



**CITY OF NEWPORT
REGULAR COUNCIL MEETING
NEWPORT CITY HALL**

May Be Held Electronically From Remote Locations

Zoom Meeting Link <https://us02web.zoom.us/j/81555137620> Meeting ID: 815 5513 7620 PW: Newport
April 1, 2021 – 5:30 P.M.

MAYOR:	Laurie Elliott	City Administrator:	Deb Hill
COUNCIL:	Kevin Chapdelaine	Supt. of Public Works:	Bruce Hanson
	Tom Ingemann	Fire Chief:	Steven Wiley
	Marvin Taylor	Asst. to the City Admin:	Travis Brierley
	Rozlyn Johnson	Law Enforcement (WCSO):	Bill Harrell

AGENDA

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
4. ADOPT AGENDA
5. PUBLIC COMMENTS - Visitors may share their concerns with the City Council on any issue, which is not already on the agenda, under Public Comments. Please give your name, address and your concern or comments. Each person will have 3 minutes to speak. Your comments must be addressed exclusively to the Mayor and City Council, not to any individual Council or staff member. The Mayor reserves the right to limit an individual's presentation if it becomes redundant, repetitive, irrelevant, or overly argumentative. All comments will be taken under advisement by the Council. No action will be taken at this time.
6. ADOPT CONSENT AGENDA – All items listed under this section are considered routine and non-controversial by the Council and will be approved by a single motion. An item may be removed from the consent agenda and discussed if a Council member, staff member, or citizen so requests.
 - A. Minutes- March 4, 2021 Workshop
 - B. Minutes- March 18, 2021 Regular Council
 - C. Chicken Permit- Staudt
 - D. **Ordinance No. 2021-05-** Trash Containers
 - E. **Resolution No. 2021-18-** Library Donation
 - F. **Resolution No. 2021-19-** State of Emergency Extension
 - G. List of Bills- \$108,459.42
7. WASHINGTON COUNTY SHERIFF'S OFFICE REPORT
8. FIRE CHIEF'S REPORT

9. ENGINEER'S REPORT

10. SUPERINTENDENT OF PUBLIC WORKS REPORT

11. ADMINISTRATOR'S REPORT

A. Shoreland Ordinance

1. **Ordinance No. 2021-06-** Shoreland

B. Pioneer Day 2021

12. MAYOR AND COUNCIL REPORTS

13. ADJOURNMENT



**CITY OF NEWPORT
CITY COUNCIL WORKSHOP MINUTES
NEWPORT CITY HALL
March 4, 2021**

1. CALL TO ORDER

Mayor Elliott called the City Council Workshop to order at 6:45 p.m. on March 4, 2021.

2. ROLL CALL

Present (5): Mayor Laurie Elliott, Council Member Kevin Chapdelaine, Council Member Tom Ingemann, Council Member Marvin Taylor, and Council Member Rozlyn Johnson.

Not Present (0): None.

3. 3M PFC SETTLEMENT

City Engineer Jon Herdegen gave a presentation on the 3M PFC Settlement (Attached) to Council. The settlement is funding the design and construction of long-term regional and local drinking water treatment systems and wells. Newport is requesting a water system interconnection with both the City of Woodbury and the City of Cottage Grove. The interconnects would secure Newport's ability to provide safe drinking water in the event our municipal wells are compromised due to the spread of the contamination plume. The interconnects would provide redundant drinking water supply from water systems that have been treated to non-detect levels of PFOS. The interconnects would eliminate the need for the City to mix treated water with potentially contaminated well water and expand the service area of water treatment investments made in neighboring community systems.

Engineer Herdegen presented a draft resolution stating the City's recommendation and wanted feedback from Council. Member Taylor stated we should add that treating our wells is cost prohibitive. Council discussed we should be treating all drinking water to a health index threshold of 0.3.

4. CITY LOGO/BILLBOARD ADVERTISEMENTS

City Administrator Deb Hill stated we have approximately 10 hours per month of free advertising and inquired what items Council would like to see on the new billboard. Blue Ox sent over a few examples of what other Cities have done. Council discussed advertising our Booyah, Meat Raffle, Pioneer Days, Plastic Initiative, etc. Administrator Hill stated we can start with simple ads such as "Drive Safely" and "Welcome to Newport" and will reach out to Blue Ox to inquire about graphic design fees.

5. WAIVER OF UTILITY LATE FEES

Mayor Elliott informed Council last year there was a resolution for waiving late fees on utility bills. Assistant to the City Administrator Travis Brierley stated that resolution only removed late fees for one quarter and the City is currently charging late fees. Council consensus was that a new resolution would not be required unless an issue with payments was recognized.

6. CITY ATTORNEY APPRECIATION

Mayor Elliott stated a draft resolution was put together to recognize our past City Attorney Fritz Knaak. Council discussed possible additions that can be added to the resolution.

7. PLANNING RFP

Council discussed the Request for Proposal (RFP) for Newport's planning service. Our current City Planner Sherri Buss helped draft the document and Council agrees it is complete and accurate.

8. TRASH CANS ORDINANCE

Mayor Elliott stated a resident requested a change to our ordinance which would allow residents to put their trash cans out at 3:00 p.m. the day before collection. Assistant Brierley stated our current ordinance states that trash cans can only be placed at the curb the day of pickup. Assistant Brierley will draft this change and bring it back to Council.

9. INTERNAL CONTROLS POLICY

Assistant Brierley stated our internal controls policy document was out of date. This document has been revised to reflect our current procedures. Assistant Brierley will put the new document for approval on the next Consent Agenda.

10. FUTURE AGENDA ITEMS

Administrator Hill stated our upcoming agenda items include a presentation from Member Taylor on Peacebunny Island and a discussion on an updated building permit contract with Cottage Grove. Administrator Hill will send out a Newport News update on the deer count that was completed. Administrator Hill received a letter from Brian Domeier petitioning the City to extend the road on 11th Avenue to the South.

Mayor Elliott stated we will also need to discuss Pioneer Days would like Council's feedback on the new Council Chamber design from Brunton.

11. ADJOURNMENT

Mayor Elliott adjourned the City Council Workshop at 8:44 p.m. on March 4, 2021.

Respectfully Submitted:
Jill Thiesfeld
Administrative Assistant II

Signed: _____
Laurie Elliott, Mayor

3M PFC Settlement

Newport City Council Workshop

March 4, 2021

FUNDING OPTIONS

2007 CONSENT ORDER

- Treatment capital costs and O&M on individual residential and municipal wells when a well advisory has been issued (HI => 1) as a result of PFAS releases from a 3M PFAS disposal site
- MPCA staff costs to oversee remediation related to the 3M disposal sites
- Contractor costs to provide technical assistance to MPCA including well sampling
- Sampling and lab costs for residential wells related to PFAS releases
- Bottled water for well advisory residences
- Response actions implemented to address PFAS releases at or from the 3M PFAS disposal sites

FUNDING OPTIONS

2018 NRDA SETTLEMENT AGREEMENT

- Design and construction of long- term regional and local drinking water treatment systems and wells
- Design and construction to connect of individual wells to city water supply systems or individual home treatment systems
- Costs to conduct a source water assessment and feasibility study of Project 1007 (Study of PFAS Conveyance)
- Contractor costs associated with implementation of working groups and associated MPCA, DNR, and MDH staffing related to these activities
- Priority 1 and Priority 2 projects as determined to be eligible by the Co-Trustees

FUNDING OPTIONS

2018 NRDA SETTLEMENT AGREEMENT – PRIORITY ONE

- “Enhance the quality, quantity, and sustainability of drinking water”
- “Ensure clean drinking water in sufficient supply to residents and businesses...to meet their current and future water needs”
- “development of alternative drinking water sources...treatment of existing water supplies, water conservation and efficiency, open space acquisition, and groundwater recharge”
- Provide clean drinking water to residents and businesses to meet current and future needs under changing conditions, population, and health-based values.
- Protect and improve groundwater quality.
- Protect and maintain groundwater quantity.
- Minimize long-term cost burdens for communities.

FUNDING OPTIONS

2018 NRDA SETTLEMENT AGREEMENT – PRIORITY TWO

- Restore and enhance aquatic resources, wildlife, habitat, fishing, resource improvement and outdoor recreation
- Restore, protect, and enhance aquatic resources, wildlife, and habitat.
- Reduce fish tissue contamination and remove PFAS-based fish consumption advisories.
- Improve and enhance outdoor recreational opportunities.

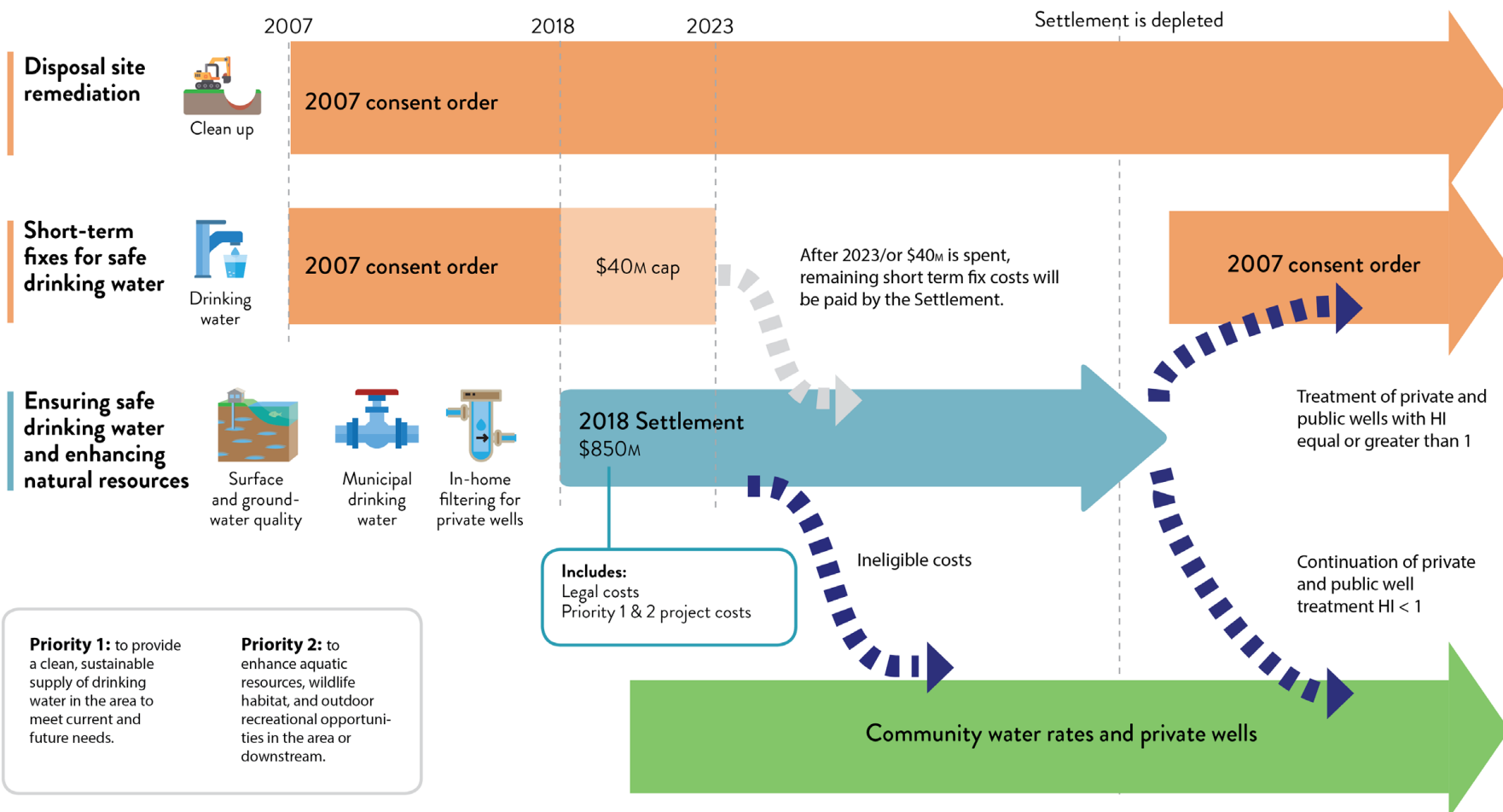
FUNDING OPTIONS

2018 NRDA SETTLEMENT AGREEMENT

- When Settlement Funds are depleted:
 - Capital and O&M costs for public and private wells with an HI \Rightarrow 1 (i.e., MDH Well Advisory) will then be covered by terms of the Consent Order.
 - Capital and O&M costs for wells with HI < 1 (no Well Advisory) will not be covered by the Consent Order and will be covered by communities and/or individual homeowners

FUNDING OPTIONS

Timelines for drinking water and groundwater solutions Minnesota 3M PFC Settlement

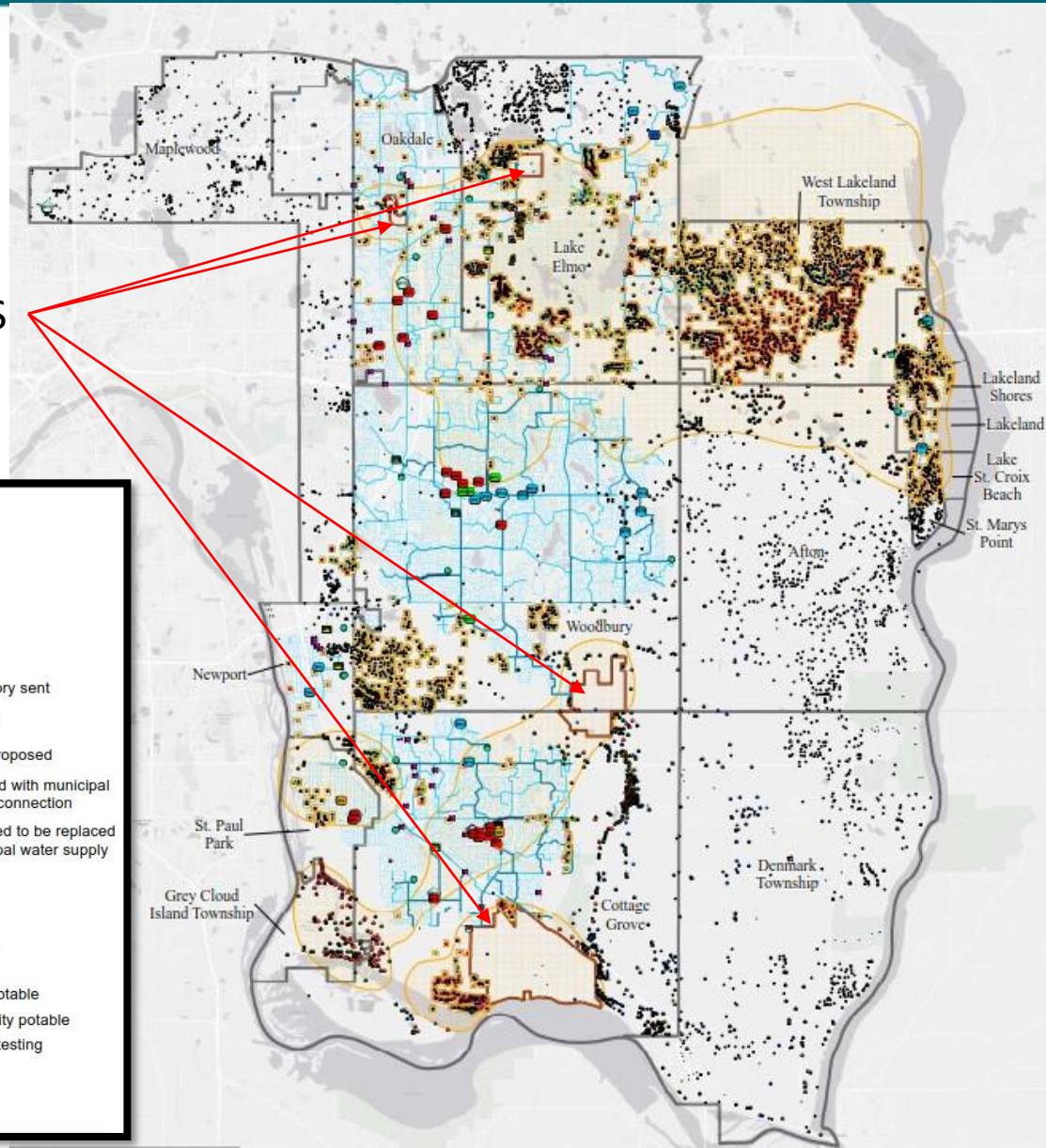


NON-MUNICIPAL WELL INVENTORY

	TOTAL WELLS		WELLS IN MWI		Total Sampled		Total Wells w/ POETS		Wells to continue w/ POETS		Wells with HI >0.5 to receive POETS		Wells with HI >0.3 to receive POETS	
Sample data export year	2020	2019	2020	2019	2020	2019	2020	2019	2020	2019	2020	2019	2020	2019
Afton	1195	1195	808	708	242	124	39	11	39	11	13	7	21	8
Cottage Grove	868	820	868	820	723	672	84	75	68	59	58	41	81	61
Denmark Twp.	761	761	515	487	133	111	0	0	0	0	4	0	7	1
Grey Cloud Island Twp.	123	121	123	121	111	109	53	52	53	52	23	23	25	27
Lake Elmo	1386	1309	1386	1309	645	503	110	95	15	10	26	13	50	26
Lakeland	342	296	342	296	112	58	5	3	1	1	0	3	0	3
Lake St. Croix Beach	122	119	122	119	6	2	0	0	0	0	0	0	0	0
Lakeland Shores	44	41	44	41	16	12	0	0	0	0	0	0	0	0
St. Mary's Point*	102	98	102	98	5	3	0	0	0	0	0	0	0	0
Maplewood	615	602	615	602	59	38	5	4	5	4	5	1	6	2
Newport	134	113	134	113	57	25	1	0	0	0	8	0	34	3
Oakdale	109	124	109	124	23	39	0	0	0	0	0	5	0	5
Prairie Island Indian Community	1	1	1	1	1	1	0	0	0	0	0	0	0	0
St. Paul Park	66	49	66	49	25	16	6	3	5	0	0	0	0	0
West Lakeland Twp (ALL POETS)	1393	1340	1393	1189	995	689	552	377	552	0	103	0	144	0
West Lakeland Twp (MUNICIPAL SYSTEM)	1393	1340	1393	1189	995	689	12		12		8		14	
Woodbury	657	632	657	632	258	215	2	1	2	1	25	5	57	23
Total (WLT ALL POETS)	7918	7621	7285	6709	3411	2617	857	621	740	138	265	98	425	159
Total (WLT MUNICIPAL SYSTEM)	7918	7621	7285	6709	3411	2617	317	244	200	138	170	98	295	159

