

STATE OF MINNESOTA
COUNTY OF WASHINGTON
CITY OF LAKE ELMO

ORDINANCE 80-85

AN ORDINANCE ADDING CHAPTER 308 AND REPEALING CHAPTER 307 OF THE
LAKE ELMO MUNICIPAL CODE RELATING TO
SHORELAND REGULATIONS

The City Council ordains that Chapter 308 and its subsections shall be added to the Lake Elmo Municipal code to read as follows:

308 SHORELAND ORDINANCE

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308 SHORELAND DISTRICT

308.010 SHORELAND DISTRICT

The Shorelands within the City of Lake Elmo are hereby designated as Shoreland District. Regulations set forth in this chapter shall govern land use and other activities within this district. The classification of the lakes shall govern the use, alteration and development of land within the Shoreland district.

The uncontrolled use of shorelands adversely affects the public health, safety and general welfare by contributing to pollution of public waters and by impairing the local tax base. In furtherance of the policies declared in Minnesota Statutes, Chapters 103G, 103F, 115, 116, 394, 396 and 462, the Commissioner provides the following minimum standards and criteria for the subdivision, use and development of the shorelands of public waters. The standards and criteria are intended to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands and provide for the wise use of water and related land resources of the state.

308.020 INTENT

IT IS THE INTENT OF THE CITY OF LAKE ELMO TO:

- A. Regulate placement of sanitary and waste treatment facilities on shorelands of public waters to prevent pollution of public waters and public health hazards resulting therefrom.
- B. Regulate alteration of Shorelands of public waters to prevent excessive sediment pollution, increased water runoff, excessive nutrient runoff pollution.
- C. To preserve and enhance the unique aesthetic appearance and ecological value of the shoreland.
- D. Regulate the construction of buildings and changes of land use in Shorelands to minimize property damage during period of high water.

308.030 DEFINITIONS

Unless specifically defined below, words or phases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application. For the purpose of this chapter, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

- a. Accessory Structure or Facility. "Accessory Structure" or "facility" means any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

- b. Bluff. "Bluff" means a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff):
- (1) Part or all of the feature is located 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 percent or greater; and
 - (4) The slope must drain toward the water body.
- c. Bluff Impact Zone. "Bluff Impact Zone" means a bluff and land located within 20 feet from the top of a bluff.
- d. Boathouse. "Boathouse" means a structure designed and used solely for the storage of boats AND boating equipment.
- e. Building Line. "Building Line" means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
- f. Commercial Use. "Commercial Use" means the principal use of land or buildings for the sale, lease, rental or trade of products, goods and services.
- g. Commissioner. "Commissioner" means the Commissioner of the Department of Natural Resources.
- h. Conditional Use. "Conditional Use" means a defined land use in a particular district which is allowed if the City Council determines that such use will not be detrimental to the health, safety, convenience, morals or general welfare of the community; that such use will not cause serious traffic congestion or hazards; that such use will not seriously depreciate surrounding property values; and that such use is in harmony with the general purpose and intent of the City's zoning regulations and Comprehensive Plan.
- i. Deck. "Deck" means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.
- j. Dwelling Unit. "Dwelling Unit" means any structure or portion of a structure or other shelter designed as short or long term living quarters for one or more persons.

- k. Extractive Use. "Extractive Use" means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
- l. Forest Land Conversion. "Forest Land Conversion" means the clear cutting of forested lands to prepare for a new land use other than re-establishment of a subsequent forest stand.
- m. Hardship. "Hardship" means the proposed use of the property and associated structures in question cannot be established under the conditions allowed by the City's zoning regulations and no other reasonable alternative use exists; that the plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district; and that these unique conditions of the site were not caused or accepted by the landowner after the effective date of the City's zoning regulations.
- n. Height of Building. "Height of Building" means the vertical distance between the lowest grade level at the building line and the uppermost point on the roof.
- o. Industrial Use. "Industrial Use" means the use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities, or other wholesale items.
- p. Intensive Vegetation Clearing. "Intensive Vegetation Clearing" means the complete removal of trees or shrubs in a contiguous patch, strip, row or block.
- q. Lift. "Lift" means the mechanical system designed to elevate or lower someone or something up or down a topographical slope.
- r. Lot. "Lot" means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation.
- s. Lot, Non-Riparian. "Non-riparian Lot" means a separate parcel of land within a designated shoreland area but which does not have frontage along a lake or tributary stream.
- t. Lot, Riparian. "Riparian Lot" means a separate parcel of land within a designated shoreland area having frontage along a lake or tributary stream.
- u. Lot Width. "Lot Width" means the shortest distance between lot lines measured at the midpoint of the building line.

- v. Nonconformity. "Nonconformity" means any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of zoning regulations or amendments thereto that would not have been permitted to become established under the terms of the zoning regulations as now written, if the zoning regulations had been in effect prior to the date it was established, recorded or authorized.
- w. Ordinary High Water ELEVATION. "Ordinary High Water Elevation" (OHW) means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
- x. Public Waters. "Public Waters" means any waters as defined in Minnesota Statutes, Section 105.37, Subdivisions 14 and 15.
- y. Setback. "Setback" means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line or other facility.
- z. Sewage Treatment System. "Sewage Treatment System" means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 5.8 of this ordinance.
- aa. Sewer System. "Sewer System" means pipelines or conduits, pumping stations and forcemain, and all other construction, devices, appliances or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
- bb. Shore Impact Zone. "Shore Impact Zone" means land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.
- cc. Shoreland. "Shoreland" means land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. 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.

- dd. Significant Historic Site. "Significant Historic Site" means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 308.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historic Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- ee. Steep Slope. "Steep Slope" means land where agricultural activity or development is either not recommended or described as poorly suited, due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.
- ff. Structure. "Structure" means any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles and other supporting facilities.
- gg. Subdivision. "Subdivision" means land that is divided for the purpose of sale, rent or lease, including Planned Unit Developments.
- hh. Toe of the Bluff. "Toe of the Bluff" means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
- ii. Top of the Bluff. "Top of the Bluff" means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
- jj. Variance. "Variance" means any modification of the provisions of this chapter where it is determined that, by reason of exceptional circumstances, the strict enforcement of the terms of this chapter would cause a hardship.
- kk. Water-Oriented Accessory Structure or Facility. "Water-Oriented Accessory Structure or Facility" means a small, above ground building or other improvement, except stairways, fences, docks,

and retaining walls which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

11. Wetland. "Wetland" means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition), which is hereby incorporated by reference, is available through the Minitex interlibrary loan system and is not subject to frequent change.

: 308.040 ADMINISTRATION

The local government must provide for the administration and enforcement of their shoreland management controls by establishing permanent procedures for building construction, installation of sewage treatment systems, and grading and filling.

