

SHORELAND MANAGEMENT OVERLAY DISTRICT

SECTION 150.85 STATUTORY AUTHORIZATION.

These shoreland regulations are adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

SECTION 150.86 POLICY.

The uncontrolled use of shorelands in the City of Annandale affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the City of Annandale.

SECTION 150.87 JURISDICTION.

The provisions of this Chapter shall apply to the shorelands of the public water bodies as classified in this Chapter. Lakes, ponds, or flowage less than 10 acres in size shall be exempt from the provisions of this Chapter. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this Chapter. The shoreland overlay district shall be applied to and superimposed upon any underlying zoning district.

SECTION 150.88 SCOPE OF COMPLIANCE.

The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this Chapter and other applicable regulations.

SECTION 150.89 ENFORCEMENT.

The Zoning Administrator shall be responsible for the administration and enforcement of this Chapter. Any violation of the provisions of this Chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Chapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to this Chapter.

SECTION 150.90 INTERPRETATION.

In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

SECTION 150.91 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this Chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

SECTION 150.92 DEFINITIONS.

Unless specifically defined in the earlier definitions section of this Ordinance or below, words or phrases 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. All distances, unless otherwise specified, shall be measured horizontally.

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

Bluff: a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 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 waterbody;
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 waterbody.

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

Boathouse: a structure designed and used solely for the storage of boats or boating equipment.

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

Building Line, Shoreland: a line measured across the width of the lot where the main structure is placed in accordance with setback provisions from the ordinary high water mark.

Commercial Planned Unit Developments: "Commercial planned unit developments" are typically uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

Commercial Use: the principal use of land or buildings for the sale, lease, rental, or trade of

products, goods, and services.

Commissioner: the commissioner of the Department of Natural Resources.

Deck: 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.

Duplex, Triplex, and Quad: a dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

Dwelling Site: a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Dwelling Unit: any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

Extractive Use: the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.

Feedlots. the place of confined feeding of livestock, poultry or other animals for food, fur, pleasure or resale purposes in yards, lots, pens, buildings, or other areas not normally used for pasture or crops and in which substantial amounts of manure or related other wastes may originate by reason of such feeding of animals.

Flood: a temporary rise in stream flow or water stage that results in inundation of the areas adjacent to the channels or bodies of water.

Flood Plain: the areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

Flood-Proofing: a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway: the channel of the watercourse and those portions of the adjoining flood plain which are reasonably required to carry and discharge the regional flood.

Forest Land Conversion: the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

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

Hardship: the same as that term is defined in Minnesota Statutes, Chapter 462.

Height of Building: the vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

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

Intensive Vegetation Clearing: the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

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

Lot Width: the shortest distance between lot lines measured at the midpoint of the building line.

Mining: the extraction of sand, gravel, rock, soil or other material from the land in the amount of one thousand (1,000) cubic yards or more and the removing thereof from the site. The only exclusion from this definition shall be removal of materials associated with construction of a building, provided such removal is an approved item in the building permit.

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

Ordinary High Water Level: the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

Ordinary Highwater Mark: the volume high water level as set forth in this Ordinance.

Planned Unit Development: a type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

Public Waters: any waters as defined in Minnesota Statutes, Section 103G.005.

Regional Flood: a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the one hundred (100) year recurrence interval.

Regulatory Flood Protection Elevation: a point not less than one (1) foot above the water surface profile associated with the regional flood plus any increases in flood heights attributable to encroachments of the floodplain. It is the elevation to which uses regulated by this Chapter are required to be elevated or flood-proofed.

Residential Planned Unit Development: a use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

Semipublic Use: the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

Sensitive Resource Management: the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Setback: 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.

Sewage: any water-carried domestic waste, exclusive of footing and roof drainage of any residence, industry, agriculture or commercial establishment whether treated or untreated and includes the liquid wastes produced by bathing, laundry and culinary operation; and from toilets and floor drains. Raw sewage is sewage which has not been subjected to any treatment process.

Sewage Treatment System: a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 150.104 of this Chapter.