NON-MUNICIPAL WELL TREATMENT MAP HI > 0

3M DISPOSAL SITES



Water network model

- Well
- Tank
- BPS
- PRV
- WTP
- Existing raw water lines

Existing distribution lines

- > 24"
- 18" - 24"
- 14" - 16"
- 10" - 12"
- 6" - 8"
- Known PFAS source
- Community boundary
- Potential projected areas impacted by PFAS by 2040

PFAS results - HI

- 0.00
- 0.00 - 0.249
- 0.25 - 0.499
- 0.50 - 0.749
- 0.75 - 0.999
- ≥ 1.00
- ≥ 1.00 - advisory sent
- GAC installed
- GAC install proposed
- Wells replaced with municipal water supply connection
- Wells proposed to be replaced with a municipal water supply connection

MWI well types

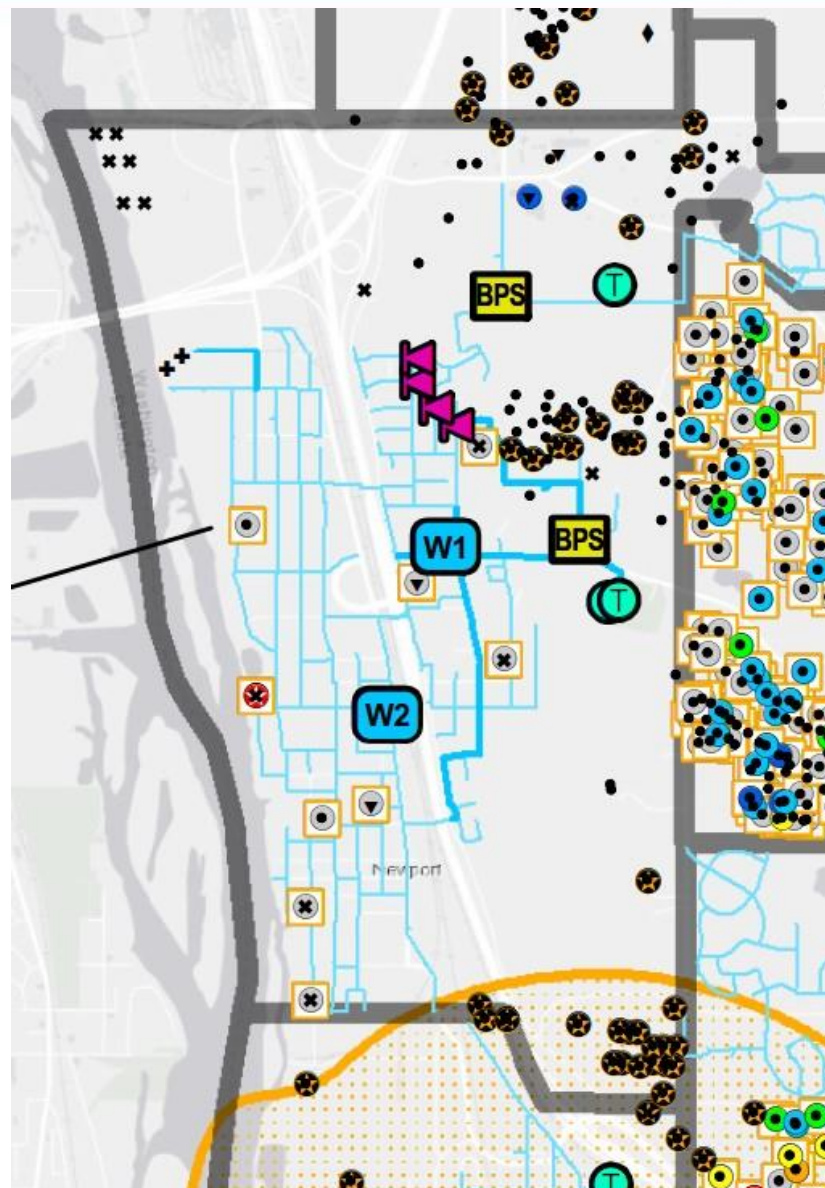
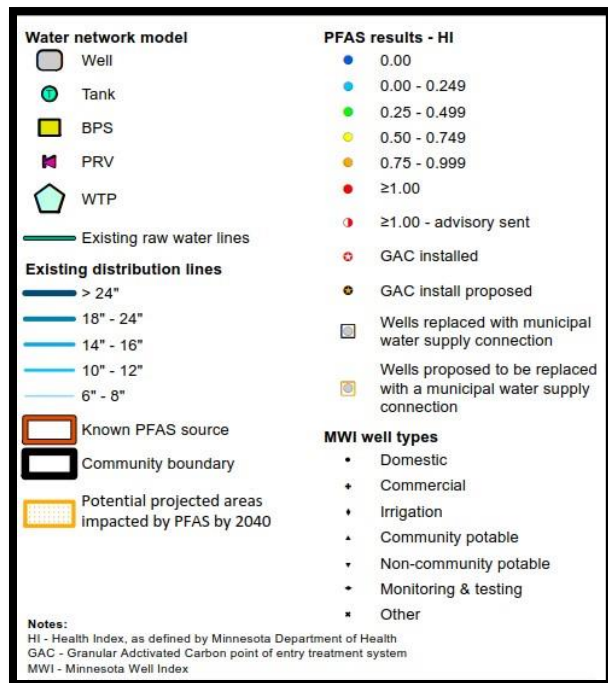
- Domestic
- Commercial
- Irrigation
- Community potable
- Non-community potable
- Monitoring & testing
- Other

Notes:

HI - Health Index, as defined by Minnesota Department of Health
 GAC - Granular Activated Carbon point of entry treatment system
 MWI - Minnesota Well Index

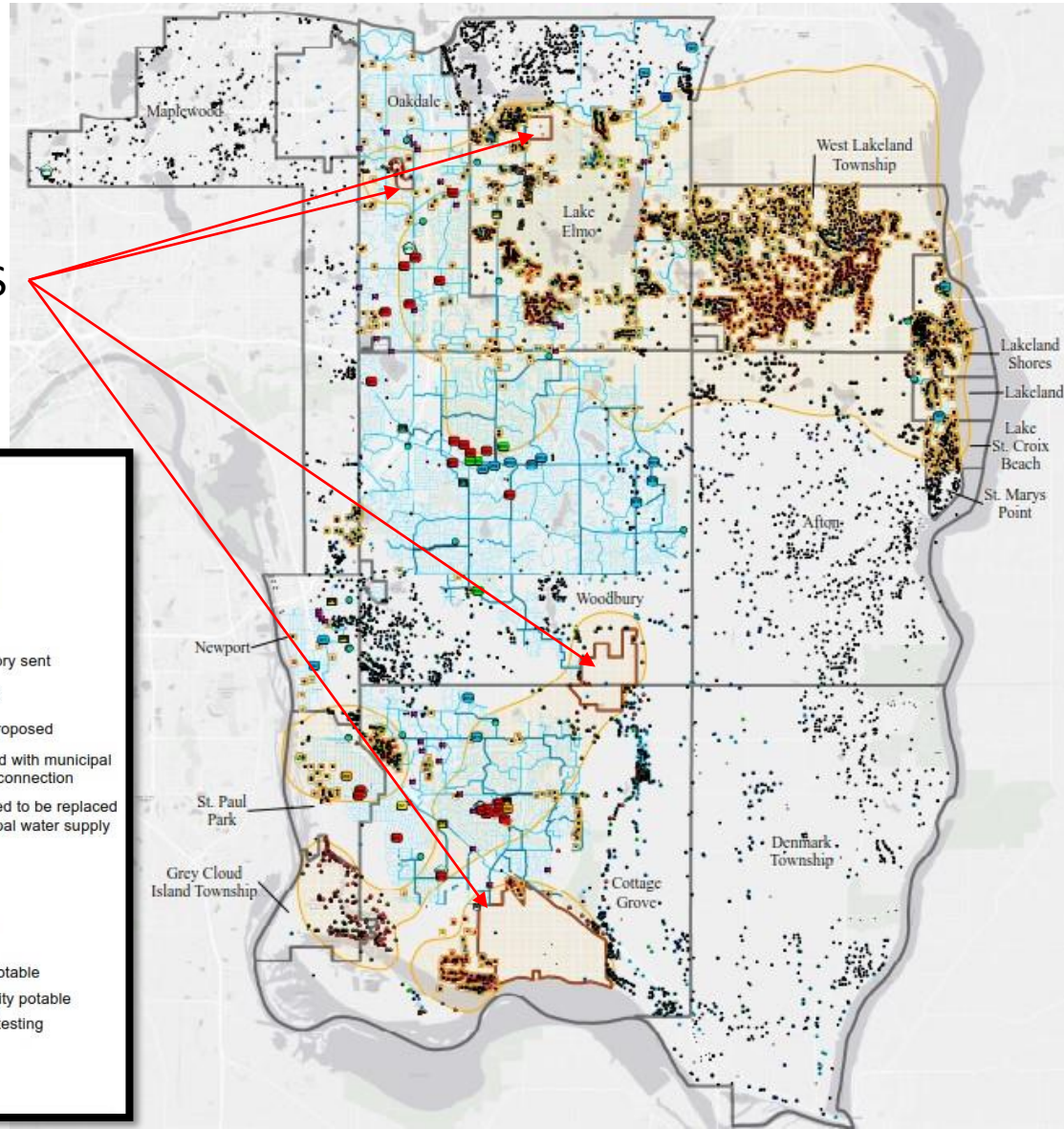
NON-MUNICIPAL WELL TREATMENT MAP HI > 0

CITY OF NEWPORT



NON-MUNICIPAL WELL TREATMENT MAP HI > 1

3M DISPOSAL SITES



Water network model

- Well
- Tank
- BPS
- PRV
- WTP
- Existing raw water lines

Existing distribution lines

- > 24"
- 18" - 24"
- 14" - 16"
- 10" - 12"
- 6" - 8"
- Known PFAS source
- Community boundary
- Potential projected areas impacted by PFAS by 2040

PFAS results - HI

- 0.00
- 0.00 - 0.249
- 0.25 - 0.499
- 0.50 - 0.749
- 0.75 - 0.999
- ≥ 1.00
- ≥ 1.00 - advisory sent
- GAC installed
- GAC install proposed
- Wells replaced with municipal water supply connection
- Wells proposed to be replaced with a municipal water supply connection

MWI well types

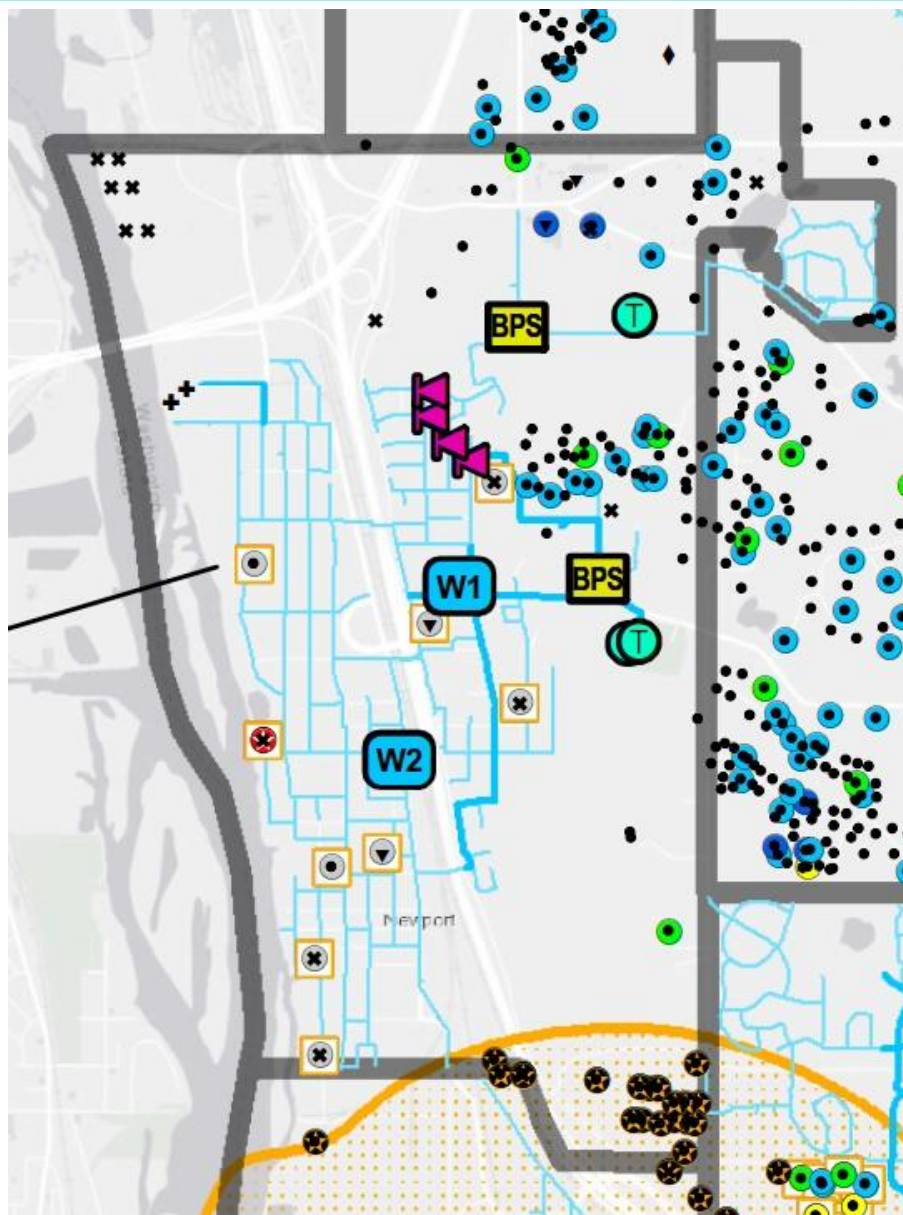
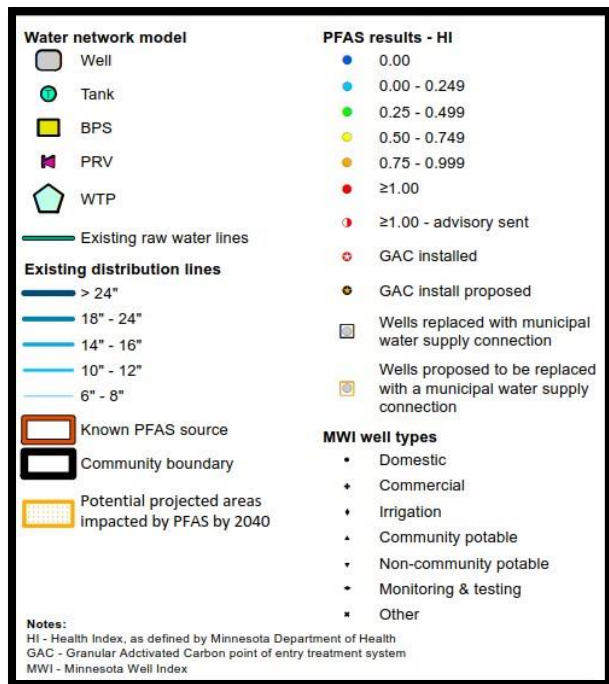
- Domestic
- Commercial
- Irrigation
- Community potable
- Non-community potable
- Monitoring & testing
- Other

Notes:

HI - Health Index, as defined by Minnesota Department of Health
 GAC - Granular Activated Carbon point of entry treatment system
 MWI - Minnesota Well Index