A. Permits Required

A permit is required for the construction of buildings or building additions (including such related activities as construction of decks and signs), installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 308.060 E of this ordinance. Application for a permit shall be made to the City of Lake Elmo on the forms provided. The application shall include the necessary information so that the City can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

B. Variances

A variance only may be granted if there is a hardship. A variance may not circumvent the general purposes and intent of this ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and public interest. In considering a variance request, the board of adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

The board of adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. 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 required in Section 308.040 C below shall also include the board of adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

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

C. Notifications to the Department of Natural Resources

Copies of all notices of any public hearings to consider variances, amendments or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

A copy of approved amendments and subdivisions/plats and final decisions granting 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.

308.050 SHORELAND CLASSIFICATION

The public waters of Lake Elmo have been classified below, consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Washington County, Minnesota. The shoreland area for the waterbodies listed below shall be defined in Section 308.030 AA. and as shown on the City's Shoreland Management Area Map.

A. Classifications

The classes of public waters for the City of Lake Elmo are Natural Environment Lakes, Recreational Environment Lakes and Tributary Streams.

1. Natural Environment Lakes

Generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development, such as high water tables, exposed bedrock and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

DNR				
<u>I.D. #</u>	<u>LAKE NAME</u>	<u>LOCATION</u>	<u>OHW</u>	<u>100-YEAR ELEV.</u>
82-74	Horseshoe	Sec. 25	876.8	877.4
82-99	Clear	Sec. 2, 11		938
82-100	Unnamed	Sec. 4		962
82-105	Berschen's Pond	Sec. 10		925
82-107	Sunfish	Sec. 14	896.4	901
82-108	Friedrich Pond	Sec. 15, 22		972.6

DNR				
<u>I.D. #</u>	<u>LAKE NAME</u>	<u>LOCATION</u>	<u>OHW</u>	<u>100-YEAR ELEV.</u>
82-109	Eagle Point	Sec. 22, 27	896.5	901
82-110	Downs	Sec. 24	889.1	893
82-111	H.J. Brown Pond	Sec. 26		900
82-112	Rose (Sunfish)	Sec. 25, 36		888
82-113	Goose	Sec. 27, 34, 35		932
82-116	Unnamed (Armstrong)	Sec. 28, 33		
82-117	Kramer	Sec. 35		916

2. Recreational Development Lakes

Recreational Development Lakes are generally medium-sized lakes of varying depths and shapes with a variety of landforms, soil and groundwater situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences. Many of these lakes have capacities of accommodating additional development and use.

DNR				
<u>I.D. #</u>	<u>LAKE NAME</u>	<u>LOCATION</u>	<u>OHW</u>	<u>100-YEAR ELEV.</u>
82-101	DeMontreville	Sec. 4, 5, 9	930	931.5
82-103	Olson	Sec. 8, 9	930	931.5
82-104	Jane	Sec. 9, 10	924	926.0
82-106	Elmo	Sec. 13, 14, 23, 24, 26	886	891.0

3. Tributary Streams

Tributary Stream segments consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes. These segments have a wide variety of existing land and recreational use characteristics.

<u>LOCATION</u>	<u>STREAM NAME</u>
Sec. 33	Unnamed to Wilmes Lake
Sec. 16, 21, 22	Unnamed to Eagle Point Lake (Eagle Point Creek North)
Sec. 22, 23, 27	Unnamed to Lake Elmo (Eagle Point Creek South)
Sec. 25	Unnamed Tributary

B. Land Use Regulations

The permitted and conditional uses allowed in the underlying zoning district shall be those allowed in the Natural Environment Lakes, Recreational Development Lakes and Tributary Streams shoreland districts.

LAND USE MATRIX

Land Uses	Zoning District									
	<u>AG</u>	<u>R-1</u>	<u>P</u>	<u>HB</u>	<u>GB</u>	<u>R-3</u>	<u>RR</u>	<u>RE</u>	<u>LB</u>	<u>B</u>
Commercial Ag	P	P					P			
Greenhouses	CUP									
Kennels	CUP				CUP		CUP			
Stables	CUP									
Single-Family Residential	P	P				P	P	P		
Farming	P	P		P	P	P	P	P		
Manu.Homes w/ sewer						P				
Retail Uses				P	P				P	C
Office Uses				P	P				P	P
Manufacturing					CUP					
Auto. Service				P						
Restaurants				P					CUP	C
Churches and Schools			P							

P = Permitted Use

CUP = Conditional Use Permit

NOTE: The land use matrix outlines general allowed uses, subject to restrictions and provisions of the zoning ordinance. Reference Section 301 of the Lake Elmo City Code for specific allowable uses in each district.

308.060 SHORELAND STANDARDS

A. General Provisions

The following standards shall apply to all shorelands of the protected waters. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, the more restrictive standards shall apply. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line.

B. Lot Area - No Sewer

MINIMUM LOT AREAS
CLASSIFICATIONS

ZONING DISTRICT	<u>NATURAL ENVIRONMENT LAKES</u>		<u>RECREATION DEVELOPMENT LAKES</u>	
	<u>RIPARIAN</u>	<u>NON- RIPARIAN</u>	<u>RIPARIAN</u>	<u>NON- RIPARIAN</u>
RE	2.5 AC	2.5 AC	2.5 AC	2.5 AC
R-1	80,000 S.F.	80,000 S.F.	1.5 AC	1.5 AC
RR	10 AC	10 AC	10 AC	10 AC
AG	40 AC	40 AC	40 AC	40 AC
R-3	40,000 S.F.	20,000 S.F.	20,000 S.F.	15,000 S.F.
W/SEWER				

C. Lot Width - No Sewer

<u>Classification</u>	<u>Riparian Lot</u>	<u>Non-Riparian Lot</u>
Natural Environment	200 ft.	200 ft.
Recreational Development	150 ft.	150 ft.
Tributary Streams	100 ft.	n/a

D. Placement, Design and Height of Structures

1. Placement

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

- a. Structure and On-Site Sewage System Setbacks (in feet)
from Ordinary High Water Level

Setbacks from OHW

<u>Classification</u>	<u>Structures</u>	<u>Sewage Treatment System</u>
Natural Environment	150 ft	150 ft
Recreational Development	100 ft	75 ft
Tributary	100 ft	75 ft

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

<u>Setback From</u>	<u>Setback (in feet)</u>
(1) top of bluff	30
(2) unplatted cemetery	50
(3) right-of-way line of federal, state or county highways; and	50
(4) right-of-way line of town road public street, or other roads or streets not classified	30

- c. Bluff Impact Zone. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- d. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- e. Steep Slopes. The City shall 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 water, assuming summer, leaf-on vegetation.
- f. Proximity to Roads and Highways. No structure may be placed nearer than 50 feet from the right-of-way line of any federal, state or county highway; or 30 feet from the right-of-way line of any town road, public street or others not classified.

