMENT OVERLAY DISTRICT

§154.800 Shoreland Management Overlay District

§154.800 Shoreland Management Overlay District

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

~~*Bluff.* A topographic feature such as a hill, cliff, or embankment having the following characteristics: (An area with an average slope of less than 18% over a distance of 50 feet or more shall not be considered part of the bluff.)~~

- ~~1. Part or all of the feature is in a Shoreland area;~~
- ~~2. The slope rises at least 25 feet above the ordinary high water level of the water body;~~
- ~~3. 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% or greater; and~~
- ~~4. The slope must drain toward the water body.~~

~~*Bluff Impact Zone.* A bluff and land located within 20 feet from the top of a bluff.~~

~~*Boathouse.* A structure designed and used solely for the storage of boats and boating equipment.~~

~~Dedicated Riparian Area. Starting at the Ordinary High Water Level (OHWL), areas dedicated to the City to be maintained in a permanent state of natural vegetation for the purposes of protecting surface waters from the impacts of land alteration and/or development activity. Permitted uses within dedicated riparian areas are noted in subsection (C)(7) (f).~~

~~D.N.R., The Minnesota Department of Natural Resources.~~

~~Land Alteration. The excavation or grading of land involving movement of earth and materials in excess of 50 yards.~~

~~Shore Impact Zone. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.~~

~~Shoreland. 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 extent of a flood plain 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.~~

~~Water Oriented Accessory Structure or Facility. 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 the structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.~~

Commented [EB1]: Language regarding dedicated riparian areas has been removed. This part of the ordinance was added in 2014 and not approved by the DNR.

Commented [EB2]: This is an administrative function requiring approval by the DNR and is included in the administrative section.

Commented [EB3]: The DNR recommended removing these definitions according to its comments dated 12.19.2016, as they are all already in the definitions of Chapter 11 of the City Code.

C. Shoreland Management Overlay District

1. *Shoreland Classifications.* The public waters in Table 17-1 have been classified by the commissioner of natural resources, consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300, as: natural environment (NE), recreational development (RD) and tributary (T) shorelands. ~~Where noted, riparian dedication is required by the City.~~

Table 17-1: Shoreland Classifications

DNR ID #	Name	Location	Ordinary High Water Level	Class	150 FT ^a Riparian Dedication Required
82011601	Armstrong (north of CSAH 10)	Sec 28, T29, R21	1020.3	NE	No
82011602	Armstrong (south of CSAH 10)	Sec 28, T29, R21	1019.3	NE	No
82009900	Clear	Sec 2 & 11, T29, R21	-	NE	No
82010100	DeMontreville	Sec 4, 5 & 9, T29, R21	929.3	RD	No
82010500	Berschen's Pond			NE	
82011000	Downs	Sec 24, T29, R21	889.1	NE	No
82010900	Eagle Point	Sec 22 & 27, T29, R21	896.5	NE	No
82010600	Elmo	Sec 13, 14, 23, 24 & 26, T29, R21	885.6	RD	No
82010800	Friedrich Pond	Sec 15 & 22, T29, R21	-	NE	No
82011300	Goose	Sec 27, 34 & 35, T29, R21	924.4	NE	Yes
82011100	H.J. Brown Pond	Sec 26, T29, R21	-	NE	No
82007400	Horseshoe	Sec 25, T29, R21	876.8	NE	No
82010400	Jane	Sec 9 & 10, T29, R21	924.0	RD	No

Commented [JS4]: Armstrong Lake (South) must remain within Table 17-1. The basin itself is in Oakdale, but a portion of the lake's shoreland district are within the City boundary of Lake Elmo and thus must be regulated under the City's shoreland ordinance.

82011700	Kramer	Sec 35, T29, R21	-	NE	Yes
82041900	Margaret	Sec 26, T29, R21	-	NE	No
82010300	Olson	Sec 8 & 9, T29, R21	929.3	RD	No
N/A	Raleigh Creek North (to Eagle Point Lake)	Sec 16, 21 & 22, T29, R21	-	T	No
N/A	Raleigh Creek South (Eagle Point Lake to Lake Elmo)	Sec 22, 23 & 227, T29, R21	-	T	No
82011200	Rose	Sec 25 & 36, T29, R21	-	NE	No
82010700	Sunfish	Sec 14, T29, R21	896.4	NE	No
82010000	Unnamed	Sec 4, T29, R21	-	NE	No
82031300	Unnamed	Sec 12, T29, R21	-	NE	No
82041700	Unnamed	Sec 25, T29, R21	-	NE	No
82048400	Unnamed	Sec 11, T29, R21	-	NE	No
N/A	Unnamed to Wilmes Lake	Sec 33, T29, R21	-	T	No
N/A	Unnamed Tributary	Sec 25, T29, R21	-	T	No

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)

- 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) ~~and Interim (I)~~ Uses, Shoreland Classifications

Land Uses	Shoreland Classification		
	Recreational Development	Natural Environment	Tributary River
Residential	P	P	P
Commercial	P	C	C
Public and Civic Uses	P	C	C
Outdoor Recreation ^a	C	C	C
Agricultural and Related Uses ^{b, c}	P	P	P
Industrial and Extractive Uses	-	-	-
Utilities, Transportation and Communications	C	C	C
Accessory Uses	P	P	P

Commented [EB5]: The DNR allows extractive uses as conditional uses in these shorelands. Industrial uses are also conditional within RD and T shoreland classifications but are not allowed in NE lakes. The 2014 shoreland amendment had not allowed these uses with any shorelands, and Staff has not made any changes to this.

Planned Developments (PUDs)	C	C	C
<u>Forest Land Conversion</u>	<u>C</u>	<u>C</u>	<u>C</u>

Notes to Table 17-2:

- City owned parks and open space and any uses or structures accessory to such uses are permitted within shoreland areas.
- Vegetative clearing within shore and bluff impact zones and on steep slopes is not permitted.
- New feedlots are not allowed in any Shoreland Management Overlay District.

- Shoreland Standards.* The ~~following~~ standards in Table 17-3 shall apply within shoreland areas to principal, conditional and accessory uses and structures:

Table 17-3: Shoreland Standards

Standards	Shoreland Classification		
	Recreational Development	Natural Environment	Tributary River
Minimum structure setback from County, State or Federal road right-of-way	50 feet	50 feet	50 feet
Minimum setback from right-of-way line of town road, public street, or other roads or streets not classified	20 feet	20 feet	20 feet
Minimum structure setback from an unplatted cemetery or historical site ^a	50 feet	50 feet	50 feet
Minimum structure setback from the Ordinary High Water Level (OHWL) ^{b, c, e}			
Riparian dedication required	200 feet	200 feet	200 feet
Riparian dedication not required^d			
Sewered ^d	75 feet	100 150 feet	50 75 feet
Unsewered ^d	100 feet	150 feet	100 feet
Minimum structure setback from top of bluff	30 feet	30 feet	30 feet
Minimum septic system setback from OHWL	75 feet	150 feet	75 feet
Minimum low floor elevation above the 100-year flood elevation	2 feet	2 feet	2 feet
Maximum impervious lot coverage			
With riparian dedication	50%	50%	50%
Without riparian dedication			
Sewered ^e	30%	30%	30%
Unsewered	15% or 6,000 square foot (sf), whichever is larger		
Minimum lot size ^f , riparian lots			
Riparian dedication required	Same as zoning district		
Riparian dedication not required, eSewered			
Single family detached	20,000 sf	40,000 sf	Same as zoning district
Two-family or duplex	35,000 sf	70,000 sf	
<u>Triplex</u>	<u>120,000 sf</u>	<u>160,000 sf</u>	<u>Same as</u>