Sewer System: pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Shore Impact Zone: land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

Shoreland: land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or 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.

Shoreland Alteration: the grading and filling in shoreland areas or any alteration of the natural topography where the slope of the land is toward a public water or a watercourse leading to a public water.

Shoreland Setback: the minimum horizontal distance between a structure and the ordinary highwater mark.

Significant Historic Site: 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 307.08. 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 Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Steep Slope: 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 Section. 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.

Structure: 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.

Subdivision: land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

Surface Water-Oriented Commercial Use: the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

Toe of the Bluff: the lower point of a 50-foot segment with an average slope exceeding 18 percent.

Top of the Bluff: the higher point of a 50-foot segment with an average slope exceeding 18 percent.

Variance: the same as that term is defined or described in Minnesota Statutes, Chapter 462.

Water-Oriented Accessory Structure or Facility: a small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public

waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

Wetland: a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

SECTION 150.93 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.

SECTION 150.94 SHORELAND CLASSIFICATION SYSTEM.

The public waters of the City of Annandale have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Stearns Wright County, Minnesota.

The shoreland area for the waterbodies listed in this Section shall be as defined in this Chapter and as shown on the Official Zoning Map.

1. Lakes.

A.	<u>Natural Environment Lakes</u>	Protected Waters Inventory I.D.#
	Unnamed	86022200
	Unnamed	86026800
B.	<u>Recreational Development Lakes</u>	Protected Waters Inventory I.D.#
	Lake John	86028800
C.	<u>General Development Lakes</u>	Protected Waters Inventory I.D.#
	Pleasant	86-0251
D.	<u>Unclassified</u>	Protected Waters Inventory I.D. #
	Unnamed	86-0488

2. **Rivers and Streams**

A.	<u>Remote Rivers</u> None	<u>Legal Description</u>
B.	<u>Forested Rivers</u> None	<u>Legal Description</u>
C.	<u>Transition Rivers</u> None	<u>Legal Description</u>
D.	<u>Agricultural Rivers</u> None	<u>Legal Description</u>
E.	<u>Urban Rivers</u> None	<u>Legal Description</u>
F.	<u>Tributary Streams</u> Unnamed	* From Sect. 28, TWP121, RNG27W to Sect. 28, TWP121, RNG27W

*All protected watercourses in the City shown on the Protected Waters Inventory Map for Wright County, a copy of which is hereby adopted by reference, not given a classification in Items A-E above shall be considered "Tributary".

SECTION 150.95 LAND USES.

The land use districts as provided in this Section shall have as allowable uses within a shoreland district all of the following listed uses for each type of underlying district, provided however, such use shall not be permitted if generally prohibited in the underlying zoning district:

1. Land Use Districts For Lakes

	General Development Lakes	Recreational Development Lakes	Natural Environment Lakes
Special Protection District - Uses			
-Forest management	P	P	P
-Sensitive resource management	P	P	P
-Agricultural: cropland and pasture	P	P	P
-Agricultural feedlots	C	C	C
-Parks and historic sites	C	C	C
-Extractive use	C	C	C
-Single residential	C	C	C
-Mining of metallic minerals and peat	P	P	P

Residential District- Uses

-Single residential	P	P	P
-Semipublic	C	C	C
-Parks & historic sites	C	C	C
-Extractive use	C	C	C
-Duplex, triplex, quad residential	P	P	C

-Forest management	P	P	P
-Mining of metallic minerals and peat	P	P	P

High Density Residential District - Uses

-Residential planned unit developments	C	C	C
-Single residential	P	P	P
-Surface water oriented commercial	C	C	C
-Semipublic	C	C	C
-Parks & historic sites	C	C	C
-Duplex, triplex, quad residential	P	P	P
-Forest management	P	P	P

Water Oriented Commercial District - Uses

-Surface water-oriented commercial	P	P	C
-Commercial planned unit development*	C	C	C
-Public, semipublic	C	C	C
-Parks & historic sites	C	C	C
-Forest management	P	P	P