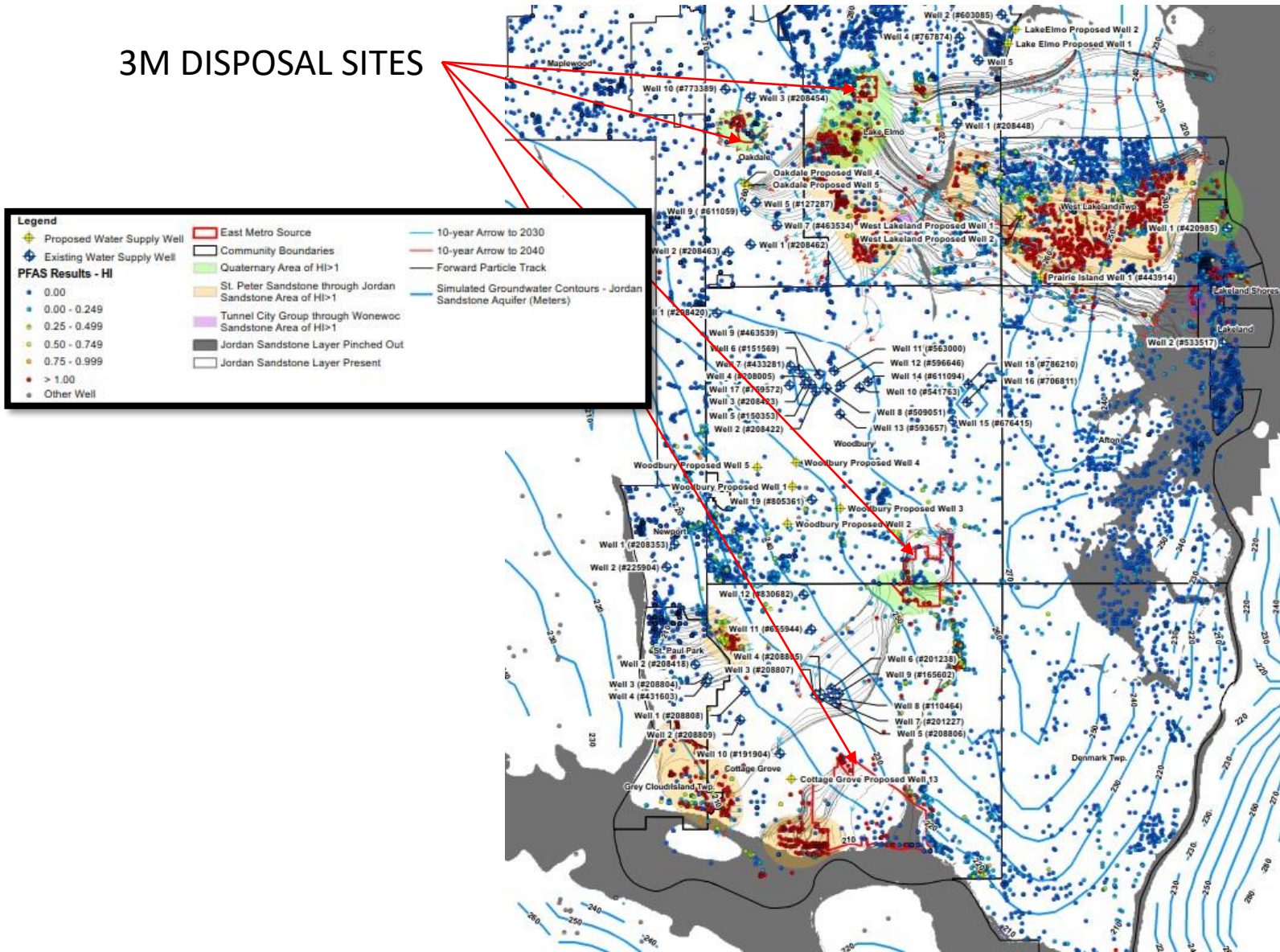
NON-MUNICIPAL WELL TREATMENT MAP HI > 1

CITY OF NEWPORT



PARTICLE TRACKING

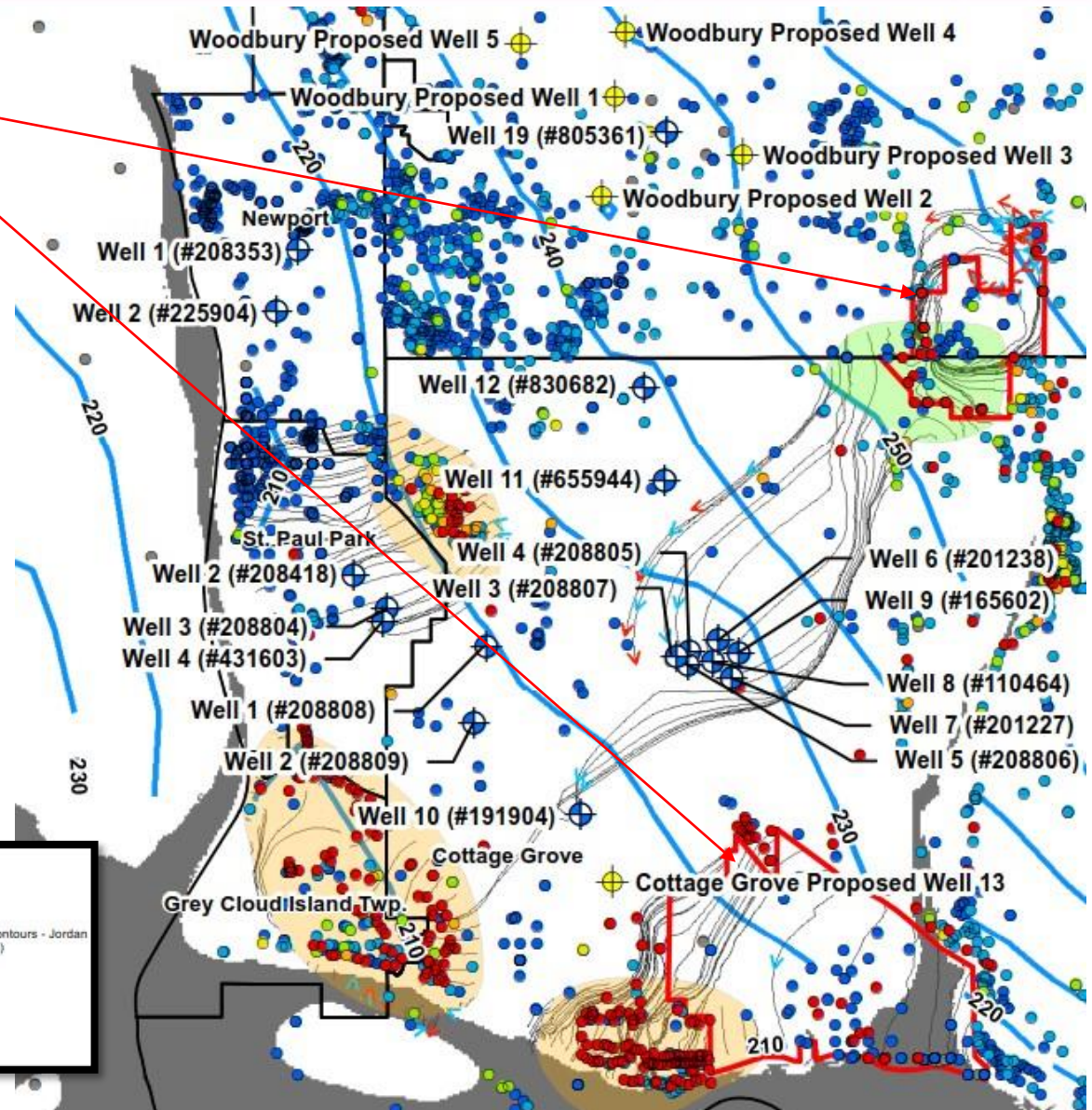
3M DISPOSAL SITES



PARTIAL TRACKING

CITY OF NEWPORT

3M DISPOSAL SITE



CONCEPTUAL DRINKING WATER SUPPLY PLAN

OPTION 2

Community projects with a treatment threshold of $HI > 0.3$ & GAC

- Key Characteristics**
- Treatment to a threshold of $HI > 0.3$ using GAC
 - Funding of public water system O&M for approximately 35 years
 - Funding of private well O&M for over 100 years
 - Funding for protecting a sustainable water supply into the future
 - Drinking water source remains groundwater

Initial Capital Elements

2,062 homes with new connections to municipal public water systems

A total of 297 private wells with POETS (of these, 159 are new wells)

5 new public wells built (3 of these replace contaminated wells)

6 new treatment plants with a capacity of 29,580 gpm, and 1 modified treatment plant with additional capacity of 1,750 gpm

39 existing and proposed public wells receiving treatment

75.3 miles of water mains

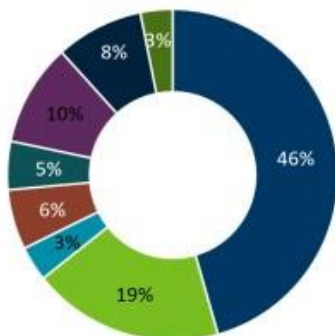
Why Select this Option?

- $HI > 0.3$ provides greater resiliency to potentially lower HRL/HBV PFAS values or changing levels of contamination in the future
- Provides treatment for 6 additional public wells and provides 61 additional private wells with POETS compared to recommended Option 1

PFAS-Eligible Costs

Initial capital costs	\$319.1 million
O&M costs for public water systems	\$131 million
O&M costs for private wells	\$23.9 million
Capital costs for potential additional neighborhood hookups	\$41 million
Future contingency for HBV/HRL and plume movement, and cost over-runs	\$33 million
Drinking water protection	\$70 million
Sustainability and conservation	\$60 million
State administration	\$22 million

Percent of \$700 million



- Supply private wells with POETS if over threshold
- Treat 8 of 12 existing public wells
• Replace 2 existing public wells with 1 new public well
• 2 new treatment plants
• Connect 67 homes
• Supply other private wells with POETS if over threshold
- Drinking water supply from groundwater for future growth*
• Connect 257 homes
• Supply other private wells with POETS if over threshold
- Connect 453 homes
• Supply other private wells with POETS if over threshold
- Interconnect with Woodbury
• Connect 9 homes
• Supply other private wells with POETS if over threshold
- Expand treatment plant to treat 2 of 9 existing public wells and 2 new public wells
• Connect 58 homes
• Supply other private wells with POETS if over threshold
- Treat 1 existing public well
• 1 new treatment plant
- Treat 3 of 3 public wells
• 1 new treatment plant
• Connect 28 homes
• Supply other private wells with POETS if over threshold
- 2 new public wells
• 1 new treatment plant
• Connect 1,190 homes to new distribution system
- Interconnect with Newport
• Treat 15 of 19 existing public wells and 5 new public wells
• 1 new treatment plant
• Supply other private wells with POETS if over threshold

Option 2




* Lake Elmo may need alternate sources of water to avoid adverse effects on White Bear Lake. Initial capital funds provide funding for utilizing groundwater in ways that comply with the current court order. This funding level is based on a cost estimate of creating an interconnect from southern Woodbury; however other approaches within that funding range may also be explored.

CONCEPTUAL DRINKING WATER SUPPLY PLAN

OPTION 3

Community projects, except Oakdale and Lake Elmo are supplied by SPRWS, with a treatment threshold of $HI > 0.5$ & GAC



- Treatment to a threshold of $HI > 0.5$ using GAC
- Funding of public water system O&M for approximately 21 years
- Funding of private well O&M for over 100 years
- Funding for protecting a sustainable water supply into the future
- Oakdale and Lake Elmo are supplied by SPRWS to ensure future water supply
- Drinking water source remains groundwater

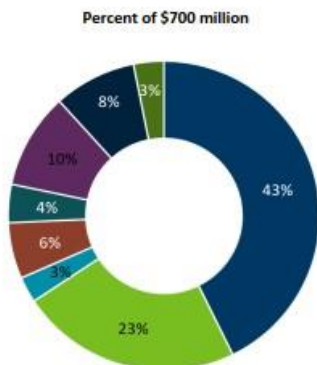
Initial Capital Elements

- 2,062 homes with new connections to municipal public water systems
- A total of 236 private wells with POETS (of these, 98 are new wells)
- 3 new public wells built (1 of these replaces a contaminated well)
- 6 new treatment plants with a capacity of 23,580 gpm
- 24 existing and proposed public wells receiving treatment
- 74.6 miles of water mains

Why Select this Option?

- $HI > 0.5$ provides a resiliency to potentially lower HRL/HBV PFAS values or changing levels of contamination in the future
- Communities will bear a lesser cost to continue treatment below $HI > 1$ once Settlement funds are depleted than they would under recommended Option 2 ($HI > 0.3$)
- Enables a proactive solution for alternate sources of water for Lake Elmo and Oakdale

PFAS-Eligible Costs	
Initial capital costs	\$299.1 million
O&M costs for public water systems	\$161 million
O&M costs for private wells	\$19 million
Capital costs for potential additional neighborhood hookups	\$41 million
Future contingency for HBV/HRL and plume movement, and cost over-runs	\$28 million
Drinking water protection	\$70 million
Sustainability and conservation	\$60 million
State administration	\$22 million



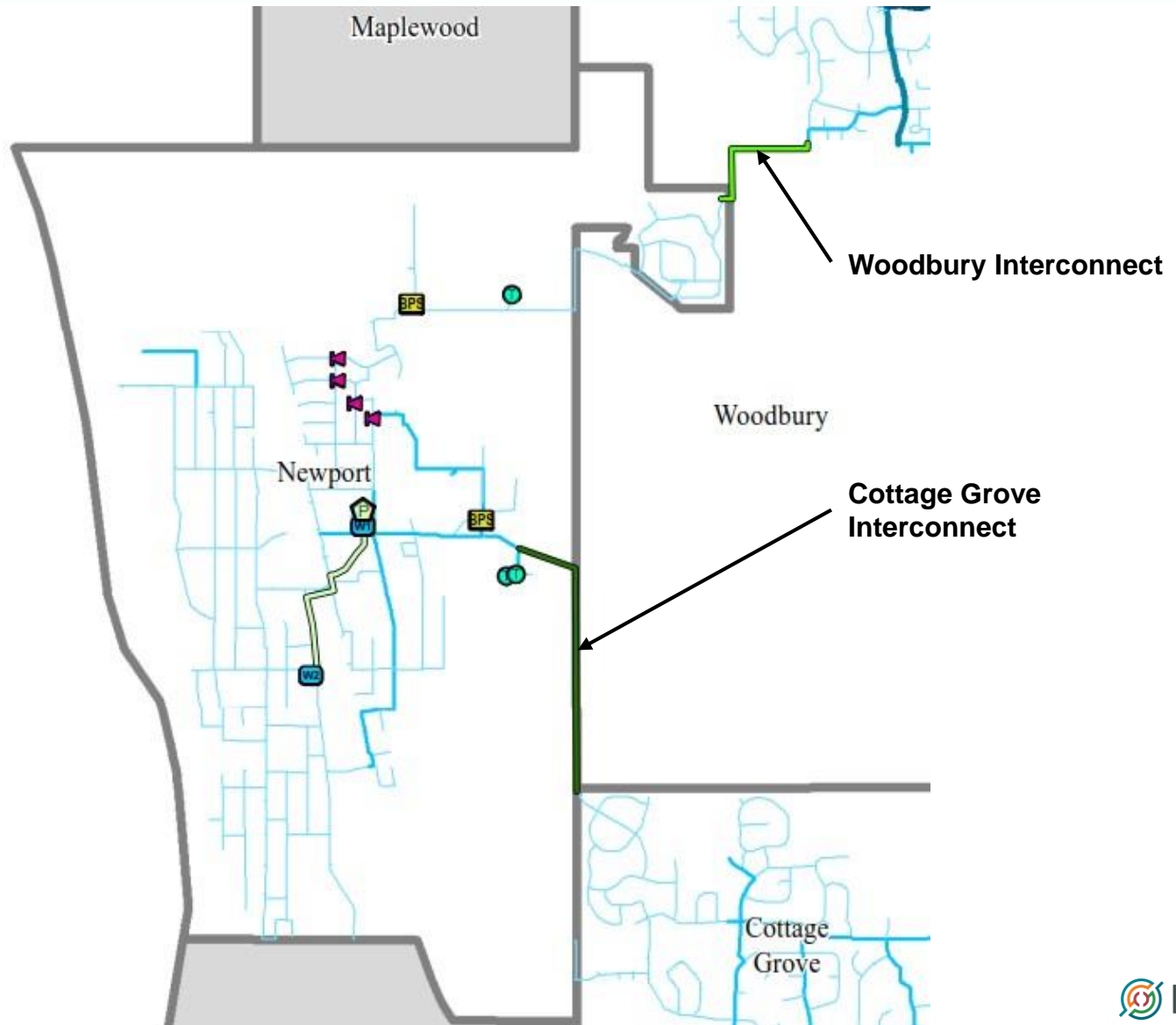


- Supply private wells with POETS if over threshold
- Treat 8 of 12 existing public wells
Replace 2 existing public wells with 1 new public well
2 new treatment plants
Connect 67 homes
Supply other private wells with POETS if over threshold
- Connection to SPRWS
Connect 257 homes
Supply other private wells with POETS if over threshold
- Connect 453 homes
Supply other private wells with POETS if over threshold
- Interconnect with Woodbury
Connect 9 homes
Supply other private wells with POETS if over threshold
- Connection to SPRWS
Connect 58 homes
Supply other private wells with POETS if over threshold
- Treat 1 existing public well
1 new treatment plant
- Treat 3 of 3 public wells
1 new treatment plant
Connect 28 homes
Supply other private wells with POETS if over threshold
- 2 new public wells
1 new treatment plant
Connect 1,190 homes to new distribution system
- Interconnect with Newport
Treat 14 of 19 existing public wells
1 new treatment plant
Supply other private wells with POETS if over threshold

Option 3



INTERCONNECTION OPTIONS



INTERCONNECTION OPTIONS

ORIGINAL ESTIMATE

Woodbury Interconnect (HI>0.3)


Item	Description	Qty	Units	Unit Cost	Total Cost (GAC)
Interconnect with Woodbury	8" Interconnect w/ Flow Meter & PRV	1	Station	\$200,000	\$200,000
Water Distribution Mains	From Woodbury to Newport, 8" Mains	0.51	Miles	\$1,313,725	\$670,000
Service Laterals	Connect Homes to Existing Mains	12	Each	\$7,500	\$90,000
Well Sealing	\$2,000 per Well	12	Each	\$2,700	\$32,400
Existing GAC POET Removal		1	Each	\$400	\$400
Land Acquisition (Water Mains)	20-foot Easements (50%)	0.60	Acres	\$140,000	\$84,000
GAC POETS	Standard Household Systems	34	POETS	\$2,500	\$90,000
Subtotal					\$1,167,000
Contingency				25%	\$292,000
Professional Services				15%	\$176,000
Total					\$1,635,000

Cottage Grove Interconnect (HI>0.3)

Item	Description	Qty	Units	Unit Cost	Total Cost (GAC)
Interconnect with Cottage Grove	8" Interconnect w/ Flow Meter & PRV	1	Station	\$200,000	\$200,000
Water Distribution Mains	From Woodbury to Newport, 8" Mains	1.64	Miles	\$1,313,725	\$2,150,000
Service Laterals	Connect Homes to Existing Mains	12	Each	\$7,500	\$90,000
Well Sealing	\$2,000 per Well	12	Each	\$2,700	\$32,400
Existing GAC POET Removal		1	Each	\$400	\$400
Land Acquisition (Water Mains)	20-foot Easements (50%)	2.00	Acres	\$140,000	\$280,000
GAC POETS	Standard Household Systems	34	POETS	\$2,500	\$90,000
Subtotal					\$2,843,000
Contingency				25%	\$292,000
Professional Services				15%	\$176,000
Total					\$3,311,000

INTERCONNECTION OPTIONS

WOODBURY - MSA ESTIMATE

NEWPORT/WOODBURY WATERMAIN INTERCONNECT					
ESTIMATE OF PROBABLE CONSTRUCTION COSTS					
NEWPORT, MINNESOTA					
				ESTIMATE YEAR:	2020
				CONSTRUCTION YEAR:	2021
ITEM NO.	DESCRIPTION	QTY.	UNIT	UNIT PRICE	TOTAL PRICE
<u>SITE RESTORATION</u>					
1	MOBILIZATION	1	LS	\$60,000	\$60,000
2	CLEARING AND GRUBBING	1	LS	\$5,000	\$5,000
3	TREE REMOVAL	30	EACH	\$250	\$7,500
4	DEWATERING	1	LS	\$5,000	\$5,000
5	TRAFFIC CONTROL	1	LS	\$5,000	\$5,000
6	BOULEVARD RESTORATION	1.6	AC	\$25,000	\$40,000
7	CONCRETE CURBING	30	LF	\$50	\$1,500
8	STREET RESTORATION	1100	SF	\$5	\$5,500
9	EROSION & SEDIMENT CONTROL	1	LS	\$5,000	\$5,000
<u>SUB-TOTAL - SITE RESTORATION</u>					\$134,500
<u>WATER</u>					
1	CONNECT TO EXISTING WATERMAIN	2	EACH	\$5,000	\$10,000
2	INSTALL HYDRANT & VALVE	5	EACH	\$6,000	\$30,000
3	8" GATE VALVE & BOX	3	EACH	\$2,500	\$7,500
4	8" DUCTILE IRON WATERMAIN	2700	LF	\$60	\$162,000
5	20" STEEL CASING PIPE (JACKED & BORE)	100	LF	\$100	\$10,000
6	WATERMAIN FITTINGS	400	LB	\$6	\$2,400
7	METERING VAULT & PRV	1	LS	\$200,000	\$200,000
<u>SUB-TOTAL - WATER</u>					\$421,900
<u>CONNECTION/POETS</u>					
1	SERVICE LATERALS	12	EACH	\$7,500	\$90,000
2	WELL SEALING	12	EACH	\$2,700	\$32,400
3	GAC POETS	34	EACH	\$2,500	\$85,000
4	GAC POETS REMOVAL	1	EACH	\$400	\$400
<u>SUB-TOTAL - CONNECTION POETS</u>					\$207,400
CONSTRUCTION SUBTOTAL					\$763,800
		CONTINGENCY	20%		\$153,000
		OVERHEAD	20%		\$153,000
		INFLATION	5.0%		\$39,000
		EASEMENT ACQUISITION	0.60	ACRE	\$140,000
					\$1,193,000