- g. Use without Water-Oriented Needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public water frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Design Criteria for Structures

- a. High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. All principal structures shall have their lowest floor at a level at least three feet above the highest known water level or the ordinary high water level, whichever is higher.
- b. Water-Oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 308.060 D if this water-oriented accessory structure complies with the following provisions:
- (1) the structure or facility must not exceed thirteen feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
 - (2) the setback of the structure or facility landward from the ordinary high water level must be at least twenty feet on a recreational development lake and fifty feet on a natural environment lake;
 - (3) the structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
 - (4) the roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
 - (5) the structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
- c. Stairways, Lifts and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

- (1) stairways and lifts must not exceed four feet in width. Wider stairways may be used for public open-space recreational properties;
- (2) landings for stairways and lifts must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for public open-space recreational properties;
- (3) canopies or roofs are not allowed on stairways, lifts or landings;
- (4) stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- (5) stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
- (6) facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items 1 to 5 are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

3. Height of Structures

All structures in residential districts, except churches and non-residential agricultural structures, must not exceed 35 feet in height.

E. Shoreland Alterations

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping and protect fish and wildlife habitat. Best Management Practices are recommended to guide shoreland alteration activities.

1. Vegetation Alterations

- a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 308.060 F are exempt from the vegetation

alteration standards that follow. Removal or alteration of vegetation, except for agricultural uses as regulated in Section 308.060 H (2) is allowed, subject to the following standards:

- (1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
- (2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs, and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas and permitted water-oriented accessory structures or facilities, provided that:
 - a. the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - b. along rivers, existing shading of water surfaces is preserved; and
 - c. the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased or pose safety hazards.

2. Topographic Alterations/Grading and Filling

- a. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems and driveways.
- b. Public roads and parking areas are regulated by Section 308.060 F.
- c. Notwithstanding Items a. and b. above, a grading and filling permit will be required for:
 - (1) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and

- (2) the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

d. The following considerations and conditions in addition to Chapter 306 must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

1. Grading and filling in any Type 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland *:
 - a. sediment and pollutant trapping and retention;
 - b. storage of surface runoff to prevent or reduce flood damage;
 - c. fish and wildlife habitat;
 - d. recreational use;
 - e. shoreline or bank stabilization; and
 - f. noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
- * This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews or approvals by other local, state or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.
2. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
3. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as grading is complete;

4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
5. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
6. Fill or excavated material must not be placed in a manner that creates an unstable slope;
7. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
8. Fill or excavated material must not be placed in bluff impact zones;
9. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes, Section 103G.245;
10. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
11. Placement of natural rock rip rap, 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 rip rap is within ten feet of the ordinary high water level, and the height of the rip rap above the ordinary high water level does not exceed three feet.

- e. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, must COMPLY with all provisions of this Chapter. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

F. Placement and Design of Roads, Driveways and Parking Areas

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view of 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.

2. Roads, driveways and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If the City Council, at its discretion, determines that no alternative exists, such structures may be placed within these areas and must be designed to minimize adverse impacts.
3. Public and private (intended solely for the use of the property owner) watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones, provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 308.060 E. must be met.

G. Stormwater Management

The following general and specific standards shall apply:

1. General Standards:

- a. Existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff 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, 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.
- c. When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.
- d. Use of fertilizers, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application.

2. Specific Standards:

- a. Impervious surface coverage of lots must not exceed 6,000 S.F. or 15 percent of the lot area, whichever is larger.
- b. When constructed facilities are used for stormwater management, documentation must be provided by a licensed civil engineer that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- c. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

H. Special Provisions for Public/Semi-Public, Agricultural and Forestry

1. Standards for Public and Semi-Public Uses

- a. Surface water-oriented public or semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
 - (1) in addition to meeting impervious coverage limits, setbacks and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
 - (2) 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;
 - (3) 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; and
 - (4) 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.

- b. Use without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be setback double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Agriculture Use Standards

- a. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management System) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. Best Management Practices of the Minnesota DNR must be used. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.
- b. Animal feedlots, as defined by the Minnesota Pollution Control Agency rules, Chapter 7020.0100 - 7020.1900 for compliance and permits, must meet the following standards:
 - (1) new feed lots must not be located in 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; and
 - (2) modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

I. Water Supply and Sewage Treatment

- 1. Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency. 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.

2. Sewage Treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
- a. Publicly-owned sewer systems must be used where available.
 - b. All private sewage treatment systems must meet or exceed Chapter 700 of the City Code or the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this ordinance. In all cases, the more restrictive regulation shall apply.
 - c. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 308.060 D (1).
 - d. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subitems (1) - (4). If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation Criteria:

- (1) depth to the highest known or calculated groundwater table or bedrock;
 - (2) soil conditions, properties and permeability;
 - (3) slope;
 - (4) the existence of lowlands, local surface depressions and rock outcrops.
- e. Non-conforming sewage treatment systems shall be regulated and upgraded in accordance with Section 308.070 C of this ordinance.
 - f. The discharge of non-treated raw sewage effluent into a lake, wetland or stream is strictly prohibited and any such condition will be required to be ceased immediately; and within a reasonable period (not-to-exceed 30 days) of notice and order to comply by the Zoning Administrator, the property owner shall install a system which complies with Minnesota PCA Chapter 7080 and Chapter 700 of the City Code, whichever is more restrictive.

- g. "Greywater", meaning liquid waste from a dwelling produced by bathing, laundry, culinary operations and floordrains associated with these sources, and specifically excluding toilet waste, must be treated in accordance with Minnesota Pollution Control Agency Chapter 7080. Discharge of greywater directly into a lake, wetland or stream is prohibited and such condition shall cease immediately.
- h. Any discharge of chemically treated water into a lake, wetland or stream, such as an example only, the drainage of a swimming pool, must not be done without first obtaining all required permits from the Minnesota Pollution Control Agency.

J. Conditional Uses

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established in Chapter 301. The following additional evaluation criteria and conditions apply within shoreland areas:

1. Evaluation Criteria. A thorough evaluation of the waterbody and topographic, vegetation and soils conditions on the site must be made 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. the site is adequate for 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 ability of public waters to safely accommodate these watercraft.
2. Conditions Attached to Conditional Use Permits. The City Council, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the Conditional Use Permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
 - a. increased setbacks from the ordinary high water level;
 - b. limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

- c. special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

308.070 NON-CONFORMITIES

All legally established non-conformities as of the date of this ordinance may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use and intensification of use; except that the following standards will also apply in shoreland areas:

A. Construction on Non-Conforming Lots of Record

1. Lots of record in the office of the County Recorder on the date of enactment of this chapter that do not meet the requirements of Section 308.060 B may be allowed as building sites without variances from lot size requirements, provided the use is permitted in the 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.
2. A variance from setback requirements must be obtained before any use, sewage treatment system or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
3. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 308.060 B, 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 Section 308.060 B as much as possible.