General Use District- Uses

-Commercial	P	P	C
-Commercial planned unit development**	C	C	C
-Industrial	C	C	N
-Public, semipublic	P	P	C
-Extractive use	C	C	C
-Parks & historic sites	C	C	C
-Forest management	P	P	P
-Mining of metallic minerals and peat	P	P	P

*As accessory to a residential planned unit development

**Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 150.107 of this Chapter are satisfied.

2. Land Use Districts for Rivers and Streams

	Remote	Forested	Transition	Agricultural	Urban	Tributary
Special Protection District – Use						
-Forest management	P	P	P	P	P	P
-Sensitive resource management	P	P	P	P	P	P
-Agricultural: cropland and pasture	P	P	P	P	P	P
-Agricultural feedlots	C	C	C	C	C	C
-Parks and historic sites	C	C	C	C	C	C
-Extractive use	C	C	C	C	C	C
-Single residential	C	C	C	C	C	C
-Mining of metallic minerals and peat	P	P	P	P	P	P
Residential District – Uses						
-Single residential	P	P	P	P	P	P
-Semipublic	C	C	C	C	C	P
-Parks and historic sites	C	C	C	C	C	P
-Extractive use	C	C	C	C	C	C
-Duplex, triplex, quad residential	C	C	C	C	P	C
-Forest management	P	P	P	P	P	P
-Mining of metallic minerals and peat	P	P	P	P	P	P
High Density Residential – Uses						
-Residential planned unit developments	C	C	C	C	C	C
-Single residential	P	P	P	P	P	P
-Surface water oriented commercial*	C	C	C	C	C	C
-Semipublic	C	C	C	C	C	C
-Parks and historic sites	C	C	C	C	C	C

-Duplex, triplex, quad residential	P	P	P	P	P	P	P
-Forest management	P	P	P	P	P	P	P
Water-oriented Commercial- Uses							
-Surface water-oriented commercial	C	C	C	C	C	C	C
-Commercial planned unit development*	C	C	C	C	C	C	C
-Public, semipublic	C	C	C	P	P	P	P
-Parks and historic sites	C	C	C	C	C	C	C
-Forest management	P	P	P	P	P	P	P
General Use District – Uses							
-Commercial	C	C	C	C	P	P	C
-Commercial planned unit development*	C	C	C	C	C	C	C
-Industrial	N	C	N	N	C	C	C
-Public, semipublic	C	C	C	C	P	P	C
-Extractive use	C	C	C	C	C	C	C
-Parks and historic sites	C	C	C	C	C	C	C
-Forest management	P	P	P	P	P	P	P
-Mining of metallic minerals and peat	P	P	P	P	P	P	P

*As accessory to a residential planned unit development

**Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 150.107 of this Chapter are satisfied.

SECTION 150.96 USE AND UPGRADING OF INCONSISTENT LAND USE DISTRICTS.

- 1. Continuation.** In so far as the land use districts adopted in this Chapter, as they apply to shoreland areas, and their delineated boundaries on the Official Zoning Map, are not consistent with the land use district designation criteria specified in Section 150.95, the inconsistent land use district designations may continue until revisions are proposed to change either the land use district designation within an existing land use district boundary shown on the Official Zoning Map, or to modify the boundary of an existing land use district shown on the Official Zoning Map.
- 2. Standards.** When a revision is proposed to an inconsistent land use district provision, the following additional criteria and procedures shall apply:

 - A. For Lakes.** When a revision to a land use district designation on a lake shall be considered, the land use district boundaries and use provisions therein for all the shoreland areas within the jurisdiction of this Section on said lake shall be revised to make them substantially compatible with the framework in Sections 150.94 and 150.95 of this Chapter.
 - B. For Rivers and Streams.** When a revision to a land use district designation on a river or stream is proposed, the land use district boundaries and the use provisions therein for all shoreland on both sides of the river or stream within the same classification within the jurisdiction of this Section shall be revised to make them substantially compatible with the framework in Sections 150.94 and 150.95 of this Chapter. If the same river classification is contiguous for more than a five-mile segment, only the shoreland for a distance of 2.5 miles upstream and downstream, or to the class boundary if closer, need be evaluated and revised.
- 3.** When an interpretation question arises about whether a specific land use fits within a given "use" category, the interpretation shall be made by the Board of Adjustment. When a question arises as to whether a land use district's boundaries are properly delineated on the Official Zoning Map, this decision shall be made by the City Council.
- 4.** When a revision is proposed to an inconsistent land use district provision by an individual party or landowner, this individual party or landowner shall only be responsible to provide the supporting and/or substantiating information for the specific parcel in question. The City Council shall direct the Zoning Administrator to provide such additional information for this waterbody as is necessary to satisfy Subdivisions 1 and 2.
- 5.** The City Council shall make a detailed finding of fact and conclusion when taking final action that the revision, and the upgrading of any inconsistent land use district designations on said waterbody, are consistent with the enumerated criteria and use provisions of Section 150.95.

SECTION 150.97 ZONING AND WATER SUPPLY/SANITARY PROVISIONS.

The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the date of enactment of this Chapter for the lake and river/stream classifications are the following:

1. Unsewered Lakes.

A. Natural Environment:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

B. Recreational Development:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	260
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490

C. General Development:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	20,000	100	40,000	150
Duplex	40,000	180	80,000	265
Triplex	60,000	260	120,000	375
Quad	80,000	340	160,000	490

2. Sewered Lakes:

A. Natural Environment:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

B. Recreational Development:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	95	38,000	190
Quad	65,000	255	49,000	245

C. General Development:

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135
Triplex	38,000	195	25,000	190
Quad	49,000	255	32,500	245

- 3. River/Stream Lot Width Standards.** There is no minimum lot size requirements for rivers and streams. The lot width standards for single, duplex, triplex and quad residential developments for the six river/stream classifications are:

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

4. Additional Special Provisions.

- A.** Residential subdivisions with dwelling unit densities exceeding those in the above tables shall only be allowed if designed and approved as residential planned unit developments under this Chapter. Only land above the ordinary high water level of public waters shall 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. The sewer lot area dimensions in Subd. 2 shall only be used if publicly owned sewer system service is available to the property.

- B.** Subdivisions of duplexes, triplexes, and quads on Natural Environment Lakes shall also meet the following standards:
1. Each building shall be set back at least 200 feet from the ordinary high water level;
 2. Each building shall have common sewage treatment and water systems in one location and serve all dwelling units in the building;
 3. Watercraft docking facilities for each lot shall be centralized in one location and serve all dwelling units in the building; and
 4. No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.
- C.** One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions provided the following standards are met:
1. For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage shall be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;
 2. A guest cottage shall not cover more than 700 square feet of land surface and shall not exceed 15 feet in height; and
 3. A guest cottage shall be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, or color, assuming summer leaf-on conditions.
- D.** Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible but they shall meet or exceed the following standards:

1. They shall meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
2. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements

Ratio of lake size to shore length (acres/mile)	Required increase in frontage (percent)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

3. They shall be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and
4. Covenants or other equally effective legal instruments shall be developed that specify which lot owners have authority to use the access lot and what activities shall be allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They shall also include other outdoor recreational activities that do not significantly conflict with the general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking. The covenants shall limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation

alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

SECTION 150.98 PLACEMENT, DESIGN, AND HEIGHT OF STRUCTURES.

- 1. Placement of Structures on Lots.** When more than one setback applies to a site, structures and facilities shall 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*.

<u>Classes of Public Waters</u>	<u>Setbacks*</u>		<u>Sewage Treatment System</u>
	<u>Unsewered</u>	<u>Sewered</u>	
Lakes:			
Natural Environment	150	150	150
Recreational Development	100	75	75
General Development	75	50	50
Rivers:			
Remote	200	200	150
Forested and Transition	150	150	100
Agriculture, Urban, and Tributary	100	50	75

*One water-oriented accessory structure designed in accordance with Subd. 2 of this Section may be set back a minimum distance of

ten (10) feet from the ordinary high water level.