INTERCONNECTION OPTIONS

WOODBURY - MSA ESTIMATE



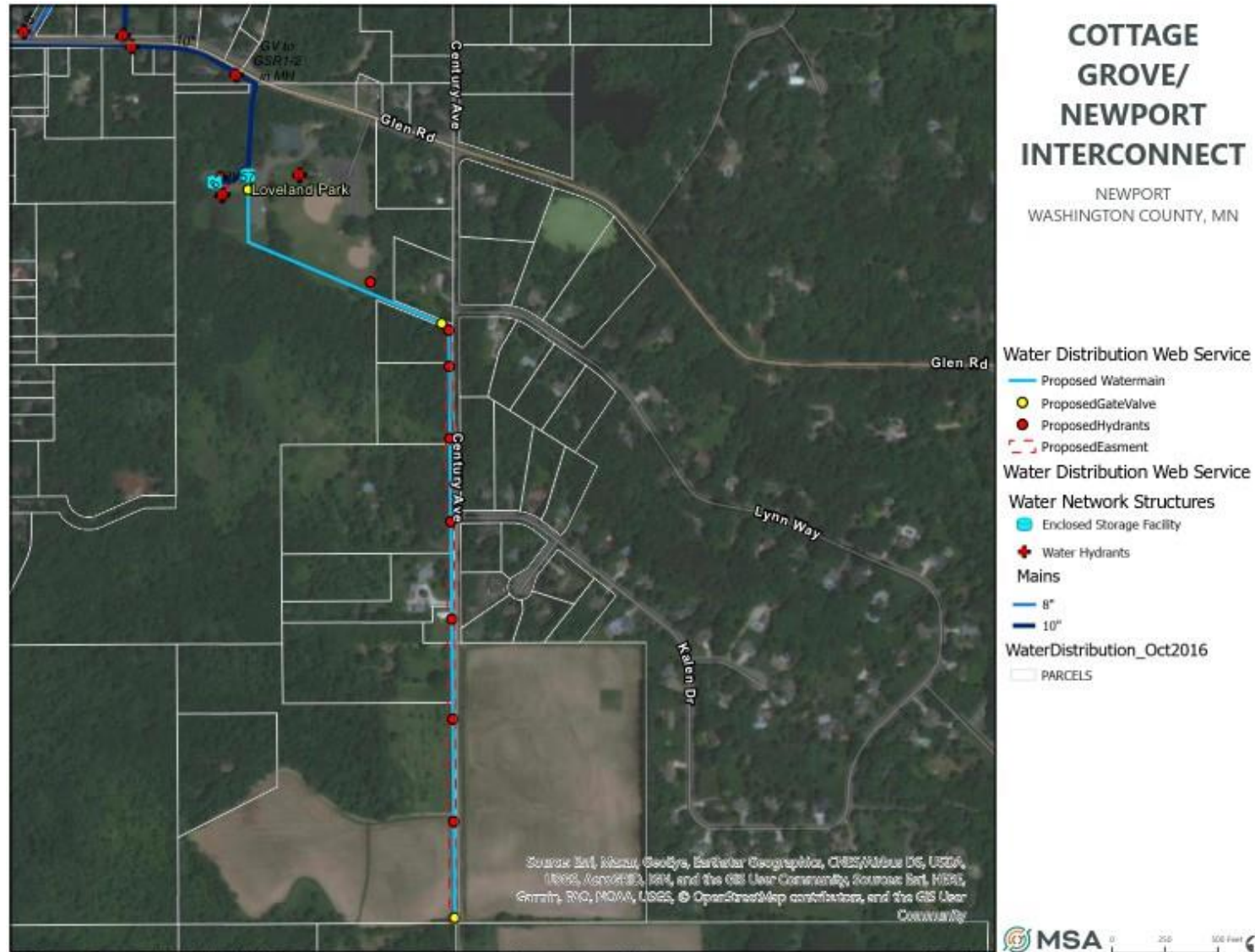
INTERCONNECTION OPTIONS

COTTAGE GROVE - MSA ESTIMATE

NEWPORT/COTTAGE GROVE WATERMAIN INTERCONNECT					
ESTIMATE OF PROBABLE CONSTRUCTION COSTS					
NEWPORT, MINNESOTA					
				ESTIMATE YEAR:	2020
				CONSTRUCTION YEAR:	2021
ITEM NO.	DESCRIPTION	QTY.	UNIT	UNIT PRICE	TOTAL PRICE
<u>SITE RESTORATION</u>					
1	MOBILIZATION	1	LS	\$75,000	\$75,000
2	CLEARING AND GRUBBING	1	LS	\$2,500	\$2,500
3	TREE REMOVAL	10	EACH	\$250	\$2,500
4	DEWATERING	1	LS	\$5,000	\$5,000
5	TRAFFIC CONTROL	1	LS	\$1,000	\$1,000
6	BOULEVARD RESTORATION	2.6	AC	\$25,000	\$65,000
7	EROSION & SEDIMENT CONTROL	1	LS	\$5,000	\$5,000
<u>SUB-TOTAL - SITE RESTORATION</u>					\$156,000
<u>WATER</u>					
1	CONNECT TO EXISTING WATERMAIN	2	EACH	\$5,000	\$10,000
2	INSTALL HYDRANT & VALVE	8	EACH	\$6,000	\$48,000
3	8" GATE VALVE & BOX	3	EACH	\$2,500	\$7,500
4	8" DUCTILE IRON WATERMAIN	4500	LF	\$60	\$270,000
5	WATERMAIN FITTINGS	600	LB	\$6	\$3,600
6	METERING VAULT & PRV	1	LS	\$200,000	\$200,000
<u>SUB-TOTAL - WATER</u>					\$539,100
<u>CONNECTION/POETS</u>					
1	SERVICE LATERALS	12	EACH	\$7,500	\$90,000
2	WELL SEALING	12	EACH	\$2,700	\$32,400
3	GAC POETS	34	EACH	\$2,500	\$90,000
4	GAC POETS REMOVAL	1	EACH	\$400	\$400
<u>SUB-TOTAL - CONNECTION POETS</u>					\$212,400
CONSTRUCTION SUBTOTAL					\$907,500
					
		CONTINGENCY	20%		\$181,500
		OVERHEAD	20%		\$181,500
		INFLATION	5.0%		\$45,400
		EASEMENT ACQUISITION	1.3	ACRE	\$140,000
					\$1,498,000

INTERCONNECTION OPTIONS

COTTAGE GROVE - MSA ESTIMATE



INTERCONNECTION OPTIONS

COMPARISON

	Woodbury	Cottage Grove	Total
MSA Estimate	\$1,193,000	\$1,498,000	\$2,691,000
Wood Estimate	\$1,635,000	\$3,311,000	\$4,946,000
Difference	\$442,000	\$1,813,000	\$2,255,000

RECOMMENDATIONS

- It is our recommendation that the City of Newport insists on a water system interconnection with both the City of Woodbury and the City of Cottage Grove.
- Water system interconnects:
 - Secures Newport's ability to provide safe drinking water to its residents in the event our municipal wells are compromised due to the spread of the contamination plume.
 - Provides redundant drinking water supply source from water systems that have been treated to "non-detect" levels of PFOS.
 - Eliminates the need for the City to mix treated water with potentially contaminated well water.
 - Expands the service area of water treatment investments made in neighboring community system for a very low cost per capita.
- We request the City Council provide feedback on the draft resolution provided in your packet.





**CITY OF NEWPORT
REGULAR COUNCIL MEETING MINUTES
NEWPORT CITY HALL
March 18, 2021**

1. CALL TO ORDER

Mayor Elliott called the City Council Meeting to order at 5:30 p.m. on March 18, 2021.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present (4): Mayor Laurie Elliott, Council Member Kevin Chapdelaine, Council Member Marvin Taylor, and Council Member Rozlyn Johnson.

Not Present (1): Council Member Tom Ingemann.

4. ADOPT AGENDA

Mayor Elliott stated there were two items added to the agenda today which were the 2021 general obligation bond and the library donation.

Member Chapdelaine motioned to adopt the Agenda. Seconded by Member Johnson. Approved 4-0.

5. PRESENTATION

A. Resolution No. 2021-16- Fritz Knaak Appreciation

Mayor Elliott stated the City of Newport would like to recognize our former City Attorney Fritz Knaak for his many years of service. Mayor Elliott read Resolution No 2021-16 in appreciation of Fritz Knaak.

Attorney Knaak stated he is deeply appreciative of this recognition and honor. Attorney Knaak wishes the City continued success and is thankful for the opportunity to serve.

Member Chapdelaine motioned to adopt Resolution No. 2021-16 – Fritz Knaak Appreciation. Seconded by Member Johnson. Approved 4-0.

6. PUBLIC COMMENTS

None.

7. ADOPT CONSENT AGENDA

A. Minutes- March 4, 2021 Regular Council

B. Internal Controls Policy

C. Planning RFP

D. Ordinance No. 2021-03- Non-Residential Ordinance

E. List of Bills- \$379,173.28

F. Financial Statement- February 2021

Member Chapdelaine motioned to adopt the Consent Agenda. Seconded by Member Johnson. Approved 4-0.

8. WASHINGTON COUNTY SHERIFF'S OFFICE REPORT

None.

9. FIRE CHIEF'S REPORT

None.

10. ENGINEER'S REPORT

A. Ravine Repair

City Engineer Jon Herdegen stated Arnt Construction has completed the ravine repair work adjacent to the Public Works facility. The repairs were needed due to erosion. While onsite, another location was identified as starting to erode and was also repaired. The final cost of the repair work was \$36,981.04.

Member Chapdelaine motioned to approve payment to Arnt Construction in the amount of \$36,981.04. Seconded by Member Johnson. Approved 4-0.

11. SUPERINTENDENT OF PUBLIC WORKS REPORT

A. H+U Payment Request No. 1

Luke Nelson, Project Manager for H+U, addressed the Council. Mr. Nelson stated the items in this payment request are for contractor's performance and payment bond cost, insurance cost, and materials that are presently in storage off-site. The contractors must provide photo documentation of any materials that are stored offsite as well as certificates of insurance. The payment amount requested is \$164,252.15.

Member Chapdelaine motioned to approved Payment Request No. 1 in the amount of \$164,252.15 for H+U. Seconded by Member Johnson. Approved 4-0.

B. In-Floor Heat Change Order

Superintendent of Public Works Bruce Hanson stated there is a change order to add in-floor heat to the apparatus bays and the perimeter of the building. It is an increase cost of \$218,284.

Mayor Elliott stated there has been many discussions about adding in-floor heat due to safety concerns and the longevity of the building. Member Chapdelaine stated this will make the building much more energy efficient which will save on electricity and natural gas. Member Chapdelaine stated Member Ingemann, who is absent today, is also in favor of this change.

Member Chapdelaine motioned to approve the in-floor heat change order in the amount of \$218,284. Seconded by Member Johnson. Approved 4-0.

Superintendent Hanson reminded everyone that spring load limits of 3 tons per axel are in effect on local streets until May 1st.

Member Taylor inquired about the erosion problems at Bailey Meadows. Engineer Herdegen stated it is the building contractor's responsibility to remove any sediments that go into the basins as they are dry basins. Engineer Herdegen has been in contact with M/I Homes, and they are responsive to our erosion concerns. They also recently swept off the bike trail. Engineer Herdegen will reach out to the homeowner on the email chain from Mayor Elliott.

12. ADMINISTRATOR'S REPORT

A. 2021A General Obligation Bond- \$9,975,000

1. Resolution No. 2021-17- 2021A General Obligation Bond

City Administrator Deb Hill stated that Jason Aarsvold from Ehlers is here to discuss the sale of the bond. Mr. Aarsvold stated the bulk of the bond is for the new City Hall / Fire Hall. There are also proceeds in the bond to reimburse the 12th and 12th Street project, and to refinance bonds to save on interest. The City received five bids. The low bid was from FHN out of Memphis, TN at a rate of 1.5312%. The highest bid came in at 1.7118%. The purpose tonight is to adopt the resolution to award the sale of the bond to the low bidder.

Mayor Elliott motioned to adopt Resolution No. 2021-17 for the General Obligation Bond in the amount of \$9,975,000. Seconded by Member Chapdelaine. Approved 4-0.

B. Ordinance No. 2021-04 Bailey Road Study Moratorium Interim Ordinance Repeal

City Planner Sherri Buss stated a little over a year ago the City adopted an ordinance to set a moratorium on the Bailey Road area to determine the zoning and regulations. At the last meeting, the City adopted the zoning for the Bailey Road area and would like to lift the moratorium. Planner Buss stated an ordinance is needed to revoke the moratorium. After the repeal ordinance is adopted, the City may accept applications for development.

Assistant to the City Administrator Travis Brierley stated the City must hold a public hearing for this ordinance.

Mayor Elliott opened the public hearing at 6:17 p.m. on March 18, 2021.

Mayor Elliott closed the public hearing at 6:18 p.m. on March 18, 2021.

Member Taylor stated we should look to make our language clearer for RE and R-1. Planner Buss stated our code reads units (not parcels) within 100 feet must connect to sewer. Mayor Elliott stated it would be beneficial to get some clarity on this. Member Chapdelaine stated the Planning Commission could investigate this issue when they have time.

Member Johnson motioned to adopt Ordinance No. 2021-04 to lift the Moratorium for the Bailey Road Study area. Seconded by Member Taylor. Approved 4-0.

C. Library Donation

Sara-Marie Malewitz, Coordinator of the Newport Library, addressed the Council. Ms. Malewitz stated a representative of the estate of the late Joyce Berg contacted the Newport Library to offer a one-time donation up to \$2,000 to purchase an item of significance for the Library. Ms. Malewitz stated that Ms. Berg was a retired teacher and literacy advocate and believes using this gift to purchase a library catalogue system would be beneficial.

Member Johnson motioned to accept the generous gift of \$2,000 from the estate of Joyce Berg. Seconded by Member Chapdelaine. Approved 4-0.

D. 11th Avenue Street Construction Petition

Administrator Hill stated they received a street petition from Brian Domeier. Mr. Domeier is asking the City to consider extending 11th Avenue. This would be up to Council to direct our City Engineer to do a feasibility study.

Engineer Herdegen stated the request is to extend 11th Avenue, south of 12th Street, and terminates at the refinery property. When the feasibility study was done for the 12th & 12th project, the conceptual cost estimate for this road construction was about \$900,000. It is a costly street extension primarily due to the terrain. Engineer Herdegen stated the petition came from Mr. Domeier who owns properties on the west side, but there is also a property owner on the east side who is not part of the petition. Engineer Herdegen stated this would be a Class B improvement which means the construction is assessed at 100% to the benefiting properties.

Administrator Hill stated there is no funding for 2021 as we just bonded for our new City Hall / Fire Hall.

Mayor Elliott inquired how many property owners are involved. Engineer Herdegen stated three.

Brian Domeier, residing at 1040 10th Avenue addressed the Council. Mr. Domeier asked that no decisions be made until they get some more information. Mr. Domeier stated there is a developer interested in purchasing his parcels, which could end up being 10-20 new homes. Mr. Domeier stated he did not put the petition in until he was certain he would not be harmed financially.

Steve Alsip, who works for Ovation Homes at 7760 France Avenue Suite 100 55435, addressed the Council. Mr. Alsip stated he would be interested in purchasing the Domeier property if the street improvement was made. From a timing standpoint, he would see this as a 2022 project. He would propose a PUD with nine 50' lots. He would also reach out to the property owner on the east side and if he were able to purchase that property, he could get another 8-10 lots making the total around 18-20 homes. Mr. Alsip has built about 40 homes in Newport. Planner Buss stated Mr. Alsip should look at the City's updated bluff ordinance which states that development cannot occur on slopes greater than 18%.

13. MAYOR AND COUNCIL REPORTS

Mayor Elliott stated all the community garden plots have been sold this year. If a resident is interested in helping the garden club get fresh food to the Friends in Need Food Shelf, please contact City Hall. Mayor Elliott stated she testified briefly on a bill related to refineries in the state having full time fire crews.

Member Taylor stated he attended the Planning Commission meeting last week where they started the discussion on updating the tree ordinance.

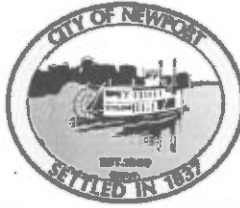
14. ADJOURNMENT

Member Chapdelaine motioned to adjourn the City Council Meeting. Seconded by Member Johnson. Approved 4-0.

The City Council Meeting was adjourned at 7:05 p.m. on March 18, 2021.

Respectfully Submitted:
Jill Thiesfeld,
Administrative Assistant II

Signed: _____
Laurie Elliott, Mayor



**City of Newport, Minnesota
ANNUAL CHICKEN PERMIT**

Name of Applicant: Nicole Staudt
Address: 660 6th Avenue, Newport, MN 56055
Phone: 651-318-7908

Upon application made by the above name individual and approved by the Newport City Council at its regularly scheduled meeting of _____, and subject to the requirements of Newport City Code Section 600.20, _____ has been granted this permit for the keeping of chickens for property located at: _____.

The applicant has also provided the following information to the City:

- ☐ Site Plan of Property, identifying property lines, location and size of chicken coop and run
- ☐ Number of chickens to be kept: 4 hens
- ☐ Written consent from 75% of property owners situated within 150 feet from the chicken coop

Approved by the Newport City Council on the _____ day of _____, 20__.
This license is valid until December 31, 20__.

Nicole Staudt
Applicant

City Administrator

Mayor

Fee: \$25

Receipt #: _____ Date: _____ Cash: _____ Check #: 1444

Sec. 24-26. - Collection.

- (b) *Container placement.* All residential areas of the city shall have garbage, yard wastes, white goods and recyclable containers placed curbside on the day prior of collection no sooner than 3:00 p.m. ~~Except on days of collection, All~~ containers shall be removed from the curbside and stored behind the front building line of the property within 24 hours from time of collection.

City of Newport, MN
Ordinance No. 2021-05
An Ordinance Amending Chapter 24- Solid Waste, Article II-
Collection, Section 26- Collection

Sec. 24-26. - Collection.