B. Additions/Expansions to Non-Conforming Structures

1. Additions/Expansions

All additions or expansions to the outside dimensions of an existing non-conforming structure must meet the setback, height, and other requirements of Section 308.060. Any deviation from these requirements must be authorized by a variance pursuant to Section 308.040 B.

2. Decks

Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary highwater level if all of the following criteria and standards are met:

- a. the structure existed on the date the structure setbacks were established;
- b. a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
- c. the deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
- d. the deck is constructed primarily of wood and is not roofed or screened.

C. Non-Conforming Sewage Treatment Systems

1. A sewage treatment system not meeting the requirements of Section 308.060 I of this ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
2. The City Council of the City of Lake Elmo has notified the DNR Commissioner of its plan to identify nonconforming sewage treatment systems in shoreland areas. The City of Lake Elmo will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time, which will not exceed 180 days of notice and order to comply by the Zoning Administrator. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 103F.201, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems including 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 off-site sewage treatment systems, shall be considered nonconforming.

308.080 Subdivision / Platting Provisions

A. Land Suitability.

Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government 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 community.

B. Platting.

All subdivisions shall be in accordance with the City's Platting regulations and requirements.

C. Consistency with Other Controls.

Subdivisions must conform to all regulations for the City of Lake Elmo. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 308.060 D and 308.060 I can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 308.060 B and Section 308.060 C, including at least a minimum contiguous vegetative area, that is free of limiting factors sufficient for the construction of two standard sewage treatment systems. Lots that would require use of holding tanks must not be approved.

D. Information Requirements.

Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

1. topographic contours at 2-foot intervals or less;
2. the surface water features required in Minnesota Statutes, Section 505.02, Subdivision 1, to be shown on plats obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
3. adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every

lot from the most current existing sources or from field investigations such as soil borings, percolation tests or other methods.

4. information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
5. location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and
6. a line or contour representing the ordinary high water level, the "toe" and "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

E. Dedications

When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

F. Controlled Access or Recreational Lots

Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Section 308.060 B and 308.060 C.

STATE OF MINNESOTA
COUNTY OF WASHINGTON
CITY OF LAKE ELMO

ORDINANCE 80- 85

AN ORDINANCE ADDING CHAPTER 308 AND REPEALING CHAPTER 307 OF THE
LAKE ELMO MUNICIPAL CODE RELATING TO
SHORELAND REGULATIONS

The City Council ordains that Chapter 308 and its subsections shall be added to the Lake Elmo Municipal code to read as follows:

The City Council further ordains that Chapter 307 of the Lake Elmo Municipal Code is hereby repealed.

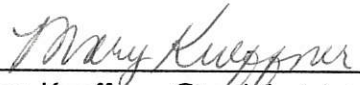
Effective Date: This ordinance shall be effective the day following its publication.

Adoption Date: Passed by the City Council of the City of Lake Elmo the 16 day of February, 1993.



Wyn John, Mayor

Attest:



Mary Kueffner, City Administrator

Published in the Stillwater Gazette the 24th day of February, 1993.

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308 SHORELAND DISTRICT

308.010 SHORELAND DISTRICT

The Shorelands within the City of Lake Elmo are hereby designated as Shoreland District. Regulations set forth in this chapter shall govern land use and other activities within this district. The classification of the lakes shall govern the use, alteration and development of land within the Shoreland district.

The uncontrolled use of shorelands adversely affects the public health, safety and general welfare by contributing to pollution of public waters and by impairing the local tax base. In furtherance of the policies declared in Minnesota Statutes, Chapters 103G, 103F, 115, 116, 394, 396 and 462, the Commissioner provides the following minimum standards and criteria for the subdivision, use and development of the shorelands of public waters. The standards and criteria are intended to preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands and provide for the wise use of water and related land resources of the state.

308.020 INTENT

IT IS THE INTENT OF THE CITY OF LAKE ELMO TO:

- A. Regulate placement of sanitary and waste treatment facilities on shorelands of public waters to prevent pollution of public waters and public health hazards resulting therefrom.
- B. Regulate alteration of Shorelands of public waters to prevent excessive sediment pollution, increased water runoff, excessive nutrient runoff pollution.
- C. To preserve and enhance the unique aesthetic appearance and ecological value of the shoreland.
- D. Regulate the construction of buildings and changes of land use in Shorelands to minimize property damage during period of high water.

308.030 DEFINITIONS

Unless specifically defined below, words or phases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application. For the purpose of this chapter, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

- a. Accessory Structure or Facility. "Accessory Structure" or "facility" means any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

- b. Bluff. "Bluff" means a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff):
- (1) Part or all of the feature is located 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 percent or greater; and
 - (4) The slope must drain toward the water body.
- c. Bluff Impact Zone. "Bluff Impact Zone" means a bluff and land located within 20 feet from the top of a bluff.
- d. Boathouse. "Boathouse" means a structure designed and used solely for the storage of boats AND boating equipment.
- e. Building Line. "Building Line" means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.
- f. Commercial Use. "Commercial Use" means the principal use of land or buildings for the sale, lease, rental or trade of products, goods and services.
- g. Commissioner. "Commissioner" means the Commissioner of the Department of Natural Resources.
- h. Conditional Use. "Conditional Use" means a defined land use in a particular district which is allowed if the City Council determines that such use will not be detrimental to the health, safety, convenience, morals or general welfare of the community; that such use will not cause serious traffic congestion or hazards; that such use will not seriously depreciate surrounding property values; and that such use is in harmony with the general purpose and intent of the City's zoning regulations and Comprehensive Plan.
- i. Deck. "Deck" means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.
- j. Dwelling Unit. "Dwelling Unit" means any structure or portion of a structure or other shelter designed as short or long term living quarters for one or more persons.