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

Setback From:	Setback (in feet)
(1) top of bluff;	30
(2) unplatted cemetery;	50
(3) right-of-way line of federal, state, or county highway; and	50
(4) right-of-way line of town road, public street, or other roads or streets not classified.	20

C. Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, shall not be placed within bluff impact zones.

D. Uses Without Water-oriented Needs. Uses without water-oriented needs shall be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, shall 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 shall be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed shall be determined as follows:
1. For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;
 2. For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined shall be used for placing structures and other facilities; and
 3. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
- B. Water-oriented Accessory Structures.** Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Subdivision 1 if this water-oriented accessory structure complies with the following provisions:

Within the Pleasant Lake Shoreland District, the lowest floor of no structure shall be placed below the 100-year flood elevation. This elevation is estimated to be 1044.9 feet above mean sea level. However, this elevation may be changed in accordance with adequate revised technical data.

1. The structure or facility shall not exceed ten feet in height, exclusive of safety rails, and shall not occupy an area greater than 250 square feet. Detached decks shall not exceed eight feet above grade at any point;
2. The setback of the structure or facility from the ordinary high water level shall be at least ten feet;
3. The structure or facility shall 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 shall not be enclosed or used as a storage area;
5. The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities; and
6. As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

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

1. Stairways and lifts shall not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;
2. Landings for stairways and lifts on residential lots shall not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;

3. Canopies or roofs shall not be 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 shall 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 shall also be allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (1) to (5) are complied with in addition to the requirements of Minnesota Rules, Chapter 1340.

D. Significant Historic Sites. No structure shall 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 Zoning Administrator 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 shall be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

3. **Height of Structures.** All structures in residential districts, except churches and nonresidential agricultural structures, shall not exceed 25 feet in height.

SECTION 150.99 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.

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 150.100 of this Chapter are exempt from the vegetation alteration standards that follow.
- B. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Sections 150.102 is allowed subject to the following standards:
 - 1. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes shall not be allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas may be allowed as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
 - 2. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees shall be 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 150.100 of this Chapter.
- C.** Notwithstanding Items 1. and 2. above, a grading and filling permit shall 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 shall be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

 - 1.** Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland shall 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 shall 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 shall be so advised.

2. Alterations shall be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed and for the shortest time possible;
3. Mulches or similar materials shall be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover shall be established as soon as possible;
4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature shall be used;
5. Altered areas shall 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 shall not be placed in a manner that creates an unstable slope;
7. Plans to place fill or excavated material on steep slopes shall be reviewed by qualified professionals for continued slope stability and shall not create finished slopes of 30 percent or greater;
8. Fill or excavated material shall not be placed in bluff impact zones;
9. Any alterations below the ordinary high water level of public waters shall first be authorized by the commissioner under Minnesota Statutes, Section 103G.245;

10. Alterations of topography shall 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 riprap, including associated grading of the shoreline and placement of a filter blanket, may be permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap 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, shall be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

SECTION 150.100 PLACEMENT AND DESIGN OF ROADS, DRIVEWAYS, AND PARKING AREAS.

1. **Public and Private Roads and Parking.** Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
2. **Setbacks.** Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
3. **Special Conditions.** Public and private 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 150.99 must be met.

SECTION 150.101 STORMWATER MANAGEMENT.

1. **General Standards:**

- A. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- B. Development shall 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 shall be stabilized and protected as soon as possible 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 shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

2. Specific Standards:

- A. Impervious surface coverage of lots shall not exceed 25 percent of the lot area.
- B. When constructed facilities are used for stormwater management, documentation shall be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- C. New constructed stormwater outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

SECTION 150.102 SPECIAL PROVISIONS FOR COMMERCIAL, INDUSTRIAL, PUBLIC/ SEMIPUBLIC, AGRICULTURAL, FORESTRY AND EXTRACTIVE USES AND MINING OF METALLIC MINERALS AND PEAT.