Commented [EB6]: This aligns with MN rules. Comment from DNR: The reason why the structure setback from the OHW is 150 feet for both sewerred and unsewerred lots is that NE lakes are especially sensitive water bodies – they are typically shallow and more wetland in character than RD and GD classified lakes, which are larger and deeper. Having a greater setback on NE lake allows the width of the shoreland impact zone (SIZ) to also be greater (since the SIZ is 1/2 the structure setback). In summary, to reduce the impacts from human activities on NE lakes, which are more ecologically sensitive, the OHW setback on NE lakes is greater than for RD and GD lakes.

Commented [EB7]: MN rules only requires 50 feet for a sewerred property in a tributary SL

<u>Quad</u>	<u>160,000 sf</u>	<u>200,000 sf</u>	<u>zoning district</u>
Riparian dedication not required, unsewered			
Single family detached	40,000 sf	80,000 sf	Same as zoning district
Minimum lot size^f, non-riparian lots			
Riparian dedication required	Same as zoning district		
Riparian dedication not required, s <u>Sewered</u>			
Single family detached	15,000 sf	20,000 sf	Same as zoning district
Two-family or duplex	17,500 <u>26,000</u> sf	26,000 <u>35,000</u> sf	
<u>Triplex</u>	<u>38,000 sf</u>	<u>52,000 sf</u>	
<u>Quad</u>	<u>49,000 sf</u>	<u>65,000 sf</u>	
Riparian dedication not required, u <u>Unsewered</u>			
Single family detached	40,000 sf	80,000 sf	Same as zoning district
<u>Two-family or duplex</u>	<u>80,000 sf</u>	<u>160,000 sf</u>	
<u>Triplex</u>	<u>120,000 sf</u>	<u>240,000 sf</u>	
<u>Quad</u>	<u>160,000 sf</u>	<u>320,000 sf</u>	
Minimum lot width, ^{f, g} riparian lots			
Riparian dedication required	Same as zoning district		
Riparian dedication not required, s <u>Sewered</u>			
Single family detached	80 <u>75</u> feet	125 feet	80-75 feet
Two-family or duplex ^g	135 feet	225 feet	115 feet
<u>Triplex^e</u>	<u>195 feet</u>	<u>325 feet</u>	<u>150 feet</u>
<u>Quad^e</u>	<u>255 feet</u>	<u>425 feet</u>	<u>190 feet</u>
Riparian dedication not required, u <u>Unsewered</u>			
<u>Single family detached</u>	<u>150 feet</u>	<u>200 feet</u>	<u>100 feet</u>
<u>Two-family or duplex^e</u>	<u>225 feet</u>	<u>300 feet</u>	<u>150 feet</u>
<u>Triplex^e</u>	<u>300 feet</u>	<u>400 feet</u>	<u>300 feet</u>
<u>Quad^e</u>	<u>375 feet</u>	<u>500 feet</u>	<u>250 feet</u>
<u>Minimum lot width, nonriparian Lots</u>			
<u>Sewered</u>			
<u>Single family detached</u>	<u>75 feet</u>	<u>125 feet</u>	<u>75 feet</u>
<u>Two-family or duplex^e</u>	<u>135 feet</u>	<u>220 feet</u>	<u>115 feet</u>
<u>Triplex^e</u>	<u>190 feet</u>	<u>315 feet</u>	<u>150 feet</u>
<u>Quad^e</u>	<u>245 feet</u>	<u>410 feet</u>	<u>190 feet</u>
<u>Unsewered</u>			
<u>Single family detached</u>	<u>150 feet</u>	<u>200 feet</u>	<u>100 feet</u>
<u>Two-family or duplex^e</u>	<u>265 feet</u>	<u>400 feet</u>	<u>150 feet</u>
<u>Triplex^e</u>	<u>375 feet</u>	<u>600 feet</u>	<u>200 feet</u>

<u>Quad^e</u>	<u>490 feet</u>	<u>800 feet</u>	<u>250 feet</u>
<u>Maximum Structure Height</u>	<u>35 feet</u>	<u>35 feet</u>	<u>35 feet</u>

Notes to Table 17-3:

- a. Reduction of the required setback from a historic site is permitted with the approval of the office of the Minnesota State Archeologist.
- b. Where structures exist on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the Ordinary High Water Level (OHWL), provided the proposed building is not located in a shore impact zone or bluff impact zone.
- c. ~~With the exception of public crossings of public waters, R~~oads, 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, ~~and~~ 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. The maximum amount of impervious surface allowed for sewerer lots zoned Rural Single Family (RS) is 15% of lot area or 6,000 sf, whichever is larger.~~
- e. Subdivisions of duplexes, triplexes, and quads within Natural Environment Shoreland districts must also meet standards set forth in Section (C)(5)(d).
- f. Minimum lot size and width requirements apply to residential uses only.
- g. Lots Intended As Controlled Accesses to Public Waters or as Recreation Areas for Use by Owners of Nonriparian Lots within Subdivisions. Must meet or exceed the following standards:
They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
 - i. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements

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

- ii. They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must

Commented [JS8]: Under (C)(5)(c)

limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

4. Design Criteria for Structures

- a. *Water Oriented Accessory Structures.* Each lot may have one (1) water oriented accessory structure not meeting the normal structure setbacks if the structure complies with the following provisions:

- i. *Structure Height.* The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, from the average grade of the structure to the peak of the roof. Detached decks must not exceed eight (8) feet above grade at any point.
- ii. *Structure Size.* Water oriented accessory structures cannot occupy an area greater than two-hundred and fifty (250) square feet.
- iii. *Structure Setback.* The setback of the structure or facility landward from the Ordinary High Water Level (OHWL) must be at least ten (10) feet on a recreational development lake and fifty (50) feet on a natural environment lake.
- iv. *The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.*
- v. *The roof of the structure may be used as a deck with safety rails, but must not be enclosed or used as a storage area.*
- vi. The structure or facility must not be used for human habitation and must not contain water supply or sewage treatment facilities.
- vii. *Watercraft Storage Facilities.* As an alternative for recreational development water bodies, water oriented accessory structures used solely for watercraft storage, and including the storage of related boating and water oriented sporting equipment, may occupy up to four hundred (400) square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the configuration of the shoreline.

- b. *Stairways, Lifts and Landings.* Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

- i. Stairways and lifts must not exceed four (4) feet in width. Wider stairways may be used for public open space or recreation properties.
- ii. Landings for stairways and lifts must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for public open space or recreation properties.
- iii. Canopies or roofs are not allowed on stairways, lifts or landings.
- iv. Stairways, lifts and landings may be either constructed above ground on posts or pilings or placed into the ground, provided that they are designed and built in a manner that ensures control of soil erosion.
- v. Stairways, lifts and landing must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.