- k. Extractive Use. "Extractive Use" means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.
- l. Forest Land Conversion. "Forest Land Conversion" means the clear cutting of forested lands to prepare for a new land use other than re-establishment of a subsequent forest stand.
- m. Hardship. "Hardship" means the proposed use of the property and associated structures in question cannot be established under the conditions allowed by the City's zoning regulations and no other reasonable alternative use exists; that the plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district; and that these unique conditions of the site were not caused or accepted by the landowner after the effective date of the City's zoning regulations.
- n. Height of Building. "Height of Building" means the vertical distance between the lowest grade level at the building line and the uppermost point on the roof.
- o. Industrial Use. "Industrial Use" means the use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities, or other wholesale items.
- p. Intensive Vegetation Clearing. "Intensive Vegetation Clearing" means the complete removal of trees or shrubs in a contiguous patch, strip, row or block.
- q. Lift. "Lift" means the mechanical system designed to elevate or lower someone or something up or down a topographical slope.
- r. Lot. "Lot" means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease or separation.
- s. Lot, Non-Riparian. "Non-riparian Lot" means a separate parcel of land within a designated shoreland area but which does not have frontage along a lake or tributary stream.
- t. Lot, Riparian. "Riparian Lot" means a separate parcel of land within a designated shoreland area having frontage along a lake or tributary stream.
- u. Lot Width. "Lot Width" means the shortest distance between lot lines measured at the midpoint of the building line.

- v. Nonconformity. "Nonconformity" means any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of zoning regulations or amendments thereto that would not have been permitted to become established under the terms of the zoning regulations as now written, if the zoning regulations had been in effect prior to the date it was established, recorded or authorized.
- w. Ordinary High Water ELEVATION. "Ordinary High Water Elevation" (OHW) means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.
- x. Public Waters. "Public Waters" means any waters as defined in Minnesota Statutes, Section 105.37, Subdivisions 14 and 15.
- y. Setback. "Setback" means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line or other facility.
- z. Sewage Treatment System. "Sewage Treatment System" means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 5.8 of this ordinance.
- aa. Sewer System. "Sewer System" means pipelines or conduits, pumping stations and forcemain, and all other construction, devices, appliances or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
- bb. Shore Impact Zone. "Shore Impact Zone" means land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.
- cc. Shoreland. "Shoreland" means land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. 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.

- dd. Significant Historic Site. "Significant Historic Site" means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 308.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historic Society. All unplatted cemeteries are automatically considered to be significant historic sites.
- ee. Steep Slope. "Steep Slope" means land where agricultural activity or development is either not recommended or described as poorly suited, due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.
- ff. Structure. "Structure" means any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles and other supporting facilities.
- gg. Subdivision. "Subdivision" means land that is divided for the purpose of sale, rent or lease, including Planned Unit Developments.
- hh. Toe of the Bluff. "Toe of the Bluff" means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
- ii. Top of the Bluff. "Top of the Bluff" means the point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18 percent.
- jj. Variance. "Variance" means any modification of the provisions of this chapter where it is determined that, by reason of exceptional circumstances, the strict enforcement of the terms of this chapter would cause a hardship.
- kk. Water-Oriented Accessory Structure or Facility. "Water-Oriented Accessory Structure or Facility" means a small, above ground building or other improvement, except stairways, fences, docks,

and retaining walls which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses and detached decks.

11. Wetland. "Wetland" means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition), which is hereby incorporated by reference, is available through the Minitex interlibrary loan system and is not subject to frequent change.

308.040 ADMINISTRATION

The local government must provide for the administration and enforcement of their shoreland management controls by establishing permanent procedures for building construction, installation of sewage treatment systems, and grading and filling.

A. Permits Required

A permit is required for the construction of buildings or building additions (including such related activities as construction of decks and signs), installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 308.060 E of this ordinance. Application for a permit shall be made to the City of Lake Elmo on the forms provided. The application shall include the necessary information so that the City can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

B. Variances

A variance only may be granted if there is a hardship. A variance may not circumvent the general purposes and intent of this ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and public interest. In considering a variance request, the board of adjustment must also consider whether the property owner has reasonable use of the land without the variance, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

The board of adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. 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 required in Section 308.040 C below shall also include the board of adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

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

C. Notifications to the Department of Natural Resources

Copies of all notices of any public hearings to consider variances, amendments or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

A copy of approved amendments and subdivisions/plats and final decisions granting 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.

308.050 SHORELAND CLASSIFICATION

The public waters of Lake Elmo have been classified below, consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Washington County, Minnesota. The shoreland area for the waterbodies listed below shall be defined in Section 308.030 AA. and as shown on the City's Shoreland Management Area Map.

A. Classifications

The classes of public waters for the City of Lake Elmo are Natural Environment Lakes, Recreational Environment Lakes and Tributary Streams.

1. Natural Environment Lakes

Generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development, such as high water tables, exposed bedrock and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

DNR				
<u>I.D. #</u>	<u>LAKE NAME</u>	<u>LOCATION</u>	<u>OHW</u>	<u>100-YEAR ELEV.</u>
82-74	Horseshoe	Sec. 25	876.8	877.4
82-99	Clear	Sec. 2, 11		938
82-100	Unnamed	Sec. 4		962
82-105	Berschen's Pond	Sec. 10		925
82-107	Sunfish	Sec. 14	896.4	901
82-108	Friedrich Pond	Sec. 15, 22		972.6

DNR				
<u>I.D. #</u>	<u>LAKE NAME</u>	<u>LOCATION</u>	<u>OHW</u>	<u>100-YEAR ELEV.</u>
82-109	Eagle Point	Sec. 22, 27	896.5	901
82-110	Downs	Sec. 24	889.1	893
82-111	H.J. Brown Pond	Sec. 26		900
82-112	Rose (Sunfish)	Sec. 25, 36		888
82-113	Goose	Sec. 27, 34, 35		932
82-116	Unnamed (Armstrong)	Sec. 28, 33		
82-117	Kramer	Sec. 35		916

2. Recreational Development Lakes

Recreational Development Lakes are generally medium-sized lakes of varying depths and shapes with a variety of landforms, soil and groundwater situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences. Many of these lakes have capacities of accommodating additional development and use.

DNR				
<u>I.D. #</u>	<u>LAKE NAME</u>	<u>LOCATION</u>	<u>OHW</u>	<u>100-YEAR ELEV.</u>
82-101	DeMontreville	Sec. 4, 5, 9	930	931.5
82-103	Olson	Sec. 8, 9	930	931.5
82-104	Jane	Sec. 9, 10	924	926.0
82-106	Elmo	Sec. 13, 14, 23, 24, 26	886	891.0

3. Tributary Streams

Tributary Stream segments consist of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes. These segments have a wide variety of existing land and recreational use characteristics.

<u>LOCATION</u>	<u>STREAM NAME</u>
Sec. 33	Unnamed to Wilmes Lake
Sec. 16, 21, 22	Unnamed to Eagle Point Lake (Eagle Point Creek North)
Sec. 22, 23, 27	Unnamed to Lake Elmo (Eagle Point Creek South)
Sec. 25	Unnamed Tributary

B. Land Use Regulations

The permitted and conditional uses allowed in the underlying zoning district shall be those allowed in the Natural Environment Lakes, Recreational Development Lakes and Tributary Streams shoreland districts.