Provided the use is allowed in the underlying zoning district, the following special provisions shall apply:

1. Standards for Commercial, Industrial, Public, and Semipublic Uses.

- A.** Surface water-oriented commercial uses and industrial, public, or semipublic 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 shall meet the following standards:
- 1.** In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Section, the uses shall be designed to incorporate topographic and vegetative screening of parking areas and structures;
 - 2.** Uses that require short-term watercraft mooring for patrons shall centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
 - 3.** Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - (a) 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;
 - (b) signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They shall only convey the location and name of the establishment and the general types of goods or services available. The signs shall not contain other detailed information such as product brands and prices, shall not be located higher than ten feet above the ground, and shall not exceed 32 square feet in size. If illuminated by artificial lights, the lights shall be shielded or directed to prevent illumination out across public waters; and
 - (c) 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 shall not preclude use of navigational lights.
- B.** Uses without water-oriented needs shall be located on lots or parcels without public waters frontage, or, if

located on lots or parcels with public waters frontage, must either be set back double the 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 shall be 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 Systems) 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. 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 shall meet the following standards:
 - 1.** New feedlots shall not be located in the shoreland of watercourses or in bluff impact zones and shall meet a minimum setback of 300 feet from the ordinary high water level of all public waters 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.

3. Forest Management Standards. The harvesting of timber and associated reforestation shall be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

4. Extractive Use Standards.

- A.** Site Development and Restoration Plan. An extractive use site development and restoration plan shall be developed, approved, and followed over the course of operation of the site. The plan shall address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic

alterations. It shall also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and shall clearly explain how the site will be rehabilitated after extractive activities end.

B. Setbacks for Processing Machinery. Processing machinery shall be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

5. Mining of Metallic Minerals and Peat. Mining of metallic minerals and peat, as defined in Minnesota Statutes, sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes, sections 93.44 to 93.51, are satisfied.

SECTION 150.103 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 under Section 150.14. The following additional evaluation criteria and conditions apply within shoreland areas:

- 1. Evaluation Criteria.** A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site shall 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 suitability 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 Section, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Section. 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.

SECTION 150.104 WATER SUPPLY AND SEWAGE TREATMENT.

- 1. **Water Supply.** Any public or private supply of water for domestic purposes shall meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
- 2. **Sewage Treatment.** Any premises used for human occupancy shall be provided with an adequate method of sewage treatment, as follows:
 - A. Publicly-owned sewer systems shall be used where available.
 - B. All private sewage treatment systems shall meet or exceed 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 Section.
 - C. On-site sewage treatment systems shall be set back from the ordinary high water level in accordance with the setbacks contained in Section 150.98 of this Chapter.
 - 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 ground water table or bedrock;
- (2) soil conditions, properties, and permeability;
- (3) slope;
- (4) the existence of lowlands, local surface depressions, and rock outcrops;

E. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with this Chapter.

SECTION 150.105 NONCONFORMITIES.

All legally established nonconformities as of the adoption of this Code may continue, but they shall 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 shall also apply in shoreland areas:

1. Construction on Nonconforming Lots of Record.

- A.** Lots of record in the office of the Wright County Recorder on the date of enactment of this Chapter that do not meet the requirements of Section 150.97 may be allowed as building sites without variances from lot size requirements provided the use is permitted in the underlying zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Section are met.
- B.** A variance from setback requirements shall 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.

- C. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 150.97 of this Chapter 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 150.97 of this Chapter as much as possible.

2. Additions/Expansions to Nonconforming Structures.

- A. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Section 150.97 of this Chapter. Any deviation from these requirements must be authorized by a variance pursuant to Section 150.16.
- B. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
 - 1. The structure existed on the date the structure setbacks were established;
 - 2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
 - 3. The deck encroachment toward the ordinary high water level shall not exceed 15 percent of the existing setback of the structure from the ordinary high water level or encroach closer than 30 feet, whichever is more restrictive; and
 - 4. The deck is constructed primarily of wood, and is not roofed or screened.