Commented [EB9]: This is language taken from the MNDNR model ordinance. There had previously been an issue with the height allowed for water-oriented accessory structures (previously the ordinance did not mention the maximum height was 10 feet exclusive of safety rails).

- vi. Facilities such as public and private watercraft access ramps, lifts, access-related parking areas, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subsections (i) through (v) above are satisfied—and provided the vegetative screening and erosion control requirements are met.
 - c. Roads, Driveways, and Parking Areas. Public and private roads, driveways, and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
 - d. Steep slopes. Local government officials must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
5. *Subdivision Standards.* The following standards shall apply to subdivisions in shoreland areas:
- a. Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. In determining suitability the City will consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision, or of the community at large.
 - b. Subdivisions must conform to all other official controls adopted by the City of Lake Elmo. Subdivisions will not be approved that are designed so variances from one or more standards in official controls would be needed to use the lots for their intended purpose. Lots that would require use of holding tanks must not be approved.
 - c. ~~If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of this section, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirement of this section as much as possible. An exception to this standard shall be made if each lot contains a habitable dwelling at the time they into common ownership.~~
 - c. On natural environment lakes, subdivisions of duplexes, triplexes, and quads must also meet the following standards:
 - i. Each building must be set back at least 200 feet from the ordinary high water level.
 - ii. Each building must have common sewage treatment and water systems that serve all dwelling units in the building.
 - ~~iii.~~ Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building.
 - ~~iii.~~ iv. No more than 25 percent of a lake's shoreline can be in a duplex, triplex, or quad environment.

Commented [JS10]: Added this language in, which is under 6120.3200 Subpart 2 B.

6. *Agricultural Activities.* The following standards shall apply to agricultural activities in shoreland areas:
- The shore impact for parcels with permitted agricultural uses is equal to a line parallel to and 50 feet from the OHWL.
 - 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.
 - ~~Feedlots and manure storage are not permitted within the shoreland of watercourses or in bluff impact zones, and must meet a minimum setback of 300 feet from the ordinary high water level of all public water basins identified in subsection (C)(1).~~
 - 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:
 - Feedlots must be designed consistent with Minnesota Rules Chapter 7020;
 - 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,
 - Old feedlots not currently in operation may resume operation consistent with Minnesota Statute Section 116.0711.
 - 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:
- 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)(5)~~(b)~~.
 - Shore impact zones shall be maintained in permanent vegetation or operated under an approved conservation plan consistent with the field office technical guides of the local soil and water conservation district.
 - 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 permitted subject to standards set forth in Subp. (C) (8) of this Section. ~~City approval of an erosion and sedimentation control plan that is consistent with the City's Storm Water and Erosion and Sediment Control Ordinance (§150.270).~~
 - 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.
 - Grading in Shoreland Areas.* All grading and filling activities must be in conformance with the Wetland Conservation Act. Any grading or filling on steep slopes or within shore or bluff impact zones involving the movement of ten (10) or more cubic yards of material or involving more than fifty (50) cubic yards of material elsewhere in a shoreland area shall require the submission of a Grading Permit. Approval shall be granted only if the following conditions are met:

Commented [DP11]: PCA rules are now more restrictive and supersede the shoreland rules. PCA rules prohibit new feedlots in shoreland so 300 foot setback and bluff impact zone are no longer relevant. PCA rules do allow modification or expansion to existing feedlots or resumption of old feedlots. Per SL rules these would need to be processed as a conditional use. If these situations could apply in the City, suggest using this language.

Commented [EB12]: This has been moved to the Forest Management Section

- i. ~~Any filling or grading in any Type 2, 3, 4, 5, 6, 7 or 8 wetland shall be in conformance with the Wetland Conservation Act of 1991 and shall require consideration of how extensively the proposed activity will affect the following functional qualities of the wetland:~~
 - a) ~~Sediment and pollution trapping and retention~~
 - b) ~~Storage of surface runoff to prevent or reduce flood damage~~
 - c) ~~Fish and wildlife habitat and endangered plants and animals~~
 - d) ~~Recreational use~~
 - e) ~~Shoreline or bank stabilization~~
 - f) ~~Historical significance~~
- ii. The smallest amount of bare ground is exposed for the shortest time possible;
- iii. Ground cover such as mulch is used for temporary bare soil coverage and permanent ground cover, such as sod, is established;
- iv. Methods to prevent erosion and trap sediment during construction are employed;
- v. Altered areas are stabilized to accepted erosion control standards;
- vi. Fill is not placed so as to create unstable slopes;
- vii. 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;
- viii. Alterations below the OHWL of public waters are authorized must first be authorized by the Commissioner of the Minnesota Department of Natural Resources per Minn. Stats. § 103G.245 and 103G.405;
- ix. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the OHWL and the height of the riprap above the OHWL does not exceed three feet; and
- x. Alterations of topography shall only be permitted if accessory to a permitted or conditional use.
- xi. Fill or excavated material must not be placed in bluff impact zone.
- f. ~~Dedicated Riparian Areas. Riparian areas dedicated to the City shall be protected from intensive development. Permitted uses include passive open space, pedestrian trails, public parks and park related structures, facilities for public water access, fishing piers, parking lots for park users, and stormwater treatment ponds. Unless being used for active park purposes, the riparian areas shall be maintained in permanent natural vegetation.~~
- 8. Forest management standards. The harvesting of timber and associated reforestation or conversion of forested use to a nonforested use must be conducted consistent with the following standards:
 - a. Timber harvesting and associated reforestation must be conducted consistent with the Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers
 - b. Forest land conversion to another use requires issuance of a conditional use permit and adherence to the following standards:
 - i. Shore and bluff impact zones must not be intensively cleared of vegetation.
 - ii. An erosion and sediment control plan is developed and approved by the City and local soil and water conservation district and is consistent with the City's

Commented [EB13]: These can be removed as they duplicate standards in MR 8420

Storm Water and Erosion and Sediment Control Ordinance (150.270) before issuance of a conditional use permit for the conversion.