LAND USE MATRIX

Land Uses	Zoning District									
	<u>AG</u>	<u>R-1</u>	<u>P</u>	<u>HB</u>	<u>GB</u>	<u>R-3</u>	<u>RR</u>	<u>RE</u>	<u>LB</u>	<u>B</u>
Commercial Ag	P	P					P			
Greenhouses	CUP									
Kennels	CUP				CUP		CUP			
Stables	CUP									
Single-Family Residential	P	P				P	P	P		
Farming	P	P		P	P	P	P	P		
Manu.Homes w/ sewer						P				
Retail Uses				P	P				P	C
Office Uses				P	P				P	P
Manufacturing					CUP					
Auto. Service				P						
Restaurants				P					CUP	C
Churches and Schools			P							

P = Permitted Use

CUP = Conditional Use Permit

NOTE: The land use matrix outlines general allowed uses, subject to restrictions and provisions of the zoning ordinance. Reference Section 301 of the Lake Elmo City Code for specific allowable uses in each district.

308.060 SHORELAND STANDARDS

A. General Provisions

The following standards shall apply to all shorelands of the protected waters. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, the more restrictive standards shall apply. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line.

B. Lot Area - No Sewer

MINIMUM LOT AREAS
CLASSIFICATIONS

<u>ZONING DISTRICT</u>	<u>NATURAL ENVIRONMENT LAKES</u>		<u>RECREATION DEVELOPMENT LAKES</u>	
	<u>RIPARIAN</u>	<u>NON- RIPARIAN</u>	<u>RIPARIAN</u>	<u>NON- RIPARIAN</u>
RE	2.5 AC	2.5 AC	2.5 AC	2.5 AC
R-1	80,000 S.F.	80,000 S.F.	1.5 AC	1.5 AC
RR	10 AC	10 AC	10 AC	10 AC
AG	40 AC	40 AC	40 AC	40 AC
R-3	40,000 S.F.	20,000 S.F.	20,000 S.F.	15,000 S.F.
W/SEWER				

C. Lot Width - No Sewer

<u>Classification</u>	<u>Riparian Lot</u>	<u>Non-Riparian Lot</u>
Natural Environment	200 ft.	200 ft.
Recreational Development	150 ft.	150 ft.
Tributary Streams	100 ft.	n/a

D. Placement, Design and Height of Structures

1. Placement

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

- a. Structure and On-Site Sewage System Setbacks (in feet)
from Ordinary High Water Level

Setbacks from OHW

<u>Classification</u>	<u>Structures</u>	<u>Sewage Treatment System</u>
Natural Environment	150 ft	150 ft
Recreational Development	100 ft	75 ft
Tributary	100 ft	75 ft

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

<u>Setback From</u>	<u>Setback (in feet)</u>
(1) top of bluff	30
(2) unplatted cemetery	50
(3) right-of-way line of federal, state or county highways; and	50
(4) right-of-way line of town road public street, or other roads or streets not classified	30

- c. Bluff Impact Zone. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- d. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- e. Steep Slopes. The City shall 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 water, assuming summer, leaf-on vegetation.
- f. Proximity to Roads and Highways. No structure may be placed nearer than 50 feet from the right-of-way line of any federal, state or county highway; or 30 feet from the right-of-way line of any town road, public street or others not classified.

- g. Use without Water-Oriented Needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public water frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Design Criteria for Structures

- a. High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. All principal structures shall have their lowest floor at a level at least three feet above the highest known water level or the ordinary high water level, whichever is higher.

- b. Water-Oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 308.060 D if this water-oriented accessory structure complies with the following provisions:

- (1) the structure or facility must not exceed thirteen feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet, above grade at any point;
- (2) the setback of the structure or facility landward from the ordinary high water level must be at least twenty feet on a recreational development lake and fifty feet on a natural environment lake;
- (3) the structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
- (4) the roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
- (5) the structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

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

- (1) stairways and lifts must not exceed four feet in width. Wider stairways may be used for public open-space recreational properties;
- (2) landings for stairways and lifts must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for public open-space recreational properties;
- (3) canopies or roofs are not allowed on stairways, lifts or landings;
- (4) stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- (5) stairways, lifts and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
- (6) facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items 1 to 5 are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

3. Height of Structures

All structures in residential districts, except churches and non-residential agricultural structures, must not exceed 35 feet in height.

E. Shoreland Alterations

Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping and protect fish and wildlife habitat. Best Management Practices are recommended to guide shoreland alteration activities.

1. Vegetation Alterations

- a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 308.060 F are exempt from the vegetation

alteration standards that follow. Removal or alteration of vegetation, except for agricultural uses as regulated in Section 308.060 H (2) is allowed, subject to the following standards:

- (1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
- (2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs, and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas and permitted water-oriented accessory structures or facilities, provided that:
 - a. the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - b. along rivers, existing shading of water surfaces is preserved; and
 - c. the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased or pose safety hazards.

2. Topographic Alterations/Grading and Filling

- a. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems and driveways.
- b. Public roads and parking areas are regulated by Section 308.060 F.
- c. Notwithstanding Items a. and b. above, a grading and filling permit will be required for:
 - (1) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and

- (2) the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

d. The following considerations and conditions in addition to Chapter 306 must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

1. Grading and filling in any Type 2, 3, 4, 5, 6, 7 or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland *:
 - a. sediment and pollutant trapping and retention;
 - b. storage of surface runoff to prevent or reduce flood damage;
 - c. fish and wildlife habitat;
 - d. recreational use;
 - e. shoreline or bank stabilization; and
 - f. noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
- * This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews or approvals by other local, state or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.
2. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
3. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as grading is complete;

4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
5. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
6. Fill or excavated material must not be placed in a manner that creates an unstable slope;
7. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
8. Fill or excavated material must not be placed in bluff impact zones;
9. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes, Section 103G.245;
10. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
11. Placement of natural rock rip rap, 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 rip rap is within ten feet of the ordinary high water level, and the height of the rip rap above the ordinary high water level does not exceed three feet.

- e. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons and harbors, must COMPLY with all provisions of this Chapter. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

F. Placement and Design of Roads, Driveways and Parking Areas

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view of 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.

2. Roads, driveways and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If the City Council, at its discretion, determines that no alternative exists, such structures may be placed within these areas and must be designed to minimize adverse impacts.
3. Public and private (intended solely for the use of the property owner) watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones, provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 308.060 E. must be met.

G. Stormwater Management

The following general and specific standards shall apply:

1. General Standards:

- a. Existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter and retain stormwater runoff 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, 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.
- c. When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and man-made materials and facilities.
- d. Use of fertilizers, pesticides, or animal wastes within shorelands must be done in such a way as to minimize impact on the shore impact zone or public water by proper application.