- (a) *Hours and collection.* No collection of residential garbage, other refuse, recyclable, white goods or yard wastes shall be made except between the hours of 6:00 a.m. and 6:00 p.m. from the east side of Trunk Highway 61 residential hauling area on Mondays only, and between the hours of 6:00 a.m. and 6:00 p.m. from the west side of Trunk Highway 61 residential hauling area on Fridays only. No collection of commercial garbage, other refuse, recyclable, white goods, or yard wastes shall be made except between the hours of 6:00 a.m. and 6:00 p.m. Monday through Saturday. Exception to these days shall occur when a regular collection day occurs on New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day or Christmas Day, when collection shall be delayed by one calendar day.
- (b) *Container placement.* All residential areas of the city shall have garbage, yard wastes, white goods and recyclable containers placed curbside on the day prior of collection no sooner than 3:00 p.m. All containers shall be removed from the curbside and stored behind the front building line of the property within 24 hours from time of collection.
- (c) *Clean and safe collection.* It is the duty of every solid waste, garbage, recyclables, bulky material and yard waste hauler, contractor, subcontractor, and person, including their agents and employees, who is licensed to remove any solid waste, garbage, or any other waste material or who is engaged in the removal, loading or unloading of any such substance in the city to do such with dispatch, in a clean manner and with as little danger and prejudice to life and health as possible.
 - (1) All persons engaged in the business of hauling solid waste, garbage, recyclables or yard waste in the city shall transport the materials in enclosed vehicles, carts, dumpsters, bins, or other secure containers so as to prevent any loss of these materials and to prevent litter. Care shall be taken to ensure no blowing or escape of garbage, litter, yard waste or liquids from truck operations occurs during the collection and transportation of garbage, designated recyclables, bulky waste, yard wastes or source-separated compostable materials.
 - (2) Upon resident request, the licensed hauler must collect and properly dispose of appliances or other bulky waste.
 - (3) Each licensed hauler shall comply with all city, county, state and national laws and rules, including weight restrictions, DOT driver licensing and vehicle inspections, and disposal requirements.
- (d) *Containers.* All owners or managers of multiple residential dwellings are required to ensure that tenants are provided containers in which to deposit their recyclables for collection by a licensed hauler.
- (e) *Additional charges.* All collection charges shall be paid to the licensee by the owner, agent, occupant or tenant of the premises served and all fees collected shall be full compensation for the licensee's services.
- (f) *Preparation and ownership of recyclables.* All licensees may specify to customers the preparation of targeted recyclables for collection and the collection site. The licensee shall be deemed the owner of all recyclables collected, but nothing shall be construed to prevent the licensee from offering curbside collection for other recyclable materials in addition to recyclables defined in this section.

(Code 1997, § 440.08)

Adopted this 1st Day of April, 2021 by the Newport City Council.

Motion by: _____, Seconded by: _____

VOTE:	Elliott	_____
	Chapdelaine	_____
	Ingemann	_____
	Taylor	_____
	Johnson	_____

Signed: _____
Laurie Elliott, Mayor

Attest: _____
Deb Hill, City Administrator

City of Newport, MN
Resolution No. 2021-18
A Resolution Accepting Donations
Library Donation

WHEREAS, The City of Newport, Minnesota is generally authorized to accept donations of real and personal property pursuant to Minnesota Statutes Section 465.03 for the benefit of its citizens, and is specifically authorized to accept gifts and bequests for the benefit of recreational services pursuant to Minnesota Statutes Section 471.17; and

WHEREAS, The following persons and entities have offered to contribute the items set forth below to the City:

Individual/Business	Donated Item	Donated Amount
Joyce Berg Estate	Library Operations	\$2,000

WHEREAS, The City Council finds that it is appropriate to accept the donations offered.

NOW, THEREFORE, BE IT RESOLVED, That the Newport City Council hereby accepts the above donations and directs staff to write a letter of appreciation to each donor.

Adopted this 1st day of April 2021 by the Newport City Council.

Motion by: _____, Seconded by: _____

VOTE:	Elliott	_____
	Chapdelaine	_____
	Ingemann	_____
	Taylor	_____
	Johnson	_____

Signed: _____
Laurie Elliott, Mayor

Attest: _____
Deb Hill, City Administrator

City of Newport, MN
Resolution No 2021-19

By Its City Council Ratifying The Declaration Of Local Emergency By The
Mayor Of The City And Extended The Declared Emergency Created Thereby
For 30 Days Pursuant To Minnesota Statute Section 12.29

WHEREAS, the Mayor of the City of Newport, Minnesota, has issued a Proclamation declaring the existence of a Local Emergency, and that it be extended, dated the 7th day of January, 2020, pursuant to the authority granted to the Mayor under Minnesota Statute §12.29;

WHEREAS, the Council agrees with the Mayor's determination that COVID-19 (Coronavirus) is predicted to significantly impact the population of the City of Newport, MN; and

WHEREAS, COVID-19 can cause a significant amount of negative affects upon the well-being of the residents of Newport and prompt action is necessary to protect the public health, safety and property within the City; and

WHEREAS, the Proclamation and Declaration of Emergency by the Mayor must be ratified by the City Council for it to be effective for 30 days from the date of that action by the Mayor; and

WHEREAS, the City Council agrees in all respects with the action taken by the Mayor and wishes to ratify the Declaration of Emergency at least thirty days to be assured that necessary actions allowed under such a State of Emergency can be undertaken on behalf of the City in the manner allowed by law.

BE IT RESOLVED, that the Newport City Council ratifies the Declaration of the Mayor of the City of Newport and declares the City of Newport in a State of Emergency for conditions resulting from the health concerns presented by COVID-19; and

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the City Council of the City of Newport declares a State of Emergency that will remain in effect for 30 days in accordance with State Statute ending no later than April 30, 2021 unless extended by the Newport City Council.

Adopted this 1st day of April 2021 by the Newport City Council.

Motion by: _____, Seconded by: _____

VOTE:	Elliott	_____
	Chapdelaine	_____
	Ingemann	_____
	Taylor	_____
	Johnson	_____

Signed: _____
Laurie Elliott, Mayor

Attest: _____
Deb Hill, City Administrator

Recurring

Paid Chk#	001601E	COMCAST	3/18/2021	\$815.24	Phones, internet and cable
Paid Chk#	001602E	UNUM	3/18/2021	\$457.89	Life and long-term disability
Paid Chk#	001603E	COMCAST	3/24/2021	\$185.56	Telephone, Internet and cable
Paid Chk#	001604E	UNITED STATES TREASURY	3/24/2021	\$8,218.21	SS, Federal & Medicare
Paid Chk#	001605E	FURTHER	3/24/2021	\$518.45	HPSA
Paid Chk#	001606E	MN REVENUE	3/24/2021	\$1,361.92	State taxes
Paid Chk#	001607E	MSRS	3/24/2021	\$3,657.29	Retirement
Paid Chk#	001608E	WEX BANK	3/24/2021	\$1,011.89	Petrol
Paid Chk#	023597	ANCHOR SOLAR INVESTMENTS, LL	3/25/2021	\$358.02	Solar leasing
Paid Chk#	023598	ARNT CONSTRUCTION COMPANY	3/25/2021	\$36,981.04	North Ravine repairs
Paid Chk#	023599	NCPERS GROUP LIFE INS.	3/25/2021	\$32.00	Addt. Life insurance
Paid Chk#	023600	PERA	3/25/2021	\$4,728.92	Retirement
Paid Chk#	023601	VERIZON	3/25/2021	\$450.67	Cell phones and hot spots
Paid Chk#	023602	XCEL ENERGY	3/25/2021	\$10,323.63	Electricity and natural gas
		Staff		\$20,150.02	

Non-recurring

Paid Chk#	023603	BASIC NEEDS THRIFT SHOP	4/1/2021	\$232.79	Lawful gambling donation
Paid Chk#	023604	COMPASS MINERALS AMERICA	4/1/2021	\$1,568.15	Road salt
Paid Chk#	023605	EHLERS	4/1/2021	\$2,415.00	Update utility rate study and
Paid Chk#	023606	FRIENDS IN NEED FOOD SHELF	4/1/2021	\$232.79	Lawful gambling donation
Paid Chk#	023607	GRAINGER PARTS	4/1/2021	\$140.95	Streets supplies
Paid Chk#	023608	LAWSON PRODUCTS	4/1/2021	\$309.60	Shop supplies
Paid Chk#	023610	MMKR	4/1/2021	\$6,500.00	Progress billing through 2/23/
Paid Chk#	023611	MN POLLUTION CONTROL AGENCY	4/1/2021	\$23.00	Wast water certification renew
Paid Chk#	023612	QUALITY FLOW SYSTEMS, INC.	4/1/2021	\$1,188.00	Router repair
Paid Chk#	023614	SOUTH SUBURBAN RENTAL, INC.	4/1/2021	\$79.28	LP gas
Paid Chk#	023615	WASHINGTON CTY SHERIFF	4/1/2021	\$140.00	Civil process
Paid Chk#	023616	WINZER	4/1/2021	\$338.12	Shop supplies
Paid Chk#	023617	METERING & TECHNOLOGY SOLUTI	4/1/2021	\$564.84	12 chamber and housings
Paid Chk#	023618	CITY OF SAINT PAUL	4/1/2021	\$5,476.15	Repair water main and hydrant
				\$108,459.42	

Planning Memorandum

To: Newport City Council

Reference: Shoreland Ordinance
Amendment to Remove MRCCA
District

Copies To: Deb Hill, City Administrator
Travis Brierley, Assistant to
the Administrator

Project No.: N2019-0002

From: Sherri Buss, City Planner

Routing:

Date: March 22, 2021

Proposed Amendments to Shoreland Ordinance to Eliminate Duplication with Mississippi River Corridor Critical Area (MRCCA) Ordinance

Summary: The City should address the overlap and inconsistencies between its new MRCCA Overlay ordinance adopted in January 2021 and the existing Shoreland Overlay ordinance that governs the same area along the Mississippi River. The Minnesota DNR has given local governments the option to remove the MRCCA area from their Shoreland Ordinances, so that the MRCCA corridor area would be governed solely by the new MRCCA Overlay ordinance.

The proposed amendments to the Shoreland ordinance (attached) would remove the MRCCA area along the Mississippi River to eliminate duplication and inconsistencies and reduce the regulatory burden and costs for landowners in the MRCCA district. The remaining Shoreland areas in Newport are located around Ria Lake and La Lake. (The areas are shown on the attached Land Use Map from the 2040 Comprehensive Plan.) The city will update the zoning map to show the remaining Shoreland areas.

The Planning Commission held a public hearing on March 9 to consider and hear comments on the proposed amendment to the Shoreland Ordinance. The Commission received one public comment from Bill Sumner supporting the ordinance amendment and recommended that the City Council adopt the amended ordinance. The DNR has given conditional approval to the amendment (letter attached).

Background

The Mississippi River Corridor Critical Area (MRCCA) is a geographical corridor created by the State of Minnesota along both sides of the Mississippi River through the Twin Cities Metro Area. It includes 30 cities and townships. In 2017 the State adopted new rules for management of lands and natural resources within the corridor. The State required local governments including Newport to update their zoning ordinances to be consistent with State Rules. The MRCCA rules will primarily be implemented by local governments through their zoning ordinances.

Since the 1960's the shoreland areas along rivers and lakes in Minnesota have been governed by Shoreland regulations adopted by the State and implemented through local zoning

ordinances. In Newport, the Shoreland area along the Mississippi River is a 300-foot-wide corridor that is shown on the city's zoning and land use maps with a blue outline.

The MRCCA corridor includes the entire shoreland area along the Mississippi River in Newport. The MRCCA rules address the same issues as the Shoreland rules and have the same or higher standards than the Shoreland rules.

Newport adopted its new MRCCA Overlay Ordinance in January 2021. The ordinance is Division 3 of Article VII of the zoning ordinance. The Shoreland Ordinance is Division 2 of Article VII.

The DNR gave cities two options to address the overlap and inconsistencies between the MRCCA and Shoreland ordinances:

1. The City may delete all references to the shoreland area along the Mississippi River from the Shoreland ordinance and include a statement in the "jurisdiction" section of the ordinance that states that the shoreland area along the river will be governed by the MRCCA ordinance; or
2. The City may update the sections in the Shoreland Ordinance to be consistent with the MRCCA ordinance. (Some cities have adopted regulations in their Shoreland ordinances that cover issues that go beyond issues that are covered in the MRCCA ordinance such as special impervious cover regulations in some zoning districts, so this option may be applicable in those communities that want to continue to govern the area along the Mississippi River with both ordinances.)

Staff and the Planning Commission recommend that Newport use option 1 for the following reasons:

- Option 1 will eliminate duplication of effort in reviewing requests for variances, CUPs, and other permits. If both ordinances continue to regulate the shoreland areas, then the regulations in both will need to be addressed in applications and staff reviews. This will result in additional work and costs for applicants.
- Newport does not have any special regulations in its Shoreland ordinance that are not addressed in the MRCCA ordinance or in the district regulations in the Zoning Ordinance. For example, the R-1A zoning district requirements currently include the larger lot sizes and more restrictive impervious surface regulations that are required in the Shoreland and MRCCA ordinances along the Mississippi River.
- In future years if rules change, only one ordinance will need to be updated.

Staff have attached the proposed amended version of the Shoreland ordinance. The proposed changes are shown in the document. The Minnesota DNR reviewed the proposed ordinance amendment and has given conditional approval to it pending adoption by the City Council and submission of the final documents.

The Planning Commission held a public hearing on the proposed ordinance amendment at its meeting on March 9. The Commission heard on comment on the amendment from Bill Sumner, who support the adoption of the amendment and governing the river corridor with one ordinance.

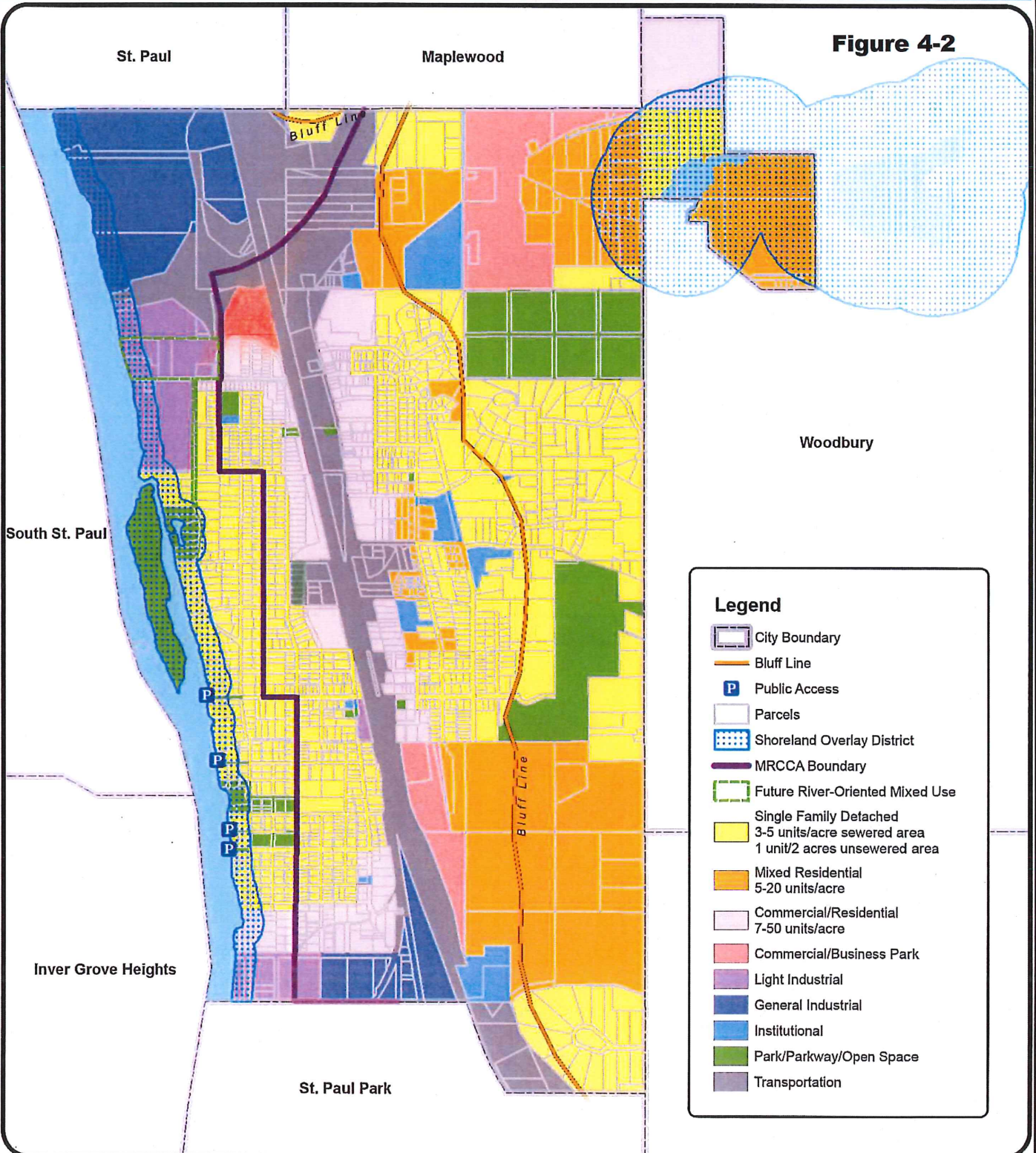
Planning Commission Recommendation

The Planning Commission recommends that the Council adopt the ordinance amendment to remove the Shoreland area along the Mississippi River from the Shoreland Ordinance to eliminate the duplication between the Shoreland Ordinance and the MRCCA Ordinance.



City of Newport 2040 Future Land Use Comprehensive Plan

Figure 4-2





**Minnesota Department of Natural Resources
Ecological and Water Resources Division
Central Region Headquarters
1200 Warner Road, St Paul MN 55106**

March 18, 2021

Sherri Buss
Newport City Planning Consultant
596 7th Avenue
Newport, MN 55055

Re: Conditional Approval of Newport Shoreland Ordinance Amendments

Dear Ms. Buss:

Thank you for sending your proposed shoreland ordinance amendments to the DNR for conditional approval. I am pleased to inform you that the proposed amendments are substantially compliant with the statewide rules and are hereby approved.

Ordinance Evaluation

The City of Newport adopted a Mississippi River Corridor Critical Area (MRCCA) ordinance on January 21, 2021, which the DNR found to be consistent with the MRCCA rules (MR 6106.0010 to 6106.0180). The City's proposed amendments to the shoreland ordinance recognize the MRCCA overlay district as having jurisdictional zoning authority for land along the Mississippi River. The amendments thus remove provisions from the shoreland ordinance that are no longer relevant or that overlap provisions in the MRCCA ordinance. These amendments are approved under Minnesota Rules, part 6120.2800 Subp. 3. A (6), where shorelands are managed under the MRCCA rules, as an "other water and related land resource management program authorized by state legislation with goals compatible with Minnesota Statutes, sections 103F.201 to 103F.221, and Minnesota Rules, parts 6120.2500 to 6120.3900."