- ~~8. Sand and Gravel Extraction. The following standards shall apply to sand and gravel extraction uses:~~
- ~~a. Processing machinery shall be located consistent with setback standards for structures.~~
 - ~~b. A site development and restoration plan shall be developed by the owner for approval by the city which addresses dust, noise, possible pollutant discharges, hours and duration of operation and anticipates vegetation and topography alterations. It shall identify actions to be taken to mitigate adverse environmental impacts and measures to be employed to restore the site after excavation.~~
9. *Stormwater Management.* Stormwater management shall be in accordance with the City's Storm Water and Erosion and Sediment Control Ordinance (§150.270). In addition, the Minnesota Pollution Control Agency's Minnesota Stormwater Manual shall be used as guidance. Within shoreland areas, the following standards also apply:
- a. Existing natural drainage ways, wetlands and vegetated soil surfaces must be used to convey, store, filter and retain storm water in a manner consistent with local watershed district rules and regulations before discharge to public waters.
 - b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, and erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as grading is complete and facilities or methods used to retain sediment on the site are removed.
 - c. Use of fertilizers, pesticides or animal wastes within shoreland areas must be done in a way to minimize impact on the shore impact zone or public water by proper application.
 - d. New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
10. *Private Utilities.* The following provisions shall apply in shoreland areas:
- a. Private subsurface sewage treatment systems shall meet applicable City and County requirements and Minnesota Pollution Control Agency's Chapter 7080 standards. Publicly owned sewer systems shall be used where available.
 - b. Any private water supply to be used for domestic purposes shall meet quality standards established by the Minnesota Department of Health and the Minnesota Pollution Control Agency.
 - i. Private wells must be located, constructed, maintained, and sealed in accordance with or in a more thorough manner than the Water Well Construction Code of the Minnesota Department of Health.
- ~~11. Planned Unit Developments. Residential planned unit developments shall be permitted in shoreland areas subject to the requirements of Article XVI of this chapter.~~
- ~~a. Design criteria for planned unit developments within shoreland areas:
 - ~~i. At least 50 percent of the total project area shall be preserved as open space. The open space computation shall not include road rights of way, or land covered by roads, structures or parking surfaces.~~
 - ~~ii. Open space shall include areas having physical characteristics that are unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries.~~
 - ~~iii. Open space may contain outdoor recreational facilities for use by the owners of residential units or the public.~~
 - ~~iv. The appearance of open space areas, including topography, vegetation and allowable uses, shall be preserved.~~~~

- v. ~~PUDs shall be connected to public water supply and sewer systems.~~
- vi. ~~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.~~
- vii. ~~Approval from the DNR is required to ensure compliance with additional regulations.~~

11. Planned Unit Developments (PUD)

Commented [DP14]: Proposed for Section 11 of Article 17.

- a. Purpose. To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential uses.
- b. Density. Deviation from the minimum lot size standards of Table 17-3 of this ordinance is allowed if the standards in this Section are met.
- c. Processing of PUDs. Planned unit developments are processed according to the procedures in Section 154.758 and the standards of Article XVI and Article XVII, whichever is more restrictive. Approval cannot occur until all applicable environmental reviews are complete.
- d. Application for a PUD. The applicant for a PUD must submit the following documents prior to final action on the application request:
 - i. A property owners association agreement with mandatory membership, and consistent with 11 (h) (iv) of this ordinance.
 - ii. Deed restrictions, covenants, permanent easements or other instruments that:
 - 1. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
 - 2. Ensure preservation and maintenance of open space in perpetuity accordance with the criteria and analysis specified in 11 (h) of this ordinance.
- e. Density Determination. Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures:
 - i. Step 1. Identify Density Analysis Tiers. Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high water level at the following intervals, proceeding landward:

Commented [EB15]: Deed restrictions and covenants may be provided to address future vegetative and topographic alterations, construction of additional buildings, etc., but a permanent easement will likely be required over open space areas.

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

- ii. Step 2. Calculate Suitable Area for Development. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high water level of public waters.
- iii. Step 3. Determine Base Density

1. Divide the suitable area within each tier by the minimum single residential lot area in Table 17-3 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 by the minimum single residential lot width. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any tier closer to the waterbody.
2. All PUDs must meet the design standards in Section 11 (f) of this ordinance.

iii. Step 4. Determine if the Site can Accommodate Increased Density.

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

1. Are increased to at least 50 percent greater than the minimum setback; or
2. The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least 25 percent greater than the minimum setback.

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

i. General Design Standards.

1. Dwelling units must be clustered into one or more groups and located on suitable areas of the development.
2. Dwelling units must be designed and located to meet the dimensional standards, other than those for lot area and width, in Table 17-3:
3. Shore recreation facilities:
 1. Must be centralized and located in areas suitable for them based on a suitability analysis by the local unit of government, which shall 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 city.
 2. 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.
 3. 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.

Commented [EB16]: Are riparian or nonriparian lot size standards to be used? This is obvious for 2nd and 3rd tiers and so on, but not so obvious for 1st tiers.

Commented [DP17]: Use riparian lot areas for 1st tier. If there is no 1st tier (e.g. development is in SL but contains no riparian land or there are no lots in the 1st tier) Otherwise, use nonriparian lot sizes for all other tiers.

Commented [DP18]: For lot area of rivers, Table 17.3 refers to underlying zoning. These can range widely from small to large lots, however, lot widths next to a tributary are fixed. What are the results of a minimum lot size of 7000 sf and a required width of, say, 150 feet – a lot depth of 47 feet? Is this practical in Lake Elmo?

Commented [EB19R18]: I think this is something that would need to be reviewed on a case by case basis. This example does not make sense and will have to be clarified by the MNDNR.

Commented [DP20]: Since the city specifies lot area for river lots as “underlying” zoning, this sentence can be removed. Table 17.3 includes the minimum lot widths, so removing sentence is probably best to eliminate confusion.

Commented [EB21]: I’m not sure I’m understanding what this is saying correctly. Do you mean divide the underlying zoning districts’ minimum lot area by the SL required minimum lot width. How I’m reading it is:
Min Tier Width (Does this mean 267, 300, etc.(Tier Depth?)) / Min Single Residential Lot Width (of zoning district?).

Can you please clarify?

Commented [DP22]: Unless the city envisions hotels, resorts or campgrounds in shoreland, commercial PUD provisions and references are not needed and have been removed.

Commented [DP23]: Consistent with existing PUD standards

Commented [DP24]: Definition for this?

Commented [EB25R24]: I included the definition from the previous shoreland ordinance.

Commented [JS26R24]:

4. At least 50 percent of the total project area shall be preserved as open space and must meet standards outlined in 11 (g) of this ordinance.
 5. PUDs shall be connected to public water supply and sewer systems. When sewer is not available, individual septic systems are not allowed; community septic systems are required.
 6. Approval from the DNR is required to ensure compliance with additional regulations.
- ii. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
 - iii. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.
- g. Open Space Requirements.**
- i. Open space must constitute at least 50 percent of the total project area and must include:
 1. Areas with physical characteristics unsuitable for development in their natural state and areas containing significant historic sites or unplatted cemeteries;
 2. Portions of the shore impact zone preserved in its natural or existing state as follows:
 - i. For existing residential PUD's, at least 50 percent of the shore impact zone
 - ii. For new residential PUDs, at least 70 percent of the shore impact zone.
 - ii. Open space may include:
 1. Outdoor recreational facilities for use by owners of lots in the subdivision and by the general public; and
 2. Stormwater detention facilities, subsurface sewage treatment systems (if the use of the space is restricted to avoid adverse impacts on the systems), and other required site improvements not prohibited herein may be applied to this requirement.
 - i. Open space shall not include:
 1. Road rights-of-way, or land covered by roads, structures or parking surfaces.
 2. Lots, unless owned in common by an owners association; road rights-of-way, or land covered by road surfaces; parking areas, or structures, except water-oriented accessory structures or facilities; and
 3. Commercial facilities or uses.
- h. Open Space Maintenance and Administration Requirements.**
- i. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved.

Commented [EB27]: This is language from the 2014 ordinance amendment.

Commented [EB28]: This was added to provide an option for developments to which sewer is not available.

Commented [EB29]: This was added from our 2014 ordinance.