3. Nonconforming Sewage Treatment Systems.

- A. A sewage treatment system not meeting the requirements of Section 150.104 shall 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 nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

- B.** City Council shall adopt a policy for identifying non-conforming sewage systems and shall submit a copy of this policy to the DNR Commission. The Council shall require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which shall not exceed 2-years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

SECTION 150.106 SUBDIVISION/PLATTING PROVISIONS.

In addition to the regular subdivision requirements, subdivision proposed in a shoreland district shall comply with the following regulations:

- 1. Land Suitability.** Each lot created through subdivision, including planned unit developments authorized under Section 150.107 shall 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.
- 2. Consistency with Other Controls.** Subdivisions shall conform to all official controls established or adopted by the City. A subdivision shall 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 shall not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 150.98 and 150.104 can be provided for every lot. Each lot shall meet the minimum lot size and

dimensional requirements of Section 150.97, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks shall not be approved.

3. **Information Requirements.** Sufficient information shall be submitted by the applicant for the Council to make a determination of land suitability. The information shall include at least the following:
 - A. Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
 - B. 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;
 - C. 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;
 - D. 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;
 - E. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
 - F. A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
4. **Dedications.** When a land or easement dedication shall be a condition of subdivision approval, the approval shall provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
5. **Platting.** All subdivisions that create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed

as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

6. **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 shall meet or exceed the sizing criteria in Section 150.97 of this Chapter.

SECTION 150.107 PLANNED UNIT DEVELOPMENTS (PUD'S).

In addition to the general requirements for PUDs, such developments within a shoreland district shall comply with the following regulations:

1. **Types of PUD's Permissible.** Planned unit developments (PUD's) may be allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use shall be identified in the land use district descriptions in this Section and the official zoning map.
2. **Processing of PUD's.** Planned unit developments shall be processed as a conditional use, except that an expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this Code was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Subd. 5. Approval shall not be granted until the environmental review process (EAW/EIS) is complete.
3. **Application for a PUD.** The applicant for a PUD shall submit the following documents prior to final action being taken on the application request:
 - A. A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten-foot intervals or less. When a PUD is a

combined commercial and residential development, the site plan and/or plat shall indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.

- B.** A property owners association agreement (for residential PUD's) with mandatory membership, and all in accordance with the requirements of Subd. 6.
- C.** Deed restrictions, covenants, permanent easements or other instruments that: 1) properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUD's; and 2) ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Subd. 6.
- D.** When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.
- E.** Those additional documents as requested by the Zoning Administrator or the Council that are necessary to explain how the PUD will be designed and will function.

4. Site "Suitable Area" Evaluation. Proposed new or expansions to existing planned unit developments shall be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Subd. 5.

- A.** The project parcel shall be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions

	Unsewered (feet)	Sewered (feet)
General development lakes- first tier	200	200
General development lakes- second and additional tiers	267	200

Recreational development lakes	267	267
Natural environment lakes	400	320
All river classes	300	300

B. The suitable area within each tier shall be calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project shall then be subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

5. Residential and Commercial PUD Density Evaluation. The procedures for determining the "base" density of a PUD and density increase multipliers shall be as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but shall not be transferred to any other tier closer.

A. Residential PUD "Base" Density Evaluation: The suitable area within each tier shall be divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments shall then be compared with the tier, density, and suitability analyses in the Subdivision and the design criteria in Subd. 6.

B. Commercial PUD "Base" Density Evaluation:

- 1.** The average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites shall be determined. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.
- 2.** The appropriate floor area ratio from the following table shall then be selected:

Commercial Planned Unit Development
 Floor Area Ratios*
 Public waters classes

*Average Unit floor area (square foot)	Sewered general development lakes; first tier on unsewered general development lakes; urban agricultural, tributary river segments	Second and additional tiers on unsewered general development lakes; recreational development lakes; transition and forested river segments	Natural environment lakes and remote river
200	.040	.020	.010
300	.048	.024	.012
400	.056	.028	.014
500	.065	.032	.016
600	.072	.038	.019
700	.082	.042	.021
800	.091	.046	.023
900	.099	.050	.025
1,000	.108	.054	.027
1,100	.116	.058	.029
1,200	.125	.064	.032
1,300	.133	.068	.034
1,400	.142	.072	.036
1,500	.150	.075	.038

*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

3. The suitable area within each tier shall be multiplied by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
4. The total floor area by tier, as computed in Item 3, above, shall be divided by the average inside living area size determined in Item 1, above. This yields a base number of dwelling units and sites for each tier.
5. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development shall then be compared with the tier, density and suitability analyses herein and the design criteria in Subd. 6.