Next Steps

Following are the steps for completing and receiving final DNR approval for your amendments:

1. The City Council adopts the amendments.
2. Email the completed Ordinance Processing Checklist (attached) and the documents identified on the checklist within 10 days of city council adoption to:
 - a. Dan Scollan, Daniel.scollan@state.mn.us
 - b. Ordinance.review.dnr@state.mn.us

3. We will review the amendments adopted by the City Council for consistency with the attached document (proposed amendments).
4. If the adopted amendments are consistent with the proposed amendments that were conditionally approved, I will send you a "final approval" letter. State rules require DNR final approval of shoreland ordinances and amendments for those ordinances to be effective.

A shoreland ordinance is an important land use regulation that helps to protect surface water quality, near shore habitat, and shoreland aesthetics of Minnesota's public waters. We appreciate your efforts to protect these resources for all present and future Minnesotans. Dan Scollan is available to assist with ordinance technical guidance and to consult with you on other land and water related projects.

Sincerely,

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

Dan Lais
EWR Central Region Manager

Attachments:

Proposed Ordinance Amendments
Ordinance Processing Checklist

c: Dan Scollan, DNR Area Hydrologist
Deb Hill, City of Newport Administrator
Ordinance.review.dnr@state.mn.us

DIVISION 2. - SHORELAND MANAGEMENT DISTRICT¹¹

Footnotes:

--- (1) ---

Editor's note— Ord. No. 2017-9, adopted Dec. 21, 2017, repealed the former div. 2, §§ 36-328—36-351, and enacted a new div. 2 as set out herein. The former div. 2 pertained to similar subject matter and derived from the 1997 Code.

Sec. 36-328. - Statutory authorization and policy.

- (a) *Statutory authorization.* This shoreland ordinance is adopted pursuant to the authorization and policies contained in M.S.A, chapter 103F, Minnesota Regulations 6120.2500—6120.3900, and the planning and zoning enabling legislation in M.S.A, chapter 462.
- (b) *Policy.* The uncontrolled use of shoreland in the city 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 state legislature 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 recognized by the city.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-329. - General provisions.

- (a) *Interpretation.* In their interpretation and application, the provisions of this division 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.
- (b) *Jurisdiction.* The provisions of this division shall apply to the shorelands of the public water bodies as classified in this division and illustrated on the official zoning map. Pursuant to Minnesota Regulations, parts 6120.2500 and 6120.3900, no lake, pond, or flowage less than ten acres in size in municipalities, or twenty-five (25) acres in size in unincorporated areas, need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the city council, be exempt from this division.

The Mississippi River and adjacent river corridor lands are designated and classified as a "Critical Area" by the State of Minnesota and are regulated by provisions of the Mississippi River Corridor Critical Area Overlay District, Division 3 of this code, and any other applicable provisions, whichever is more restrictive.

- (c) *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 division and other applicable regulations.
- (d) *Enforcement.* The zoning administrator shall be responsible for the administration and enforcement of this division. Any violation of the provisions of this division 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 division can occur regardless of whether or not a permit is required for a regulated activity pursuant to this chapter.

- (e) *Severability.* If any section, clause, provision, or portion of this division is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
- (f) *Abrogation and greater restrictions.* It shall not be intended by this division to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this division imposes greater restrictions, the provisions of this division shall prevail. All other divisions or sections of the Zoning Ordinance that are inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

(Ord. No. 2017-9, 12-21-2017)

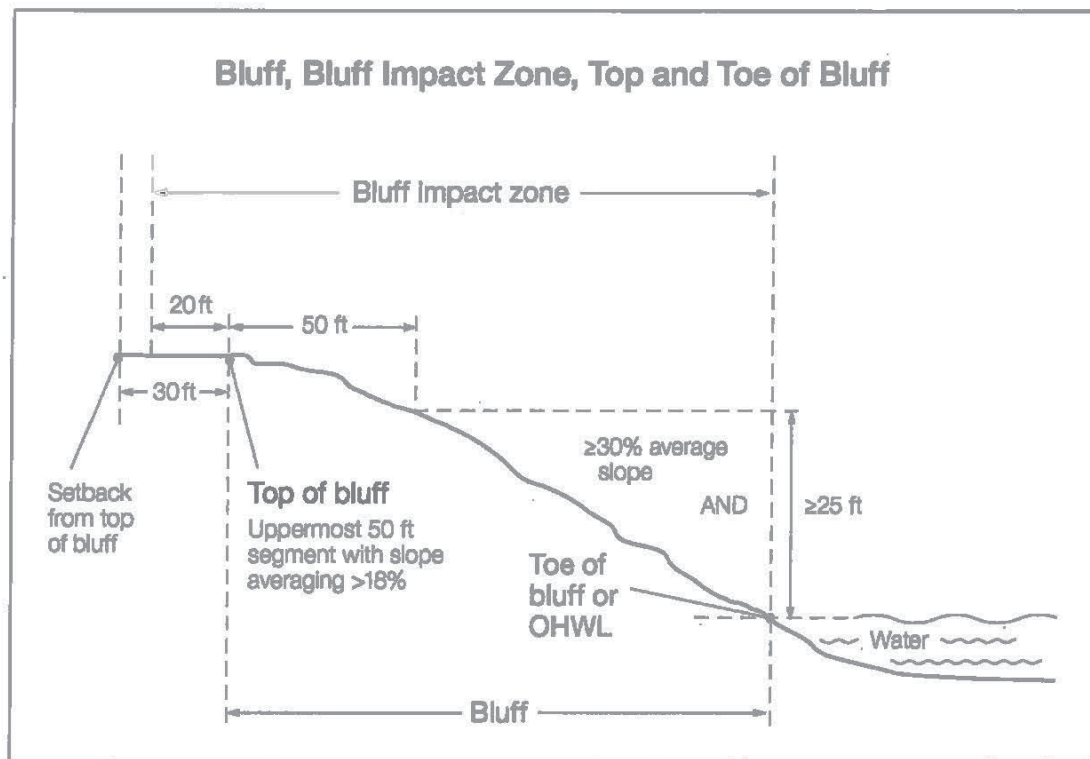
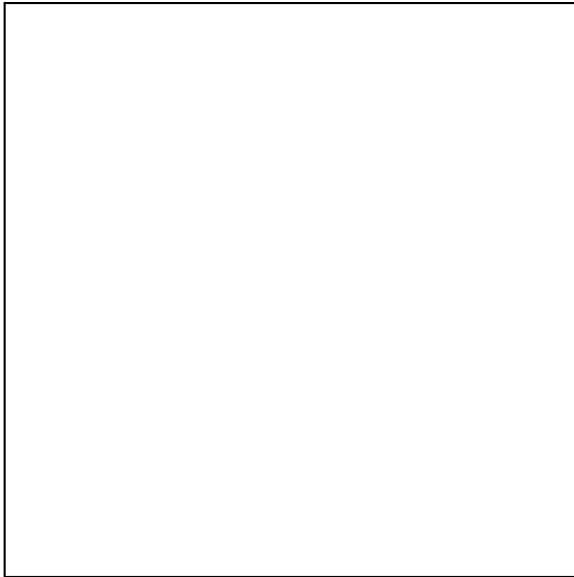
Sec. 36-330. - Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the same meaning they have in common usage and to give this ordinance its most reasonable application. For the purpose of this ordinance, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.

Accessory structure or facility: Any building or improvement subordinate to a principal structure or facility on the same lot as a principal building, or part of the principal building, exclusively occupied by or devoted to a use incidental to the main use of the property.

Bluff: A topographic feature such as a hill, cliff, or embankment having the following characteristics:

- (1) Part or all of the feature is located in a shoreland area;
- (2) The slope rises at least twenty-five (25) feet above the toe of bluff;
- (3) The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the toe of the bluff averages thirty (30) percent or greater, except that an area with an average slope of less than eighteen (18) percent over a distance of at least fifty (50) feet shall not be considered part of the bluff; and
- (4) The slope must drain toward the water body.



Bluff impact zone: A bluff and land located within twenty (20) feet of the top of a bluff.

Bluff, toe of: The lower point of a fifty (50)-foot segment with an average slope exceeding eighteen (18) percent or the ordinary high-water level, whichever is higher.

Bluff, top of: For the purposes of measuring setbacks, the higher point of a fifty (50)-foot segment with an average slope exceeding eighteen (18) percent.

Boathouse: A facility as defined by M.S.A section 103G.245.

Buffer: A vegetative feature as defined by M.S.A, section 103F.48.

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.

Controlled access lot: A lot used to access public waters or as a recreation area for owners of nonriparian lots within the same subdivision containing the controlled access lot.

Commercial planned unit developments: Developments 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.

Conditional use: A permitted use which may be appropriate in a given zoning district but which requires special planning considerations in each instance, and which shall only be allowed in a specific location under conditions specified by the Zoning Ordinance and by the city council.

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, attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

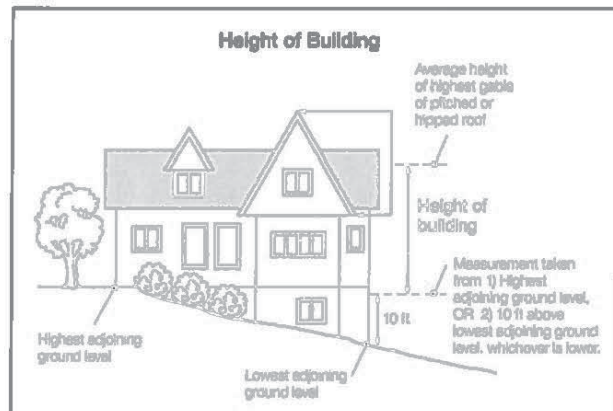
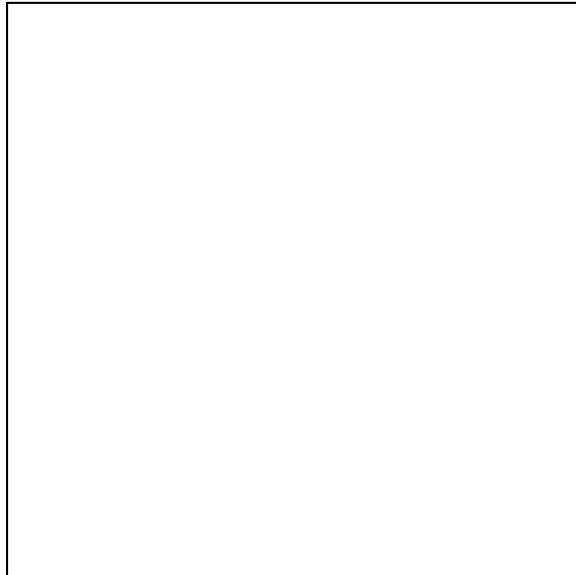
Dwelling site: A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Dwelling unit: Any structure or portion of a structure, or other shelter designed and used exclusively for residential purposes for the occupancy of one or more persons.

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 M.S.A. sections 93.44 to 93.51.

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.

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

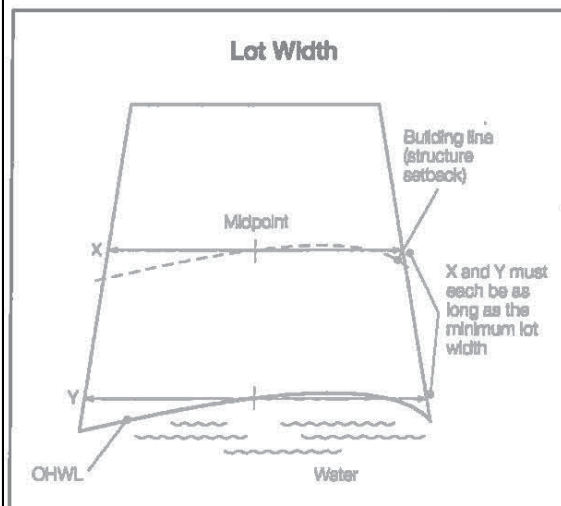
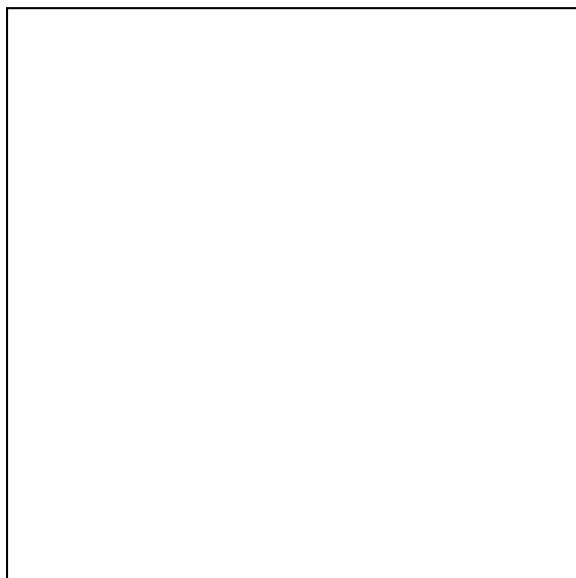


Impervious surface: A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, or gravel driveways; and other similar surfaces.

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, development, lease, transfer of ownership, or separation.



Lot width: The minimum horizontal distance between:

- (1) Side lot lines measured at right angles to the lot depth at the established front building setback line; and

(2) Side lot lines at the ordinary high-water level, if applicable.

Nonconformity: Any legal use, structure, or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not have been permitted to become established under the terms of the official controls as now written.

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.

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, that may involve 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, dwelling grounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

Public waters: Any water as defined in M.S.A, section 103G.005, subd. 15 and 15a.

Residential planned unit development: A type of development characterized by unified site design that may include a mixture of residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

Resort: "Resort" has the meaning in M.S.A, section 103F.227.

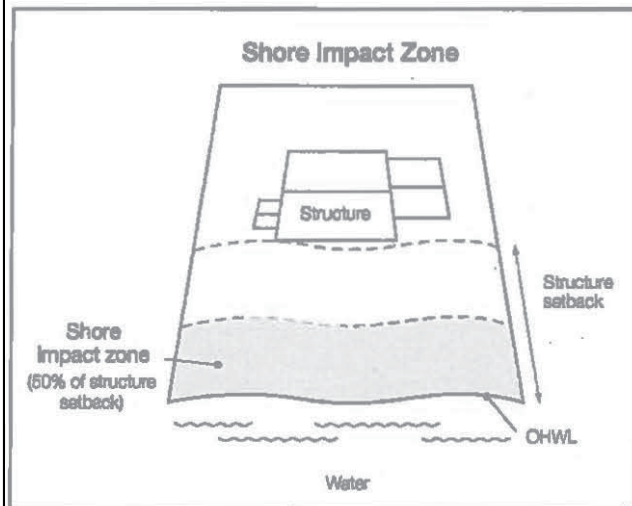
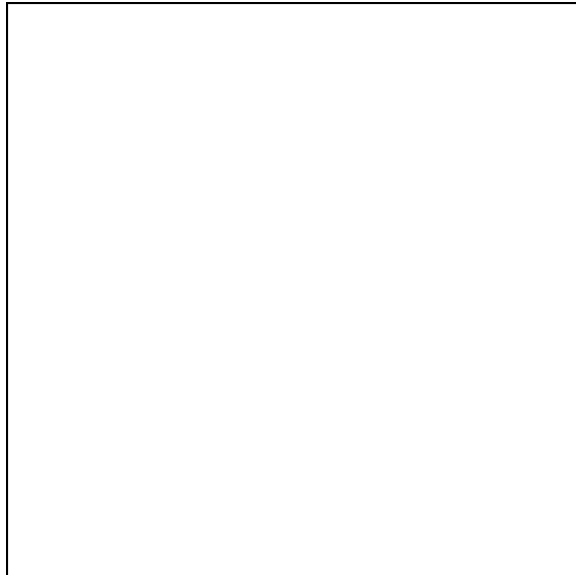
Semipublic use: The use of land by a private or private nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization. This use may include denominational cemeteries, private schools, clubs, lodges, recreational facilities, and churches.

Setback or setback line: 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, roadway, roadway right-of-way or easement, property line, or other facility as defined by the regulations of this division or the Zoning Ordinance.

Sewage treatment system: "Sewage treatment system" has the meaning given under Minnesota Rules, part 7080.1100, subpart 82.

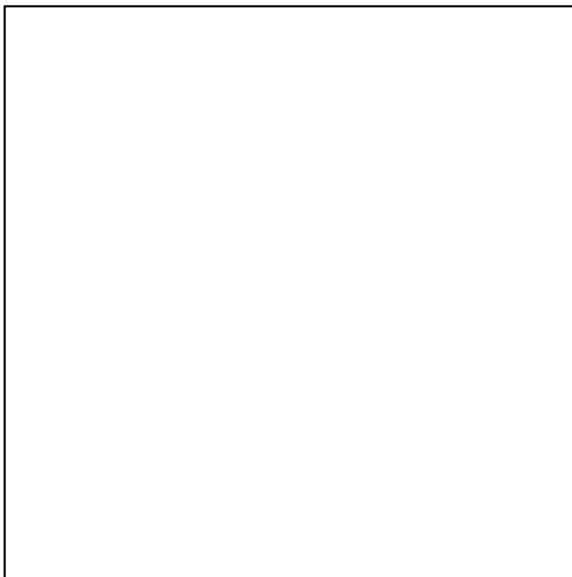
Sewer system, municipal: Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

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: "Shoreland" means land located within the following distances from public waters:

- (1) 1,000 feet from the ordinary high-water level of a lake, pond, or flowage; and
- (2) 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.



Shore recreation facilities: Swimming areas, docks, watercraft mooring areas and launching ramps, and other water recreation facilities.

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 M.S.A. 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 state archaeologist or the director of the state historical society. All unplatted cemeteries are automatically considered to be significant historic sites.

Steep slope: Lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more, which are not bluffs.

Structure: anything constructed or erected that requires permanent location on the ground or attachment to something having a permanent location on the ground, including any building or appurtenance, decks, swimming pools, recreational courts, etc. Structures do not include aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and related supporting facilities.

Subdivision: (1) The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership, building or development; (2) Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

Suitability analysis: An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.

Variance: A modification or variation of the provisions of the Zoning Ordinance, as applied to a specific piece of property. "Variance" means the same as that defined in M.S.A, section 462.357 subd. 6 (2).

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 surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, saunas, patios, and detached decks. Boathouses and boat storage structures given the meaning under M.S.A, section 103G.245 are not a water-oriented accessory structures.

Water-dependent use: The use of land for commercial, industrial, public or semi-public purposes, where access to and use of a public water is an integral part of the normal conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of commercial uses typically found in shoreland areas.

Wetland: "Wetland" has the meaning given under Minnesota Rule, part 8420.0111.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-331. - Administration.