Commented [DP30]: These provisions, or similar, may be in other parts of the code. If so, they may be acceptable. If these exist, I couldn't find them.

Commented [EB31R30]: It more or less says this through this part of the PUD Ordinance.: *Open space.* For all PUDs, at least 20% of the project area not within street rights-of-way shall be preserved as protected open space. Other public or site amenities may be approved as an alternative to this requirement. Any required open space must be available to the residents, tenants, or customers of the PUD for recreational purposes or similar benefit. Land reserved for storm water detention facilities and other required site improvements may be applied to this requirement. Open space shall be designed to meet the needs of residents of the PUD and the surrounding neighborhoods, to the extent practicable, for parks, playgrounds, playing fields and other recreational facilities.

However, because this does not explicitly restrict commercial facilities or lots, I think it best to keep it in here. I did add some language that allows stormwater detention facilities and other site improvements not prohibited herein to be located in open space.

Commented [EB32]: This was added from our 2014 ordinance.

Commented [DP33]: These provisions, or similar, may be in other parts of the code. If so, they may be acceptable. If these exist, I couldn't find them.

- ii. Before final approval of a PUD is granted, the developer/owner shall provide for the preservation and maintenance, in perpetuity, of open space and the continuation of the development as a community.

Commented [EB34]: This is the exact language provided in regards to open space preservation in City-approved 2014 ordinance.

- iii. The instruments must prohibit:

1. Commercial uses ;
2. Vegetation and topographic alterations other than routine maintenance;
3. Construction of additional buildings or storage of vehicles and other materials; and
4. Uncontrolled beaching of watercraft.

- iv. Development organization and functioning. All planned unit developments must use an owners association with the following features:

Commented [DP35]: These provisions, or similar, may be in other parts of the code. If so, they may be acceptable. If these exist, I couldn't find them.

1. Membership must be mandatory for each dwelling unit owner and any successive owner;
2. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;
3. Assessments must be adjustable to accommodate changing conditions; and
4. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

12. ~~Nonconformities. Nonconformities, substandard lots and structures, and nonconforming on-site sewage treatment systems within shoreland areas shall meet the requirements specified in Article IV of this chapter.~~

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

- b. ~~All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this ordinance. Any deviation from these requirements must be authorized by a variance.~~

- a. ~~The expansion or enlargement of a riparian substandard structure shall meet the shoreland development standards set forth in subsection (C)(3) except as follows:~~

- i. ~~The extension, enlargement or alteration of a riparian substandard structure or sanitary facility may be permitted on the side of the structure or facility facing away from the OHWL without following the variance process.~~

- ii. ~~An improvement to a riparian substandard structure or sanitary facility may be allowed to extend laterally by a conditional use permit (parallel to the OHWL) when the improvement is in compliance with the other dimensional standards of this chapter. In no case shall the improvement extend closer to the OHWL than the existing structure.~~

- i. ~~Decks may be allowed without a variance where riparian dedication is not required, provided as follows:~~

1. ~~A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing OHWL setback of the structure;~~

- 2. ~~The deck encroachment toward the OHWL does not exceed 15 percent of the existing shoreline setback of the structure from the OHWL or does not encroach closer than 30 feet, whichever is more restrictive; and~~
 - 3. ~~The deck is constructed primarily of wood, and is not roofed or screened.~~
 - ii. ~~If a riparian substandard structure is demolished, replacement shall comply with the dimensional standards of this section.~~
 - b. ~~Any deviations from the standards set forth in subsection (C)(3) must be authorized by a variance.~~
 - c. ~~Nonconforming Sewage Treatment Systems.~~
 - iii. ~~A sewage treatment system not meeting the requirements of subsection (C) (10) (a) must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purpose of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the OHWL.~~
 - iv. ~~Upgrading or replacement of any nonconforming system will be required within a reasonable period of time which will not exceed 2 years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.~~
 - d. ~~Construction on nonconforming lots of record.~~
 - v. ~~Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Table 17-3 of this ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot size meets the minimum restrictions of the underlying zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met.~~
 - vi. ~~If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Table 17-3 of this ordinance the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Table 17-3 of this ordinance as much as possible.~~
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:~~
- i. ~~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.~~
 - ii. ~~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.~~
 - iii. ~~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.

- iv. 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.
- v. 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 Minnesota Statutes, Section 462.357 and are subject to the following:

a. A variance may not circumvent the general purposes and intent of this ordinance; and

b. For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required for variance approval. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.

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

a. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

b. The visibility of structures and other facilities as viewed from public waters is limited;

c. There is adequate water supply and on-site sewage treatment; and

d. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

3. Mitigation.

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

- 1. Advanced storm water 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 Minnesota Rules, part 6120.3000, subp.4.

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

~~1. Required Notice to the Department of Natural Resources. The zoning administrator shall send copies of notices of any public hearings to consider variances, plats, ordinance amendments, PUDs or conditional uses under local shoreland management controls to the commissioner of the department of natural resources or his designee at least ten days prior to the hearings. In addition, a copy of the approved amendments, plats, variances and conditional uses shall be sent to the commissioner or his designee within ten days of the final decision.~~

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

Commented [EB36]: I added this but also added subsurface sewage treatment system to the language, as I wanted to clarify for the reader that may not know the MN rules that the certificate of compliance was in regards to SSTS, not just any permit or variance.

SECTION 3. Effective Date. This ordinance shall become effective immediately upon adoption and publication in the official newspaper of the City of Lake Elmo.

SECTION 4. Adoption Date. This Ordinance 08-___ was adopted on this ___ day of ___ 2016, by a vote of ___ Ayes and ___ Nays.

LAKE ELMO CITY COUNCIL

Mike Pearson, Mayor

ATTEST:

Julie Johnson, City Clerk

This Ordinance 08-____ was published on the ____ day of _____, 2016.

From: [John P. Hanson](#)
To: [Emily Becker](#)
Subject: RE: Shoreland Classification Table Question
Date: Monday, August 01, 2016 5:12:05 PM
Attachments: [image002.png](#)

Hi Emily,

I so sorry for not responding sooner.

I think it's really the City's call on whether to include these in the Shoreline Ordinance. Whether they're in or out, developments would still need to conform to the Valley Branch Watershed District's buffer and minimum floor elevations standards. Of the four in the first table:

- Margaret: It's entirely within Lake Elmo Park Preserve and the nearest undeveloped land to the south is 0.4 miles away so I don't think whether it's in or out makes a difference.
- 82031300 is Goetschel Pond. I think all of the adjacent land is developed or in permanent open space. Goetschel Pond has a high flood level so that would also require a decent setback. So, again, I don't think it would make a significant difference if it's in or out.
- 82041700 is within Tartan Park/The Royal Golf Club at Lake Elmo. This one of the four might deserve the most discussion by the City as it could affect the surrounding development. It's part of a somewhat natural greenway connection between Horseshoe Lake and Lake Elmo, which is part of a larger somewhat connected greenway from the St. Croix, up Afton along Valley Creek, up Raleigh Creek and Sunfish Lake to the Tri-Lakes and Long Lake and eventually to White Bear Lake.
- 82048400: The land to the SE is undeveloped so I think whether it's in or out could affect development. To be consistent with the existing developments (Hamlet at Sunfish Lake and Sunfish Pond) around the wetland, the City might want to keep it the Shoreline ordinance, but perhaps other rules and regulations would limit development close to the wetland.