2. Specific Standards:

- a. Impervious surface coverage of lots must not exceed 6,000 S.F. or 15 percent of the lot area, whichever is larger.
- b. When constructed facilities are used for stormwater management, documentation must be provided by a licensed civil engineer that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- c. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

H. Special Provisions for Public/Semi-Public, Agricultural and Forestry

1. Standards for Public and Semi-Public Uses

- a. Surface water-oriented public or semi-public uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
 - (1) in addition to meeting impervious coverage limits, setbacks and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
 - (2) 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;
 - (3) 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; and
 - (4) 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.

- b. Use without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be setback double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Agriculture Use Standards

- a. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management System) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. Best Management Practices of the Minnesota DNR must be used. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.
- b. Animal feedlots, as defined by the Minnesota Pollution Control Agency rules, Chapter 7020.0100 - 7020.1900 for compliance and permits, must meet the following standards:
 - (1) new feed lots must not be located in 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; and
 - (2) modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

I. Water Supply and Sewage Treatment

- 1. Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency. 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.

2. Sewage Treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

- a. Publicly-owned sewer systems must be used where available.
- b. All private sewage treatment systems must meet or exceed Chapter 700 of the City Code or the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled "Individual Sewage Treatment Systems Standards, Chapter 7080", a copy of which is hereby adopted by reference and declared to be a part of this ordinance. In all cases, the more restrictive regulation shall apply.
- c. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 308.060 D (1).
- d. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subitems (1) - (4). If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation Criteria:

- (1) depth to the highest known or calculated groundwater table or bedrock;
 - (2) soil conditions, properties and permeability;
 - (3) slope;
 - (4) the existence of lowlands, local surface depressions and rock outcrops.
- e. Non-conforming sewage treatment systems shall be regulated and upgraded in accordance with Section 308.070 C of this ordinance.
 - f. The discharge of non-treated raw sewage effluent into a lake, wetland or stream is strictly prohibited and any such condition will be required to be ceased immediately; and within a reasonable period (not-to-exceed 30 days) of notice and order to comply by the Zoning Administrator, the property owner shall install a system which complies with Minnesota PCA Chapter 7080 and Chapter 700 of the City Code, whichever is more restrictive.

- g. "Greywater", meaning liquid waste from a dwelling produced by bathing, laundry, culinary operations and floordrains associated with these sources, and specifically excluding toilet waste, must be treated in accordance with Minnesota Pollution Control Agency Chapter 7080. Discharge of greywater directly into a lake, wetland or stream is prohibited and such condition shall cease immediately.
- h. Any discharge of chemically treated water into a lake, wetland or stream, such as an example only, the drainage of a swimming pool, must not be done without first obtaining all required permits from the Minnesota Pollution Control Agency.

J. Conditional Uses

Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established in Chapter 301. The following additional evaluation criteria and conditions apply within shoreland areas:

1. Evaluation Criteria. A thorough evaluation of the waterbody and topographic, vegetation and soils conditions on the site must be made 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. the site is adequate for 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 ability of public waters to safely accommodate these watercraft.
2. Conditions Attached to Conditional Use Permits. The City Council, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the Conditional Use Permits as it deems necessary to fulfill the purposes of this ordinance. Such conditions may include, but are not limited to, the following:
 - a. increased setbacks from the ordinary high water level;
 - b. limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

- c. special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

308.070 NON-CONFORMITIES

All legally established non-conformities as of the date of this ordinance may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use and intensification of use; except that the following standards will also apply in shoreland areas:

A. Construction on Non-Conforming Lots of Record

1. Lots of record in the office of the County Recorder on the date of enactment of this chapter that do not meet the requirements of Section 308.060 B may be allowed as building sites without variances from lot size requirements, provided the use is permitted in the 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.
2. A variance from setback requirements must be obtained before any use, sewage treatment system or building permit is issued for a lot. In evaluating the variance, the board of adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
3. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 308.060 B, 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 Section 308.060 B as much as possible.

B. Additions/Expansions to Non-Conforming Structures

1. Additions/Expansions

All additions or expansions to the outside dimensions of an existing non-conforming structure must meet the setback, height, and other requirements of Section 308.060. Any deviation from these requirements must be authorized by a variance pursuant to Section 308.040 B.

2. Decks

Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary highwater level if all of the following criteria and standards are met:

- a. the structure existed on the date the structure setbacks were established;
- b. a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
- c. the deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
- d. the deck is constructed primarily of wood and is not roofed or screened.

C. Non-Conforming Sewage Treatment Systems

1. A sewage treatment system not meeting the requirements of Section 308.060 I of this ordinance must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
2. The City Council of the City of Lake Elmo has notified the DNR Commissioner of its plan to identify nonconforming sewage treatment systems in shoreland areas. The City of Lake Elmo will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time, which will not exceed 180 days of notice and order to comply by the Zoning Administrator. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 103F.201, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems including 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 off-site sewage treatment systems, shall be considered nonconforming.

308.080 Subdivision / Platting Provisions

A. Land Suitability.

Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existance 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.

B. Platting.

All subdivisions shall be in accordance with the City's Platting regulations and requirements.

C. Consistency with Other Controls.

Subdivisions must conform to all regulations for the City of Lake Elmo. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 308.060 D and 308.060 I can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 308.060 B and Section 308.060 C, including at least a minimum contiguous vegetative area, that is free of limiting factors sufficient for the construction of two standard sewage treatment systems. Lots that would require use of holding tanks must not be approved.

D. Information Requirements.

Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

1. topographic contours at 2-foot intervals or less;
2. the surface water features required in Minnesota Statutes, Section 505.02, Subdivision 1, to be shown on plats obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
3. adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every

lot from the most current existing sources or from field investigations such as soil borings, percolation tests or other methods.

4. information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
5. location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and
6. a line or contour representing the ordinary high water level, the "toe" and "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

E. Dedications

When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

F. Controlled Access or Recreational Lots

Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Section 308.060 B and 308.060 C.

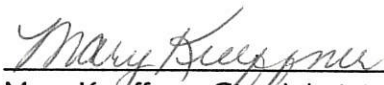
THE LAKE ELMO CITY COUNCIL ORDAINS THAT THE FOLLOWING SECTION
OF THE LAKE ELMO MUNICIPAL CODE IS HEREBY REPEALED:

SECTION 307- SHORELAND ORDINANCE

A complete copy of Ordinance 80-85, Shoreland Regulations within the City of Lake Elmo is on file in the office of the city administrator and can be viewed by the public during normal business hours.