- (a) **Permits required.** A permit shall be required for the construction of buildings or building additions (and such related activities as construction of decks and signs) and those grading and filling activities not exempted by this division or other applicable Code provisions. An application for such a permit shall be made to the zoning administrator on forms provided by the city. The application shall include the necessary information so that the zoning administrator can determine the site's suitability for the intended use in the Shoreland District and compliance with Shoreland District regulations.
- (b) **Permit compliance.** The zoning administrator shall review each proposed activity requiring a permit within shoreland areas for compliance with the standards of this division. The permit approval shall specify that the use of land conforms to the requirements of this division. Any use, arrangement, or construction at variance with the action that was authorized by permit shall be deemed a violation of this division and shall be punishable as provided in this division.
- (c) **Application materials.** Applications for permits and other zoning applications such as variances shall be made to the zoning administrator on the forms provided by the city. The application shall include the required information so that the zoning administrator can evaluate whether the application complies with the requirements of this division.

- (d) *Variances.* Variances may only be granted in accordance with M.S.A, section 462.357 and with section 36-46 of the Zoning Ordinance, and are subject to the following:
- (1) A variance may not circumvent the general purposes and intent of this division; and
 - (2) For properties with existing on-site sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules, chapter 7082.0700, subp. 3, is required for variance approval. An on-site sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high-water level.
- (e) *Conditional uses.* All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:
- (1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction; and
 - (2) The visibility of structures and other facilities as viewed from public waters is limited; and
 - (3) There is adequate water supply and sewage treatment; and
 - (4) The types, uses, and numbers of watercraft that the development will generate are compatible in relation to the suitability of public waters to safely accommodate watercraft.
- (f) *Conditions for variances, conditional uses, and zoning and permit applications.* In evaluating applications for variances, conditional uses, and other zoning and permit applications, the city shall require the property owner to address the following conditions to address the potential impacts of the proposed action and to meet the purpose of this ordinance, to protect adjacent properties, and the public interest. The city may include conditions in the approval that shall be related and proportional to the potential impacts of the proposed development.
- (1) Storm water runoff management and treatment and erosion and sediment control to meet the standards of the South Washington Watershed District and the city;
 - (2) Reducing impervious surfaces;
 - (3) Increasing setbacks from the ordinary high water level;
 - (4) Restoration of wetlands;
 - (5) Limiting vegetation removal and/or riparian vegetation restoration;
 - (6) Provisions from the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
 - (7) Other conditions the zoning authority deems necessary.
- (g) *Construction on steep slopes.* In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, the city may attach conditions to 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.
- (h) *Nonconformities.* All legally established nonconformities as of the date of this ordinance may continue, ~~and~~ will be managed according to M.S.A 462.357, subd. 1e and the Zoning Ordinance for alterations, repair after damage, discontinuation of use, and intensification of use. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this ordinance and the Zoning Ordinance. Any deviation from these requirements must be authorized by a variance.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-332. - Board of appeals and adjustments.

- (a) The board of appeals and adjustments shall hear and the City Council will decide requests for variances in accordance with the rules that it has adopted for the conduct of business.
- (b) When a variance is approved after the department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance required in section 36-333, shall also include the board of appeals and adjustment's and City Council's summaries of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-333. - Notification to the department of natural resources and environmental review.

- (a) Copies of all notices of any public hearings to consider variances, ordinance amendments, or conditional uses under local shoreland management controls shall be sent to the commissioner or the commissioner's designated representative and shall be postmarked at least thirty (30) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- (b) A copy of all approved amendments and subdivision/plats, and final decisions granting variances or conditional uses under local shoreland management controls shall be sent to the commissioner or the commissioner's designated representative and shall be postmarked within ten (10) days of final action. When a variance is approved after the department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
- (c) Any request to change the shoreland management classification of public waters within the city must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data as required by Minnesota Rules, part 6120.3000, subp. 4.
- (d) Any request to reduce the boundaries of shorelands of public waters within the city must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.
- (e) Mandatory EAW. An environmental assessment worksheet consistent with Minnesota Rules, chapter 4410, must be prepared for projects meeting the thresholds of Minnesota Rules part 4410.4300, subparts 19a, 20a, 25, 27, 28, 29 and 36a.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-334. - Shoreland classification system.

- (a) Purpose. To ensure that shoreland development on the public waters of the city is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300, the public waters listed below have been classified consistent with the criteria found in Minnesota Rules and the protected waters inventory map for Washington County, Minnesota.
- (b) The shoreland area for the waterbody listed in subsection (c) of this section shall be as defined in this division and as shown on the official zoning map.
- (c) Lakes in the city are classified as follows:

<i>Natural Environment Lake</i>	<i>DNR Public Waters I.D. Number</i>

Ria Lake	82-98
<i>Recreational Development Lake</i>	
La Lake	82-97

~~(d) Rivers in the city are classified as follows~~

Urban River	DNR Public Waters I.D. Number
Mississippi River	19-5

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-335. - Land uses.

- (a) Purpose. To identify land uses compatible with the protection and preservation of shoreland resources in order to conserve the economic and environmental values of shoreland and sustain water quality.
- (b) Shoreland district land uses listed on the tables below are regulated as:
- (1) *Permitted uses (P)*. These uses are allowed, provided all standards in this ordinance are followed.
 - (2) *Conditional uses (C)*. These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in this division and the Zoning Ordinance.
 - (3) *Not permitted uses (N)*. These uses are prohibited.
- (c) Land uses for lake classifications:

Land Uses	Recreational Development <u>Lakes</u>	Natural Environment <u>Lakes</u>
Single residential	P	P
Duplex, triplex, quad residential	P	C
Residential PUD	C	C

Water-dependent commercial—As accessory to a residential planned unit development	C	C
Commercial (P or C depending on type of use and the underlying zoning district requirements)	P/C	C
Commercial PUD—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 10.0 of this ordinance are satisfied.	C	C
Parks and historic sites	C	C
Public, semipublic	P	C
Industrial	C	N
Agricultural: cropland and pasture	P	P

(d) — Land uses for river classifications:

Land uses	Urban
Single family residential	P
Duplex, triplex, quad residential	C
Residential PUD	C
Water-dependent commercial—As accessory to a residential PUD	C
Mixed residential and commercial	C
Commercial	C
Public, semi-public	C
Parks, historic sites	C

Industrial storage	€
General business	€
Light industrial	€

P = Permitted; C = by Conditional use permit; N = Not permitted

(e) Special land use provisions for commercial, industrial and semipublic use standards.

- (1) Water-dependent uses may be located on parcels or lots with frontage on public waters provided that:
 - a. The use complies with section 36-340;
 - b. The use is designed to incorporate topographic and vegetative screening of parking areas and structures;
 - c. 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; and
 - d. Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:
 1. Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff;
 2. Signs placed within the shore impact zone are no higher than ten feet above the ground, and not greater than thirty-two (32) square feet in size; and if illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and
 3. Other lighting may be located within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination across public waters. This does not preclude use of navigational lights.
- (2) Commercial, industrial, public, and semi-public uses that are not water-dependent 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 ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(f) *Agriculture 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 perennial 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 natural resource conservation service, as provided by a qualified individual or agency.
- (2) The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the ordinary high-water level.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-336. - Dimensional and general performance standards.

- (a) *Purpose.* To establish dimensional and performance standards that protect shoreland resources from impacts of development.
- (b) *Lot area and width standards.* After the effective date of this ordinance, all new lots must meet the minimum lot area and lot width requirements in (c) below, subject to the following standards:
- (1) Only lands above the ordinary high-water level can be used to meet lot area and width standards; and
 - (2) Lot width standards must be met at both the ordinary high-water level and at the building line; and
 - (3) The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property; and
 - (4) Residential subdivisions with dwelling unit densities exceeding those identified in this section are allowed only if designed and approved as residential PUDs under section 36-346 of this ordinance.

(c) *Lake minimum lot area and width standards:*

Recreational Development <u>Lakes</u> —No Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490
Other Uses	2 AC	150	2 AC	150

Recreational Development <u>Lakes</u> —Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)

Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245
Other uses	1 AC	160	1 AC	160

Natural Environment <u>Lakes</u> —No Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
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
Other uses	2 AC	160	2 AC	160

Natural Environment <u>Lakes</u> —Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
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
Other uses	1 AC	150	1 AC	150

~~(d) River/stream minimum lot width standards.~~

	Urban and Tributary	
	No Sewer	Sewer
Single	100	75
Duplex	150	115
Triplex	200	150
Quad	250	190

-

(e) *Special residential lot provisions*

- (1) Subdivisions of duplexes, triplexes, and quads are conditional uses on natural environment lakes, and must also meet the following standards:
 - a. Each building must be set back at least two hundred (200) feet from the ordinary high water level;
 - b. The development must be served by municipal sewer and water services;
 - c. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
 - d. No more than twenty-five (25) percent of a lake's shoreline can be in duplex, triplex, or quad developments.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-337. - Additional requirements.

(a) Controlled access lots are permissible if created at the time of and as part of a subdivision and in compliance with the following standards:

- (1) The lot must meet the area and width requirements for residential lots and be suitable for the intended uses of controlled access lots as provided in item (5).
- (2) If docking, mooring, or over-water storage of more than six 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 a percentage 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 percent increase in frontage
Less than 100	25%
100—200	20%
201—300	15%
301—400	10%
Greater than 400	5%

- (3) The lots must be jointly owned by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.
- (4) Covenants or other equally effective legal instruments must be developed that:
 - a. Specify which lot owners have authority to use the access lot.
 - b. Identify what activities are allowed. The allowed activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking.
 - c. Limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water.
 - d. Require centralization of all common facilities and activities in the most suitable locations on the lot, to minimize topographic and vegetation alterations.
 - e. 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.
- (b) One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in section 36-336 provided the following standards are met:
 - (1) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within an area equal to the smallest duplex-sized lot that could be created including the principal dwelling unit.

- (2) A guest cottage must not cover more than seven hundred (700) square feet of land surface and must not exceed fifteen (15) feet in height.
- (3) A guest cottage must 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.

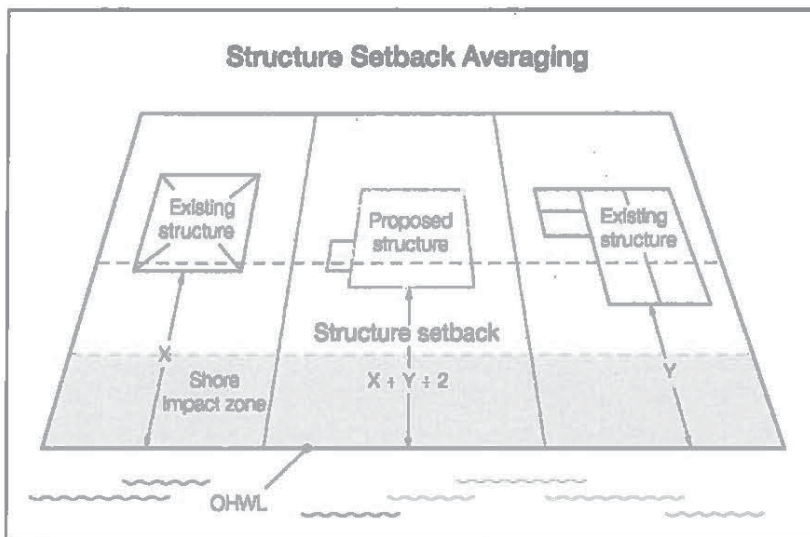
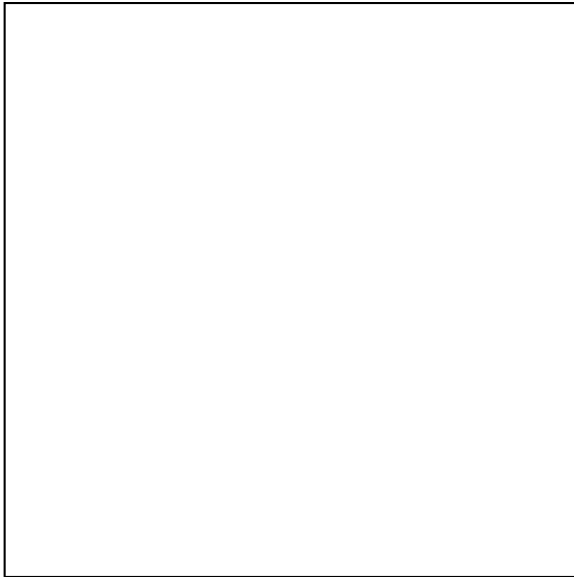
(Ord. No. 2017-9, 12-21-2017)

Sec. 36-338. - Placement, design and height of structures.

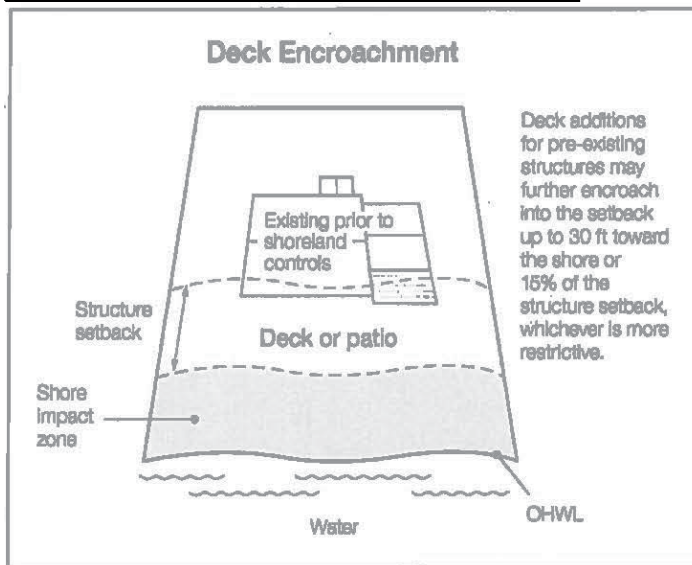
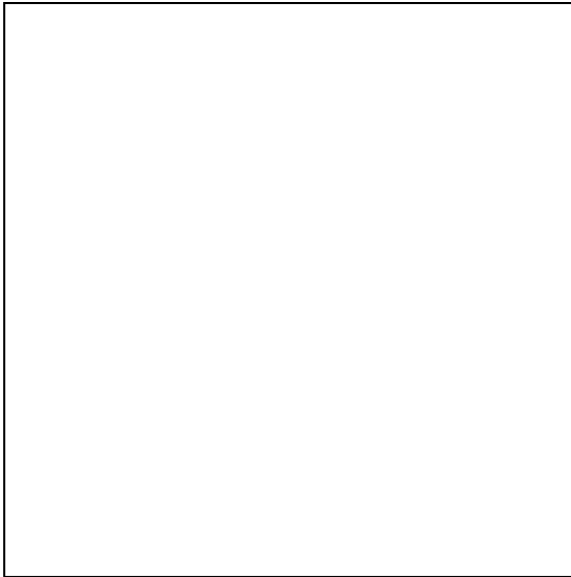
- (a) *Placement of structures and sewage treatment systems on lots.* When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following provisions:
 - (1) *OHWL setbacks.* Structures, impervious surfaces, and sewage treatment systems must meet the required setbacks from the ordinary high-water level (OHWL), except that one water-oriented accessory structure or facility, designed in accordance with item 36-337 of this ordinance, may be set back a minimum distance of ten feet from the OHWL.

OHWL Setback Requirements			
Classification	Structures		Sewage Treatment System
	No Sewer	Sewer	
Lakes			
Natural Environment	150	150	150
Recreational Development	100	75	75
Rivers and Streams			
Urban and Tributary	100	50	75

- (2) *Setback averaging.* 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 OHWL provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.



- (3) *Setbacks of decks.* Deck additions may be allowed without a variance to a structure not meeting the required setback from the OHWL if all of the following criteria are met:
- a. The structure existed on the date that the structure setbacks were established.
 - b. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing OHWL setback of the structure.
 - c. The deck encroachment toward the OHWL does not exceed fifteen (15) percent of the existing setback of the structure from the OHWL or is no closer than thirty (30) feet from the OHWL, whichever is more restrictive.
 - d. The deck is constructed primarily of wood and is not roofed or screened.



- (4) *Additional structure setbacks.* Structures must also meet the following setbacks regardless of the water body classification apply as follows:

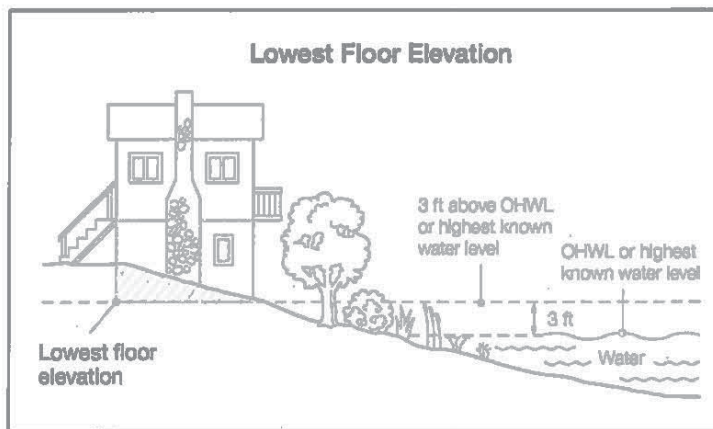
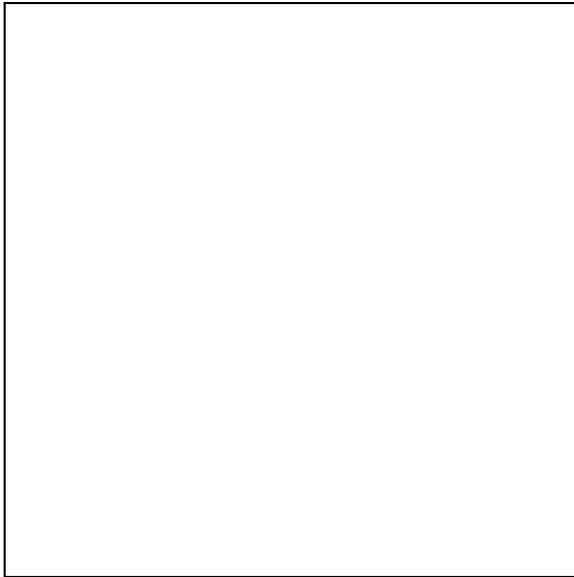
Setback from:	Setback (ft)
Top of bluff	30
Unplatted cemetery or historic site	50
Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, public street, or other roads not classified	20

- (5) *Bluff impact zones.* All structures impervious surfaces, and accessory facilities, except stairway and landings, shall not be placed within bluff impact zones.
- (6) *Minimum floor elevation above flood of record.* The minimum floor elevation above the flood elevation shall be three feet where floodplain controls do not exist.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-339. - Design criteria for structures.

- (a) *Height of structures.* All structures in residential districts, except churches and agricultural structures must not exceed twenty-five (25) feet in height. The maximum height of commercial and industrial structures shall be regulated by the district standards in the Zoning Ordinance.
- (b) *Lowest floor elevation.* 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 must 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 OHWL, whichever is higher;
 - ~~(2) For rivers and streams, by placing the lowest floor at least three feet above the highest known flood elevation. 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 must be used for placing structures and other facilities; and~~
 - (3) If the structure is floodproofed instead of elevated under items (a) ~~and (b)~~ above, then it must be floodproofed in accordance with Minnesota Rules, part 6120.5900 subp. 3(D).