John

John P. Hanson, PE, ENV SP
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 | www.barr.com | www.vbwd.org



From: Emily Becker [mailto:EBecker@lakeelmo.org]
Sent: Monday, August 01, 2016 11:35 AM
To: John P. Hanson <JHanson@barr.com>
Subject: RE: Shoreland Classification Table Question

Hi John,

Sorry to bother you about this, but we are getting inquiries again about if these bodies of water or okay to remove from the revised Shoreland Ordinance. I don't want to remove these if they are bodies of water that should remain in the ordinance. Please let me know when you are able.

Emily Becker
City Planner
City of Lake Elmo
651-747-3912
ebecker@lakeelmo.org



From: Emily Becker
Sent: Tuesday, July 19, 2016 11:58 AM
To: 'John P. Hanson' <JHanson@barr.com>
Subject: RE: Shoreland Classification Table Question

Hi John,

I just wanted to see if you had a chance to review this to see if there are issues with removing any of these bodies of water from our shoreland ordinance? Please let me know. Thank you!

Emily Becker
City Planner
City of Lake Elmo
651-747-3912
ebecker@lakeelmo.org

From: [Sorensen, Jenifer \(DNR\)](#)
To: [Emily Becker](#)
Cc: [Stephen Wensman](#)
Subject: RE: Shoreland Classification Table Question
Date: Wednesday, June 29, 2016 1:10:09 PM

Emily –

I've made some notes below (in purple).

Let me know if you need additional information to answer the inquiry that you received regarding removing public waters from regulation under the City's shoreland ordinance. There are four public waters that are in the City's current shoreland ordinance that are not required by DNR to be regulated under the shoreland program. Cities can always include additional public waters in their shoreland ordinance. I'd encourage you to look for any correspondence in your files that would explain why these four public waters were added to the ordinance.

Jen

Jenifer Sorensen, PE, PhD – East Metro Area Hydrologist (Ramsey and Washington Counties)
MN DNR, Division of Ecological and Water Resources | 1200 Warner Rd | St Paul, MN 55106
 (651) 259-5754 | jenifer.sorensen@state.mn.us

From: Emily Becker [mailto:EBecker@lakeelmo.org]
Sent: Wednesday, June 29, 2016 9:48 AM
To: Sorensen, Jenifer (DNR)
Cc: Stephen Wensman
Subject: Shoreland Classification Table Question

Hi Jen,

It appears on the DNR website that there is a discrepancy between the Lake Shoreland Classifications List By County and our Shoreland Classification System. Namely, the following 8 lakes or rivers are included on Lake Elmo's Shoreland Ordinance shoreland classification table that are *not* included on the DNR Website's Lake Shoreland Classifications List by County table:

DNR ID #	Name	Location	Ordinary High Water Level	Class	150 FT ^a Riparian Dedication Required	Can this Public Water be Removed from City Shoreland Ordinance?	
82041900	Margaret	Sec 26, T29, R21	-	NE	No	Yes	You're correct that this waterbody does not have a DNR shoreland classification. This waterbody is not required to be included in the City shoreland ordinance. This waterbody wasn't listed in the City's 1997 ordinance (last version approved by DNR) and I don't have any correspondence with the City as to why this waterbody was included in the shoreland ordinance. If removed, waterbody and surrounding property will still be within 1000' shoreland district of Eagle Point Lake (82010900) or HJ Brown Pond (82011100). Lots around the waterbody are within shoreland district but riparian lots wouldn't have to meet shoreland setback standards.
N/A Use this DNR ID: 82016a	Raleigh Creek North (to Eagle Point Lake)	Sec 16, 21 & 22, T29, R21	-	T	No	No	All public watercourses have a shoreland classification (however, there isn't a table on DNR's website telling the shoreland classifications of each watercourse). This watercourse segment is classified as tributary. All public watercourses have a 300' shoreland district on each side of the watercourse. This watercourse should be in the shoreland ordinance.
N/A Use this DNR ID: 82016a	Raleigh Creek South (Eagle Point Lake to Lake Elmo)	Sec 22, 23 & 227, T29, R21	-	T	No	No	All public watercourses have a shoreland classification (however, there isn't a table on DNR's website telling the shoreland classifications of each watercourse). This watercourse segment is classified as tributary. All public watercourses have a 300' shoreland district on each side of the watercourse. This watercourse should be in the shoreland ordinance.
82031300	Unnamed	Sec 12, T29, R21	-	NE	No	Yes	You're correct that this waterbody does not have a DNR shoreland classification. This waterbody is not required to be included in the City shoreland ordinance and I don't have any correspondence with the City as to why this waterbody was included in the shoreland ordinance. This waterbody wasn't listed in the City's 1997 ordinance (last version approved by DNR).
82041700	Unnamed	Sec 25, T29, R21	-	NE	No	Yes	You're correct that this waterbody does not have a DNR shoreland classification. This waterbody is not required to be included in the City shoreland ordinance and I don't have any correspondence with the City as to why this waterbody was included in the shoreland ordinance. This waterbody wasn't listed in the City's 1997 ordinance (last version approved by DNR).
						Yes	You're correct that this waterbody does not have a DNR shoreland classification. This waterbody is not required to

82048400	Unnamed	Sec 11, T29, R21	-	NE	No		be included in the City shoreland ordinance and I don't have any correspondence with the City as to why this waterbody was included in the shoreland ordinance. This waterbody wasn't listed in the City's 1997 ordinance (last version approved by DNR).
N/A Use this DNR ID: 82019a	Unnamed to Wilmes Lake	Sec 33, T29, R21	-	T	No	No	All public watercourses have a shoreland classification (however, there isn't a table on DNR's website telling the shoreland classifications of each watercourse). This watercourse segment is classified as tributary. All public watercourses have a 300' shoreland district on each side of the watercourse. This watercourse should be in the shoreland ordinance.
N/A Use this DNR ID: 82016a	Unnamed Tributary	Sec 25, T29, R21	-	T	No	No	All public watercourses have a shoreland classification (however, there isn't a table on DNR's website telling the shoreland classifications of each watercourse). This watercourse segment is classified as tributary. All public watercourses have a 300' shoreland district on each side of the watercourse. This watercourse should be in the shoreland ordinance. Part of this watercourse is in a pipe (on Royal Golf Course).

Also, 82011602 is not listed on the DNR's table (listed twice is 82011601 on the DNR's table, but this could have been a typo)

82011602	Armstrong (south of CSAH 10)	Sec 28, T29, R21	1019.3	NE	No		This waterbody shouldn't be in Lake Elmo's shoreland ordinance since it's outside of the City limits. Thanks for noting the correction that needs to be made to DNR's shoreland classification table. 82011601 should be in the City's shoreland ordinance (Armstrong North).
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Bershen's Pond (ID 82010500), however, IS listed on the DNR website's list, but is not on our table.

