

SECTION 20 - SHORELAND REGULATIONS

A. Non-Conforming Septic Systems

1. All septic systems not in conformity with this ordinance and MPCA Chapter 7080 shall be brought into conformity prior to issuance of any permit or variance related to the site. Systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 105.485, 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 chapter 7080, shall be considered non-conforming.
2. All septic systems not in conformity with this ordinance and MPCA Chapter 7080 shall be upgraded within five (5) years of the passage of this ordinance to conform to the provisions hereof and MPCA Chapter 7080.
3. Publicly-owned sewer systems must be used where available.

B. Dimensional Standards

1. Minimum setback from un-platted cemeteries – fifty (50) feet
2. Minimum setback from top of bluff – thirty (30) feet and no structures except stairways and landings shall be permitted in the bluff impact zone.

C. Other Shoreland Standards

1. Each lot may have one (1) water oriented accessory structure encroach into the lake setback area as long as it does not encroach more than twenty percent (20%) of the setback regulation, is not over one hundred twenty (120) square feet in amount of encroachment and is not over ten (10) feet in height or over the height of the dwelling, if attached.
2. Stairways, Lifts and Landings - Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
 - a. Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties and public open-space recreational properties.
 - b. Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties and public open space recreational properties.

- c. Canopies or roofs are not allowed on stairways, lifts or landings.
 - d. 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.
 - e. 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.
 - f. 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 are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
3. 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.
 4. Steep Slopes – The county must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
 5. Height of Structures - All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed twenty-five (25) feet in height.

D. 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 this ordinance are exempt from the vegetation alteration standards that follow.
 - b. Removal or alteration of vegetation, except for agricultural and forest management uses is allowed subject to the following standards:

Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.

Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable if an erosion control and sedimentation plan is developed and approved by the Soil and Water Conservation District (SWCD) in which the property is located.

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:

- the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
- along rivers, existing shading of water surfaces is preserved; and
- the above provisions are not applicable to the removal of trees, limbs or branches that are dead, diseased or pose safety hazards.

- c. Use of fertilizer and pesticides must be done in such a way as to minimize runoff by the use of earth, vegetation or both.

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 this ordinance.

- c. Notwithstanding Items a. and b. above, a grading and filling permit will be required for:

the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and

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

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

Grading or 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**:

- sediment and pollutant trapping and retention; storage of surface runoff to prevent or reduce flood damage;
- fish and wildlife habitat;
- recreational use;
- shoreland or bank stabilization; and
- 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.

- * 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;
- * Mulches or similar materials must be used, where necessary or temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
- * Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
- * Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local SWCD and the Natural Resources Conservation Service (NRCS);
- * Fill or excavated material must not be placed in a manner that creates an unstable slope;
- * 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 thirty (30) percent or greater;
- * Fill or excavated material must not be placed in bluff impact zones;
- * Any alterations below the OHWL of public waters must first be authorized by the Commissioner under Minnesota Statutes, section 103G.245;

- * 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
 - * Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) 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 be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

E. 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 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 SWCD, or other applicable technical materials.
2. Roads, driveways and parking areas must meet structure setback 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. 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 this ordinance must be met.

F. Stormwater Management

The following general and specific standards shall apply:

1. General standards:
 - a. When possible, 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 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 must 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 must not exceed twenty-five percent (25%) of the lot area.
- b. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local SWCD.
- c. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

G. Agricultural Use Standards

1. 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 Systems) consistent with the field office technical guides of the local SWCD or the NRCS, 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 fifty (50) feet from the OHWL.
2. Animal feedlots must meet the following standards:
 - a. New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of three hundred (300) feet from the OHWL of all public waters basins; and
 - b. Modifications or expansions to existing feedlots that are located within three hundred (300) feet of the OHWL or within a bluff impact zone are allowed if they do not further encroach into the existing OHWL setback or encroach on bluff impact zones.

H. Forest Management Standards:

1. The harvesting of timber and associated reforestation must be conducted consistent with the provisions of "Minnesota Non-point Source Pollution Assessment - Forestry" and the provisions of a Water Quality in Forest Management - Best Management Practices in Minnesota.

I. Extractive Use Standards:

1. Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.
2. Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from OHWL of public waters and from bluffs.

J. Standards for Commercial, Industrial, Public and Semipublic use

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. Uses 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 set back double the normal OHWL setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions. Those with water-oriented needs must meet the following standards:

1. In addition to meeting impervious coverage limits, setbacks and other zoning standards presented elsewhere 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. 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 must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten (10) feet above the ground, and must not exceed thirty-two (32) square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.
- 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 does not preclude use of navigational lights.

K. Mining of Metallic Minerals and Peat

- 1. Mining of metallic minerals and peat, as defined in Minnesota Statutes, Section 93.44 to 93.51, shall be permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

L. 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 community-wide. The following additional evaluation criteria and conditions apply with shoreland areas:

- 1. Evaluation Criteria. A thorough evaluation of the water body and the 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 suitability of public waters to safely accommodate these watercraft.
- 2. Conditions attached to conditional use permits. The county, 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 OHWL;
- b. limitations on the natural vegetation to be removed or the requirements 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.

M. 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 (MDH) and the MPCA.

N. Subdivision/Platting Provisions in Shoreland Areas

1. Land Suitability. Each lot created through subdivision, authorized under this ordinance, 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.
2. Consistency with other Controls. Subdivisions must conform to all official controls of this community. 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 this ordinance and MPCA Chapter 7080 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of this ordinance, including at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two (2) standard soil treatment systems. Lots that would require use of holding tanks must not be approved.
3. Information Requirements in Shoreland Areas. Subdivision controls must require submission of adequate information to make a determination of land suitability. The information shall include at least the following:
 - a. Topographic contours at ten (10) 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; and
- e. Location of 100 Year Floodplain areas from existing maps or data.
- f. Subdivisions shall be platted.

O. Variances

Variances may only be granted in accordance with Minnesota Statutes, Chapter 394, as applicable. They may not circumvent the general purposes and intent of the official controls. 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 variances to ensure compliance and to protect adjacent properties and the public interest. In considering variance requests, Boards of Adjustment must also consider whether property owners have reasonable use of the lands without the variances, whether existing sewage treatment systems on the properties need upgrading before additional development is approved, whether the properties are used seasonally or year-round, whether variances are being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

P. Notification

1. 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 (10) days before the hearings. Notices of hearings to consider proposed plats must include copies of the plats.
2. A copy of approved amendments and 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 (10) days of final action.