Signed 
Wyn John Mayor

Attest:


Mary Kueffner, City Administrator

Published in the Stillwater Gazette the 24th day of February, 1993

Affidavit of Publication
STILLWATER EVENING GAZETTE

STATE OF MINNESOTA)
)ss.
COUNTY OF WASHINGTON)

Mike Mahoney, being duly sworn, on oath says that he is the publisher or authorized agent and employee of the publisher of the newspaper known as Stillwater Evening Gazette, and has full knowledge of the facts which are stated below.

(A) The newspaper has complied with all of the requirements constituting qualification as a qualified newspaper, as provided by Minnesota Statute 331A.02, 331A.07, and other applicable laws, as amended.

(B) The printed Summary of Ordinance No. 80-85

which is attached was cut from the columns of said newspaper, and was printed and published once each week, for 1 successive ~~days~~ weeks; it was first published on Wed., the 24th day of February, 1993, and was thereafter printed and published on every Wed. to and including the 24th day of February, 1993, and printed below is a copy of the lower case alphabet from A to Z, both inclusive, which is hereby acknowledged as being the size

and of type used in the composition and publication of the notice:

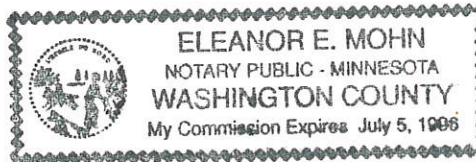
a b c d e f g h i j k l m n o p q r s t u v w x y z

BY: *Mike Mahoney*
TITLE: Publisher

Subscribed and sworn to before me on this
24th day of February, 1993

Eleanor E. Mohr

Notary Public



RATE INFORMATION

- | | |
|--|---|
| (1) Lowest classified rate paid by commercial users for comparable space | \$ <u>36.00</u>
(Line, word, or inch rate) |
| (2) Maximum rate allowed by law for the above matter | \$ <u>- - -</u>
(Line, word, or inch rate) |
| (3) Rate actually charged for the above matter | \$ <u>36.00</u>
(Line, word, or inch rate) |

Received Payment _____, 19____

STILLWATER EVENING GAZETTE

By _____

Gazette Extra, Feb. 24, 1993

CITY OF LAKE ELMO

WASHINGTON COUNTY

SUMMARY OF ORDINANCE 80-85

RELATING TO SHORELAND REGULATIONS

On February 16, 1993 the Lake Elmo City Council adopted Ordinance 80-85 relating to Shoreland Regulations in the City of Lake Elmo.

On February 16, 1993, the Lake Elmo City Council received a summary of Ordinance 80-85 and by 5 affirmative votes, approved the publication of a summary of this ordinance, to-wit:

THE LAKE ELMO CITY COUNCIL ORDAINS THAT THE FOLLOWING SECTION OF THE LAKE ELMO MUNICIPAL CODE IS HEREBY ADOPTED:

SECTION 308 - SHORELAND REGULATIONS

Section 38	Shoreland District
Section 308.020	Intent
Section 308.030	Definitions
Section 308.040	Administration
	A. Permits Required
	B. Variances
	C. Notifications of the DNR
Section 308.050	Shoreland Classification System
	A. Classifications
	B. Land Use Regulations
Section 308.060	Shoreland Standards
	A. General Provisions
	B. Lot Area - No Sewer
	C. Lot Width - No Sewer
	D. Placement, Design and Height of Structures
	E. Shoreland Alterations
	F. Placement and Design of Roads, Driveways and Parking areas
	G. Stormwater Management
	H. Specific Provisions of Public/Semi-Public Agricultural
	I. Water Supply and Sewage Treatment
	J. Conditional Uses.
Section 308.070	Nonconformities
Section 38.080	Subdivision/Platting Provisions

The City Council further ordains that Chapter 307 of the Lake Elmo Municipal Code is hereby repealed.

Effective Date: This ordinance shall be effective the day following its publication.

Adoption Date: Passed by the City Council of the City of Lake Elmo the 16 day of February, 1993.

/s/ Wyn John, Mayor

Attest:

Mary Kueffner, City Administrator

X2/24

CITY OF LAKE ELMO
WASHINGTON COUNTY, MINNESOTA
ORDINANCE 8086

AN ORDINANCE AMENDING SECTIONS 212.012, 212.013 AND 212.027
OF THE LAKE ELMO MUNICIPAL CODE AS IT RELATES TO THE
HERITAGE PRESERVATION COMMISSION

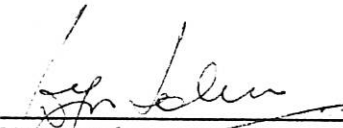
AMENDMENT: The City Council ordains that Sections 212.012, 212.013 and 212.027 of the Lake Elmo Municipal Code shall be amended to read as follows:

212.012 COMPOSITION: The Heritage Preservation Commission (H.P.C.) shall consist of five (5) members, two alternate members, and shall include, if available, a member of the Washington County Historical Society.

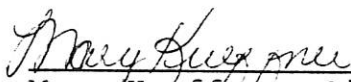
212.013 QUALIFICATIONS: Each commission member must be a person with demonstrated interest and expertise in historic preservation and must reside within the City of Lake Elmo with the exception of ex-officio members.

212.027 POWERS: To actively promote historical preservation within the City. To establish and maintain liaison with civic, church, and other groups for the purpose of promoting historic preservation. To promote gifting of structures, or money to promote the activities involved in historical preservation.

ADOPTED by the City Council of the City of Lake Elmo this 2nd day of March 1993.


Wyn John, Mayor

ATTEST:


Mary Kueffner, City Administrator

Published in the Stillwater Gazette Extra on the 24th day
of March, 1993.

CITY OF LAKE ELMO
WASHINGTON, COUNTY
SUMMARY OF ORDINANCE 8085
RELATING TO SHORELAND REGULATIONS

On February 16, 1993 the Lake Elmo City Council adopted Ordinance 80-85 relating to Shoreland Regulations in the City of Lake Elmo.

On February 16, 1993, the Lake Elmo City Council received a summary of Ordinance 8085 and by 5 affirmative votes, approved the publication of a summary of this ordinance, to wit:

THE LAKE ELMO CITY COUNCIL ORDAINS THAT THE FOLLOWING SECTION OF THE LAKE ELMO MUNICIPAL IS HEREBY ADOPTED:

SECTION 308 - SHORELAND REGULATIONS

Section 308	Shoreland District
Section 308.020	Intent
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	C. Notifications to the DNR
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	A. Classifications
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	A. General Provisions
	B. Lot Area - No Sewer
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	F. Placement and Design of Roads, Driveways and Parking Areas
	G. Stormwater Management
	H. Specific Provisions for Public/Semi-Public Agricultural
	I. Water Supply and Sewage Treatment
	J. Conditional Uses.
Section 308.070	Nonconformities
Section 308.080	Subdivision/Platting Provisions