You're correct, 82010500 has a Natural Environment shoreland classification. This waterbody should be included in the City's shoreland ordinance. It was in the City's 1997 ordinance; I don't have any correspondence with the City on why it was removed from the shoreland ordinance. Please add this waterbody to the City's shoreland ordinance.

Please advise if these lakes and rivers are to remain on our classification table, or if this classification system has been updated and the above lakes or rivers can be removed from our Ordinance's classification table. We have had a request to have them removed, so will need a response to give.

Emily Becker
City Planner
City of Lake Elmo
651-747-3912
ebecker@lakeelmo.org



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

RESOLUTION NO. 2017-012

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

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

WHEREAS, the ordinance is lengthy; and

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

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

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

Public Notice

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

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

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

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

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

Dated: February 7, 2017.

Mayor Mike Pearson

ATTEST:

Julie Johnson, City Clerk

(SEAL)

The motion for the adoption of the foregoing resolution was duly seconded by member

_____ and upon vote being taken thereon, the following voted in favor

thereof: _____ and the following voted against

same: _____

Whereupon said resolution was declared duly passed and adopted.

M/S/P: Williams/Dodson, motion to change Item (O) (3) connectivity on page 14 to read “Trails, walkways and paths must make planned connections to planned external trails and walkways and paths within the community, ***Vote: 5-0, motion carried unanimously.***

M/S/P: Dodson/, motion to delete Item (O) (4) on page 14 regarding street design, ***Vote: 5-0, motion carried unanimously.***

M/S/P: Dodson/, motion to delete Item (O) (4) on page 14 regarding street design, ***Vote: 5-0, motion carried unanimously.***

M/S/P: Williams/Dodson, move to require that the restaurant and drinking establishments must be in the same structure as the clubhouse and golf shop, ***Vote: 5-0, motion carried unanimously.***

M/S/P: Dodson/Williams, move to require the clubhouse follow the city’s commercial design guidelines and standards manual for Lake Elmo, ***Vote: 5-0, motion carried unanimously.***

Williams is not in favor of including the semi-transient accommodations without further definition. Kreimer stated that he doesn’t feel that they need to do that now. Wensman stated that this would be the time to include it and get the definition set, otherwise they will need to do a zoning text amendment in the future. Handt suggested that they could table this to the next meeting which would give staff time to draft the standards.

There was discussion regarding the 9000 square feet minimum lot size and how that number was arrived at.

M/S/P: Williams/Kreimer, move to table the addition of a Golf Course Community Zoning District to the Zoning Code until standards are received for the semi-transient accommodations, ***Vote: 5-0, motion carried unanimously.***

Public Hearing – Zoning Text Amendment amending the City’s Shoreland Management Overlay District

Becker started the presentation with some history regarding the Shoreland Ordinance. In 2014, a Shoreland ordinance was drafted that was modeled after Woodbury’s. It was submitted to the DNR, but the DNR did not approve it. In 2016, staff started working to make amendments to submit to the DNR. Definitions were removed, 4 water bodies were removed, Berschen’s Pond was added, and the language for water oriented accessory structures was kept. The DNR suggested that the City include a Forest Land Conversion as a conditional use with standards. They also suggested deleting the riparian dedication, changed the setbacks and impervious standards. Standards are

addressed for lots intended as controlled access to public waters, restrictions on roads, driveways and parking areas and subdivision standards. There is a nonconformities section and a more detailed list for the planned unit development section. The proposed ordinance for a PUD maps out what the open space can and cannot be. There were 2 public comments received. One comment was asking for an increase to setbacks for sewer development on Natural Environment Lakes from 100 ft. to 150 ft. The second comment is requesting that Goetschel pond not be removed.

Dodson asked if community septic is considered sewer or unsewered. Becker stated that by City standards it would be considered unsewered. The DNR might have a different standard.

Dodson stated that the proposal states that when municipal sewer is not available, a community septic is required. Is there a minimum number of lots for that? Becker stated that by City PUD standards, a minimum of 5 acres is required and they would have to adhere to the minimum base standards of the district.

Williams would like the wording regarding the requirement for 50% open space more clear to say only in the shoreland area vs. the total project area.

Public Hearing opened at 11:39 pm

Ann Bucheck, 2301 Legion Ave, she is wondering how much of the shoreland area has to be open space. Becker stated that they spoke to the DNR and they stated that it does not mean the open space needs to be in the shoreland area and that it can transfer to anywhere in the project area. She is wondering if it is requiring city sewer. Becker stated that with a PUD, when city sewer is not available, a community septic is allowed.

Terry Emerson, 2204 Legion Lane Circle N, went through a few of the water bodies on the list and a number of them would not meet the ordinance. He thinks there will be a lot of issues with the current homes on the lakes that do not meet the code and are going to be coming in for variances. He feels that changing the building setback from 100 to 150 feet is a little excessive as compared to the lakes that are already developed.

Public Hearing closed at 11:56 pm

M/S/P: Williams/Kreimer, move to recommend keeping Goetschel Pond in the Shoreland classification table, ***Vote: 5-0, motion carried unanimously.***

M/S/P: Williams/Kreimer, move to recommend clarifying the open space requirements for PUD: open space must constitute at least 50% of the total project area within the Shoreland, ***Vote: 5-0, motion carried unanimously.***

M/S/P: Williams/Kreimer, move to recommend approval of Ord. 08- . amending section 154.800: Shoreland Management Overlay District of the Zoning Code, ***Vote: 5-0, motion carried unanimously.***

City Council Updates – December 20, 2016 Meeting

- i) Boulder Ponds 2nd addition Final Plat and PUD extension – passed.
- ii) Village Area AUAR – passed.
- iii) Diedrich Property zoning map amendment – passed.
- iv) Comprehensive Plan to meet population targets and growth plans – forwarded to Planning Commission.
- v) Moratorium ordinance – repealed.
- vi) Low impact development standards – referred to Planning Commission.
- vii) Noise Ordinance – failed.

City Council Updates – January 3, 2017 Meeting

- i) Hammes Estates 2nd Addition Final Plat – passed.
- ii) Planning Commission appointments of Gary Fields and Dale Dorschner.

- 1. Upcoming Meetings
 - a. January 23, 2017
 - b. February 13, 2017

Commission Concerns

Meeting adjourned at 12:30 pm

Respectfully submitted,

Joan Ziertman
Planning Program Assistant

Emily Becker

From: Sorensen, Jenifer (DNR) <jenifer.sorensen@state.mn.us>
Sent: Tuesday, January 10, 2017 5:33 PM
To: Emily Becker
Cc: Petrik, Daniel (DNR); Stephen Wensman
Subject: RE: Clarifying Sewered/Unsewered Standards

Emily –

MN Rules 6120.3800 Subpart B (2) (a) state that residential PUDs must be connected to publically owned water supply and sewer system, if available. Long term funding and maintenance of a public sewer system is anticipated (governments stay in existence for a long time). With a community septic system, there is that same need to have long term funding and maintenance of the system in place. As long as the City takes measures to make sure that a community septic system is funded and maintained, and as long as the system meets MPCA standards, DNR could consider the use of a community septic system in a residential PUD as meeting the shoreland rule requirements. For example, the City should require, as part of the approval of a community septic system, documentation that an annual escrow fund is set up and will be managed to provide funds for long term maintenance and replacement of the system.