C. Density Increase Multipliers:

1. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 150.97 are met or exceeded and the design criteria in Subd. 6 are satisfied. The allowable density increases in Item 2. below shall only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.
2. Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial Planned Unit Developments:

Density evaluation tiers within each tier (percent)	Maximum density increase
First	50
Second	100
Third	200
Fourth	200
Fifth	200

6. Maintenance and Design Criteria

A. Maintenance and Administration Requirements.

- 1.** Before final approval of a planned unit development, adequate provisions shall be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
- 2.** Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means shall be provided to ensure long-term preservation and maintenance of open space. The instruments shall include all of the following protections:
 - (a) commercial uses prohibited (for residential PUD's);
 - (b) vegetation and topographic alterations other than routine maintenance prohibited;
 - (c) construction of additional buildings or storage of vehicles and other materials prohibited; and
 - (d) uncontrolled beaching of watercraft prohibited.
- 3.** Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments shall use an owners association with the following features:
 - (a) membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
 - (b) each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;

(c) assessments must be adjustable to accommodate changing conditions; and

(d) the association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

B. Open Space Requirements. Planned unit developments shall contain open space meeting all of the following criteria:

1. at least 50 percent of the total project area shall be preserved as open space;
2. dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;
3. open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
4. open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
5. open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
6. open space shall not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
7. the appearance of open space areas, including topography, vegetation, and allowable uses, shall be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and

8. the shore impact zone, based on normal structure setbacks, shall be included as open space. For residential PUD's, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments shall be preserved in its natural or existing state. For commercial PUD's, at least 50 percent of the shore impact zone shall be preserved in its natural state.

C. Erosion Control and Stormwater Management. Erosion control and stormwater management plans shall be developed and the PUD shall:

1. be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This shall be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques shall be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and
2. be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier shall not exceed 25 percent of the tier area, except that for commercial PUD's 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 150.99.

D. Centralization and Design of Facilities. Centralization and design of facilities and structures shall be done according to the following standards:

1. planned unit developments shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems shall be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Sections 150.98 and 150.104 of this Chapter. On-site sewage treatment systems shall be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors shall be provided for a replacement soil treatment system for each sewage system;

2. dwelling units or sites shall be clustered into one or more groups and located on suitable areas of the development. They shall be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level shall be increased in accordance with Subdivision 5 (c) of this Section for developments with density increases;
 3. shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, shall be centralized and located in areas suitable for them. Evaluation of suitability shall include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft shall not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;
 4. structures, parking areas, and other facilities shall be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the City Council, assuming summer, leaf-on conditions. Vegetative and topographic screening shall be preserved, if existing, or may be required to be provided;
 5. accessory structures and facilities, except water oriented accessory structures, shall meet the required principal structure setback and shall be centralized; and
 6. water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 150.98 of this Chapter and are centralized.
7. **Conversions.** Local governments may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards shall be met:

- A.** Proposed conversions shall be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards shall be identified.
- B.** Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities shall be corrected as part of the conversion or as specified in the conditional use permit.
- C.** Shore and bluff impact zone deficiencies shall be evaluated and reasonable improvements made as part of the conversion. These improvements shall include, where applicable, the following:

 - 1.** removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
 - 2.** remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and
 - 3.** if existing dwelling units are located in shore or bluff impact zones, conditions shall be attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions shall also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
- D.** Existing dwelling unit or dwelling site densities that exceed the standards in Subd. 5 may be allowed to continue but shall not be allowed to be increased, either at the time of conversion or in the future. Efforts shall be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.