Regarding Whistling Valley: DNR does not have documentation that DNR reviewed and approved the Whistling Valley shoreland residential PUD, and we don't have documentation that DNR approved that lots within the development be considered sewered because they utilize a community septic system. Do you have documentation stating this? If so, please send me a copy. It may be that people assume that it was approved by DNR because the development went forward.

What came out of the 1/9/17 public hearing on the shoreland ordinance? Were there other questions? I'm curious as to how you think the ordinance will be received by City Council on 2/7/17.

Thanks –

Jen

Jenifer Sorensen

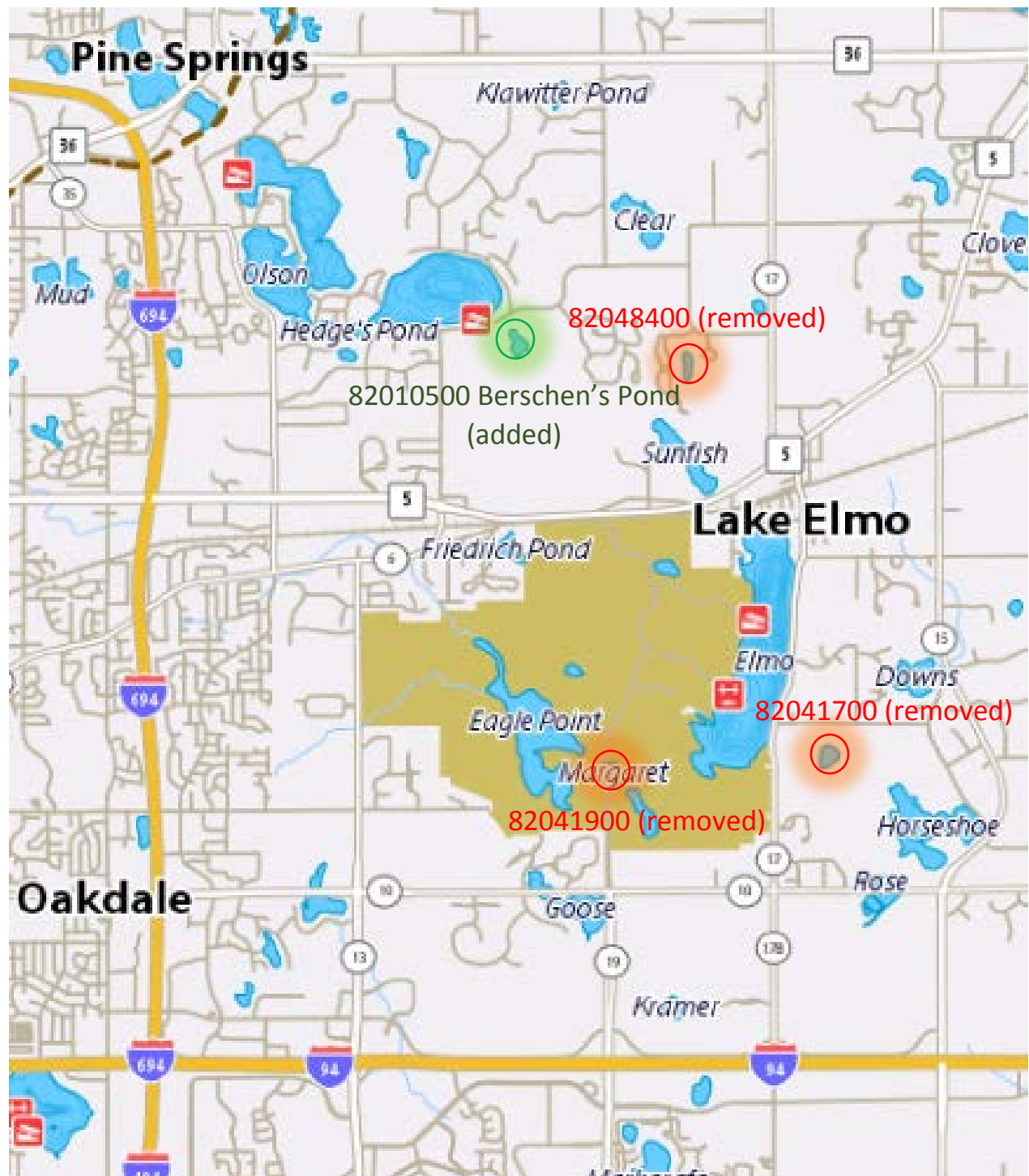
East Metro Area Hydrologist (Ramsey and Washington Counties)
Division of Ecological and Water Resources

Minnesota Department of Natural Resources

1200 Warner Road
St Paul, MN 55106
Phone: 651-259-5754
Email: jenifer.sorensen@state.mn.us

From: Emily Becker [mailto:EBecker@lakeelmo.org]
Sent: Tuesday, January 10, 2017 12:39 PM
To: Sorensen, Jenifer (DNR) <jenifer.sorensen@state.mn.us>
Cc: Petrik, Daniel (DNR) <Daniel.Petrik@state.mn.us>
Subject: Clarifying Sewered/Unsewered Standards

Jen and Dan,



From: [Stephen Wensman](#)
To: [Emily Becker](#)
Subject: FW: Retain Lake Goetschel (82031300) in the City of Lake Elmo's Shoreline ordinance
Date: Monday, January 09, 2017 1:52:07 PM

Stephen Wensman
Planning Director
City of Lake Elmo
651-747-3911

From: John Hodler [mailto:johnhodler@gmail.com]
Sent: Monday, January 09, 2017 1:24 PM
To: Stephen Wensman <SWensman@lakeelmo.org>
Cc: Larson, Rolf <hhalver@gmail.com>
Subject: Retain Lake Goetschel (82031300) in the City of Lake Elmo's Shoreline ordinance

City of Lake Elmo Planning Commission:

On behalf of the Fields of St Croix Community Association (FoSC), I request that the City of Lake Elmo continue to cover Lake Goetschel under its Shoreline Ordinance.

First, in the past few years Goetschel has increased in size to ten acres. Therefore, it is now a lake instead of a pond per the Metro area's definition of a lake.

Second, in the past two years, the City of Lake Elmo approved using Lake Goetschel as a storm water overflow basin for the GWSA Land Development LLC and Robert Engstrom Companies developments located in the watershed immediately to the west of the Fields of Saint Croix. The impact of storm water flowing into Lake Goetschel from these new developments is yet to be determined and is of concern since the lake's outlet exceeds the 100 year flood elevation. As a result, Lake Goetschel is more vulnerable to development both within and outside its current watershed.

Fortunately, Lake Goetschel's shoreline and immediate watershed area are protected by the Minnesota Land Trust. Ownership of the lake's shoreline is shared by FoSC, Tana Ridge Community Association and Robert Engstrom Companies. Presently, there are no plans for development on its shoreline. However, recent experience demonstrates that developers can obtain approval for developments in areas that were previously off limits.

Therefore, please retain Lake Goetschel as one of the water bodies covered by the City of Lake Elmo Shoreline Ordinance.

Respectfully,

John Hodler

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