(c) *Water supply and sewage treatment.*

- (1) Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the state department of health and state pollution control agency.
- (2) Any premises used for human occupancy must be connected to a publicly-owned sewer system, where available, or comply with the Washington County SSTS Ordinance and Minnesota Rules (Ordinance 196) and Minnesota Rules, chapters 7080-7081.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-340. - Performance standards for public and private facilities.

- (a) *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the value of the site unless adequate information about the site has been removed and documented in a public depository.
- (b) *Placement and design of roads, driveways and parking areas.* Public and private roads and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from the public waters and comply with the following standards:
 - (1) 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 alternative exist, they may be placed within these areas, and must be designed to minimize adverse impacts;

- (2) 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 division are met.
 - (3) Private facilities must comply with the grading and filling provisions of this ordinance.
 - (4) For public roads, driveways, and parking areas, documentation shall be provided by the city engineer that they 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 technical materials.
- (c) *Stairways, lifts and landings.* Stairways and lifts shall be the preferred alternative to major topographical 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 (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments.
 - (2) Landings for stairways and lifts on residential lots shall not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public recreational uses, 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.
 - (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 this section are complied with, in addition to Minnesota Rules Chapter 1341.
- (d) *Water-oriented accessory structures or facilities.* Each lot may have one water-oriented accessory structure or facility if it complies with the following provisions:
- (1) The water-oriented accessory structure or facility shall not exceed ten feet in height, exclusive of safety rails, and shall not occupy an area greater than two hundred and fifty (250) square feet. The structure or facility may include patios or detached decks not exceeding eight (8) feet above grade at any point.
 - (2) The structure or facility shall not be located in the bluff impact zone.
 - (3) The setback of structure or facility from the ordinary high-water level shall be at least ten feet.
 - (4) The structure is not a boathouse or boat storage structure as defined under M.S.A, section 103G.245.
 - (5) The structure or facility shall be treated to reduce visibility as viewed from the river and adjacent shorelands by vegetation, topography, increased setbacks, or color, assuming summer leaf-on conditions.
 - (6) The roof of the structure or facility may be used as a deck with safety rails but shall not be enclosed or used as a storage area.
 - (7) The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewer treatment facilities.

~~(8) In a general use zone as an alternative for general development and recreational development along the river, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area of up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.~~

- (9) Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in this ordinance 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.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-341. - Vegetation and land alterations.

- (a) *Purpose.* Alterations of vegetation and topography shall be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, sustain water quality, and protect fish and wildlife habitat.
- (b) *Vegetation management.* Removal or alteration of vegetation shall comply with the provisions of this subsection except for:
- (1) Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for those facilities.
 - (2) The construction of public roads and parking areas if consistent with this ordinance.
 - (3) Agricultural uses consistent with this ordinance.
- (c) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is prohibited. Intensive clearing outside of these areas is allowed if consistent with the forest management standards of this ordinance.
- (d) Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes is allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
- (1) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions shall not be substantially reduced.
 - ~~(2) Existing shading of water surfaces along rivers shall be preserved.~~
 - (3) Cutting debris or slash shall be scattered and not mounded on the ground.
 - (4) Perennial ground cover is retained.
- (e) Removal of trees, limbs, or branches that are dead, diseased, dying or pose safety hazards is allowed.
- (f) Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-342. - Grading and filling.

Grading and filling activities must comply with the provisions of this subsection, except for the construction of public roads and parking areas if consistent with section 36-340 of this ordinance.

- (1) Grading, filling, and excavations necessary for the construction of structures and sewage treatment systems, if part of an approved permit, shall not require a separate grading and filling permit; however, the grading and filling standards in this section shall be incorporated into the issuance of permits.
- (2) For all other work, a grading and filling permit shall be required for:
 - a. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - b. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
- (3) Grading, filling and excavation activities must meet the following standards:
 - a. Grading or filling of any wetland shall meet or exceed the wetland protection standards under Minnesota Rules, chapter 8420, and any other permits, reviews, or approvals by other local, state, or federal agencies such as watershed districts, the DNR, or U.S. Army Corps of Engineers.
 - b. Land alterations shall be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:
 1. Limiting the amount and time of bare ground exposure.
 2. Using temporary ground covers such as mulches or similar materials.
 3. Establishing permanent vegetation cover as soon as possible.
 4. Using sediment traps, vegetative buffer strips, or other appropriate techniques.
 5. Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district.
 6. Not placing fill or excavated material in a manner that creates unstable slopes. 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.
 7. Fill or excavated material shall not be placed in a manner that creates an unstable slope.
 8. Any alterations below the ordinary high water level of public waters shall first be authorized by the Commissioner under M.S.A section 103G.
 9. Alterations of topography shall only be allowed if they are accessory to permitted or conditional uses and shall not adversely affect adjacent or nearby properties.
 10. Placement of natural rock riprap, including associated grading of the shorelines and placement of a filter blanket, shall be permitted if the finished slope shall not exceed three (3) feet horizontal to one foot vertical; the landward extent of the riprap shall be within ten (10) feet of the ordinary high water level; and the height of the riprap above the ordinary high water level shall not exceed three (3) feet.
- (4) Connections to public waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, chapter 6115.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-343. - Stormwater management.

(a) *General standards.*

- (1) Stormwater management shall meet the requirements of the city's Stormwater Ordinance and the rules and standards of the South Washington Watershed District, including wetland protection and buffer requirements.
 - (2) When possible, existing natural drainageways and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to ~~the river~~ public waters.
 - (3) Development shall be planned and conducted in a manner that shall 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.
 - (4) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds, and infiltration may be used. Preference shall be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.
- (b) *Specific standards.*
- (1) Impervious surface coverage of lots shall not exceed twenty-five (25) percent of the lot area above the OHWL.
 - (2) 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 district or the Minnesota Stormwater Manual, as applicable.
 - (3) New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-344. - Special provisions for water-oriented commercial uses.

- (a) *Standards for water-oriented commercial uses.* Existing surface water-oriented industrial, light industrial, industrial storage, public and semipublic uses with similar needs have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those existing 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) Existing 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.
 - (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 standards:
 - (4) No advertising signs or supporting facilities for signs may be placed in or upon public waters.
 - (5) 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 Washington ~~or Dakota~~ County Sheriff.
 - (6) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey the location and name of the establishment. The signs shall not contain other detailed information such as product and prices, shall not be located higher than ten feet above the ground, and shall not exceed thirty-two (32) square feet in size. If

illuminated by artificial lights, the lights shall be shielded or directed to prevent illumination out across ~~the river~~public waters.

- (7) Other outside lighting may be located within the shore impact zone ~~or over the river~~ 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 the use of navigational lights.
- (b) Uses without water-oriented needs shall be located on lots or parcels without ~~river~~public waters frontage, or, if located on lots or parcels with ~~river~~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.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-345. - Subdivision/platting provisions.

- (a) *Purpose.* To ensure that new development minimizes impacts to shoreland resources and is safe and functional.
- (b) *Land suitability.* Each lot created through subdivision, including Planned Unit Developments authorized under this section, shall be suitable in its natural state for the proposed use with minimum alteration. A suitability analysis shall be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
- (c) *Consistency with other controls.* Subdivisions and each lot in the subdivision shall conform to all official controls of the city Subdivision Ordinance. 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.
- (d) *Water and sewer design standards.*
 - (1) A potable water supply and a sewage treatment system consistent with Minnesota Rules, chapters 7080-7081 must be provided for every lot.
 - (2) Each lot that uses a subsurface septic treatment system (SSTS) must comply with Washington County SSTS Ordinance 196 and Minnesota Rules chapter 7080.
 - (3) Lots that would require the use of holding tanks are prohibited.
- (e) *Information requirements.* Sufficient information shall be submitted by the applicant for the city to make a determination of land suitability. The information shall include all of the information required by the Subdivision Ordinance (chapter 28 of the City Code) and the following:
 - (1) Topographical contours at two-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics.
 - (2) The surface water features required in M.S.A section 505.02, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources.
 - (3) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation test, or other methods.
 - (4) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and propose methods for controlling stormwater runoff and erosion, both during and after construction activities.
 - (5) Location of 100-year floodplain areas and floodway districts from existing adopted maps or data.

- (6) 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 river.
- (f) *Dedications*. When a land or easement dedication is a condition of subdivision approval, the approval shall provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- (g) *Platting*. All subdivisions shall be processed as a plat in accordance with M.S.A. 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.
- (h) *Control access or recreational lots*. Controlled access lots within a subdivision shall meet or exceed the sizing criteria of this section.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-346. - Planned unit developments (PUDs).

- (a) *Purpose*. To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.
- (b) *Types of PUDs permissible*. Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of section 36-336 of this ordinance is allowed if the standards in this section are met. However, in no circumstances shall densities greater than those determined in this section (36-346) be allowed.
- (c) *Processing of PUDs*. Planned unit developments must be processed as a conditional use and in compliance with the city's Zoning Ordinance, including chapter 35, article VI. An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance 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 section 10.5. Approval cannot occur until all applicable environmental reviews are complete.
- (d) *Application for a PUD*. The application for a PUD shall follow the procedures and submittal requirements of chapter 35, article VI of the Zoning Ordinance, and shall also include:
 - (1) *Property owners association*. A property owners association agreement shall be created for residential PUDs with mandatory membership and consistent with this ordinance.
 - (2) *Deed restrictions, covenants, permanent easements, etc., for open space*. PUDs shall include deed restrictions, covenants, permanent easements, or other instruments that:
 - a. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
 - b. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in section 35-346(g) of this ordinance.
- (e) *Density determination*. Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.
 - (1) Identify density analysis tiers. Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high-water level at the following intervals, proceeding landward:

Classification	Tier Depth	
	No Sewer (ft)	Sewer (ft)

Recreational Development Lakes	267	267
Natural Environment Lakes	400	320
All Rivers/Streams	300	300

- (2) Calculate suitable area for development. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high-water level of public waters.
- (3) Determine base density:
 - a. For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. ~~For rivers, if a minimum lot area is not specified, divide the tier width by the minimum single residential lot width.~~
 - b. For commercial PUDs:
 1. Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.
 - i. For dwelling units, determine the average inside living floor area of dwelling units in each tier. Do not include decks, patios, garages, porches, or basements unless they are habitable space.
 - ii. For dwelling sites (campgrounds), determine the area of each dwelling site as follows:
 - (A) For manufactured homes, use the area of the manufactured home, if known, otherwise use one thousand (1,000) square feet.
 - (B) For recreational vehicles, campers or tents, use four hundred (400) square feet.
 2. Select the appropriate floor area/dwelling site area ratio from the following table for the floor area or dwelling site area determined in the section above.

Inside Living Floor Area or Dwelling Site Area (sf)	Floor Area/Dwelling Site Area Ratio		
	Agricultural, Urban and Tributary Rivers	Recreational Development Lakes	Natural Environment Lakes
≤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

3. Multiply the suitable area within each tier determined in section 36-346(e)(2) by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.
 4. Divide the total floor area or dwelling site area for each tier calculated in section 36-346(e)(3)b.2. by the average inside living floor area for dwelling units or dwelling site area determined in 36-346(e)(3)b.3. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.
- c. Allowable densities may be transferred from any tier to any other tier further from the waterbody but must not be transferred to any tier closer to the waterbody.
 - d. All PUDs with densities at or below the base density must meet the design standards in this ordinance.
- (4) Determine if the site can accommodate increased density:
- a. The following increases to the dwelling unit or dwelling site base densities determined section 36-346(e) are allowed if the design criteria in section 36-346(f) of this ordinance are satisfied as well as the standards in the following table:

Shoreland Tier	Maximum density increase within each tier (percent)
1 st	50

2 nd	100
3 rd	200
4 th	200
5 th	200

b. Structure setbacks from the ordinary high-water level:

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

(f) *Design criteria.* All PUDs must meet the following design criteria.

(1) General design standards.

- a. All residential planned unit developments must contain at least five dwelling units or sites.
- b. Municipal sewer and water services must be available and utilized.
- c. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.
- d. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in sections 36-336(c) and 36-336(d).
- e. Shore recreation facilities:
 1. Must be centralized and located in areas suitable for them based on a suitability analysis.
 2. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).
 3. 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.
- f. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
- g. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.
- h. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in section 7.3 of this ordinance and are centralized.

(g) *Open space requirements.* Open space must constitute at least fifty (50) percent of the total project area and must include:

- (1) Areas with physical characteristics unsuitable for development in their natural state.
 - (2) Areas containing significant historic sites or unplatted cemeteries.
 - (3) Portions of the shore impact zone preserved in its natural or existing state as follows:
 - a. For existing residential PUD's, at least fifty (50) percent of the shore impact zone.
 - b. For new residential PUDs, at least seventy (70) percent of the shore impact zone.
 - c. For all commercial PUD's, at least fifty (50) percent of the shore impact zone.
 - (4) Open space may include:
 - a. 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.
 - b. Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
 - c. Non-public-water wetlands.
 - (5) Open space shall not include:
 - a. Dwelling units or sites and residential lots; road rights-of-way, or land covered by road surfaces; parking areas, or structures, except water-oriented accessory structures or facilities.
 - b. Commercial facilities or uses.
 - c. Land below the OHWL of public waters.
- (i) *Open Space Maintenance and Administration Requirements.*
- (1) Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means.

The instruments must prohibit:

 - a. Commercial uses (for residential PUD's);
 - b. Vegetation and topographic alterations other than routine maintenance;
 - c. Construction of additional buildings or storage of vehicles and other materials; and
 - d. Uncontrolled beaching of watercraft.
 - (2) Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners' association with the following features:
 - a. Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;
 - b. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling 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.
- (i) *Erosion Control and Stormwater Management.*
- (1) Erosion control plans must be developed and must be consistent with the city's Stormwater Management Ordinance and Watershed District requirements.

- (2) Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff to meet federal, state, and local requirements. For commercial PUDs, impervious surfaces within any tier must not exceed twenty-five (25) percent of the tier area.

(Ord. No. 2017-9, 12-21-2017)

DIVISION 2. - SHORELAND MANAGEMENT DISTRICT¹¹

Footnotes:

--- (1) ---

Editor's note— Ord. No. 2017-9, adopted Dec. 21, 2017, repealed the former div. 2, §§ 36-328—36-351, and enacted a new div. 2 as set out herein. The former div. 2 pertained to similar subject matter and derived from the 1997 Code.

Sec. 36-328. - Statutory authorization and policy.

- (a) *Statutory authorization.* This shoreland ordinance is adopted pursuant to the authorization and policies contained in M.S.A, chapter 103F, Minnesota Regulations 6120.2500—6120.3900, and the planning and zoning enabling legislation in M.S.A, chapter 462.
- (b) *Policy.* The uncontrolled use of shoreland in the city 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 state legislature 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 recognized by the city.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-329. - General provisions.

- (a) *Interpretation.* In their interpretation and application, the provisions of this division 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.
- (b) *Jurisdiction.* The provisions of this division shall apply to the shorelands of the public water bodies as classified in this division and illustrated on the official zoning map. Pursuant to Minnesota Regulations, parts 6120.2500 and 6120.3900, no lake, pond, or flowage less than ten acres in size in municipalities, or twenty-five (25) acres in size in unincorporated areas, need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the city council, be exempt from this division.

The Mississippi River and adjacent river corridor lands are designated and classified as a "Critical Area" by the State of Minnesota and are regulated by provisions of the Mississippi River Corridor Critical Area Overlay District, Division 3 of this code, and any other applicable provisions, whichever is more restrictive.

- (c) *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 division and other applicable regulations.
- (d) *Enforcement.* The zoning administrator shall be responsible for the administration and enforcement of this division. Any violation of the provisions of this division 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 division can occur regardless of whether or not a permit is required for a regulated activity pursuant to this chapter.

- (e) *Severability.* If any section, clause, provision, or portion of this division is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
- (f) *Abrogation and greater restrictions.* It shall not be intended by this division to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this division imposes greater restrictions, the provisions of this division shall prevail. All other divisions or sections of the Zoning Ordinance that are inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

(Ord. No. 2017-9, 12-21-2017)

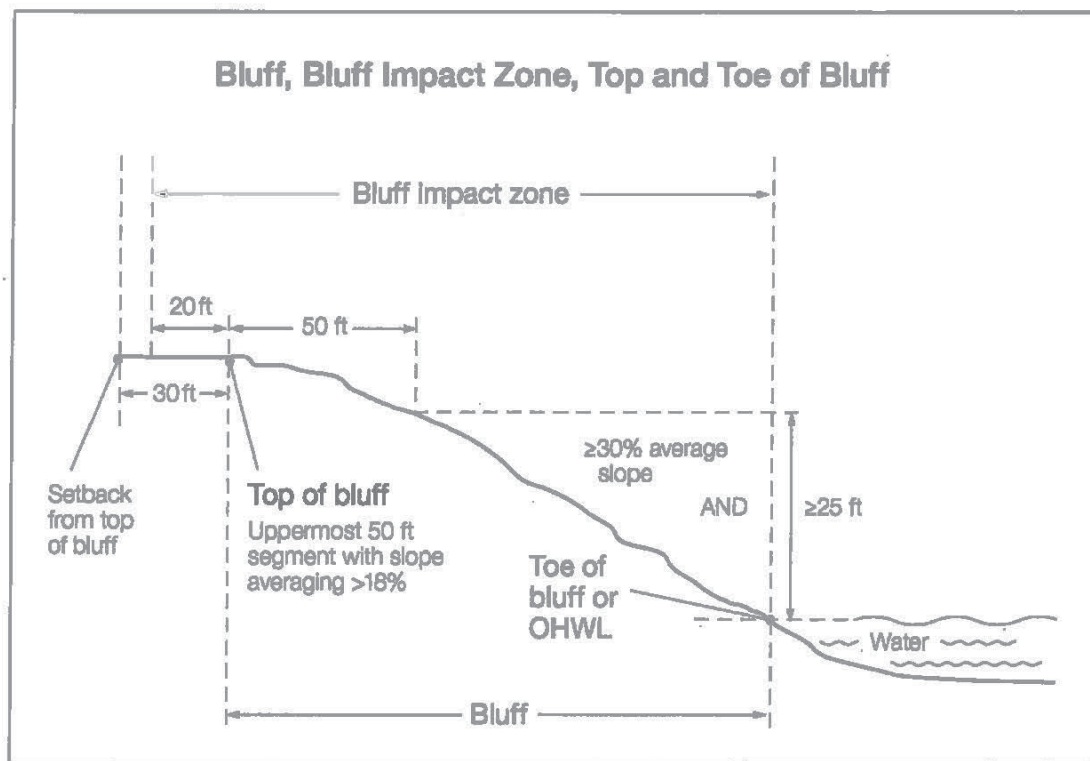
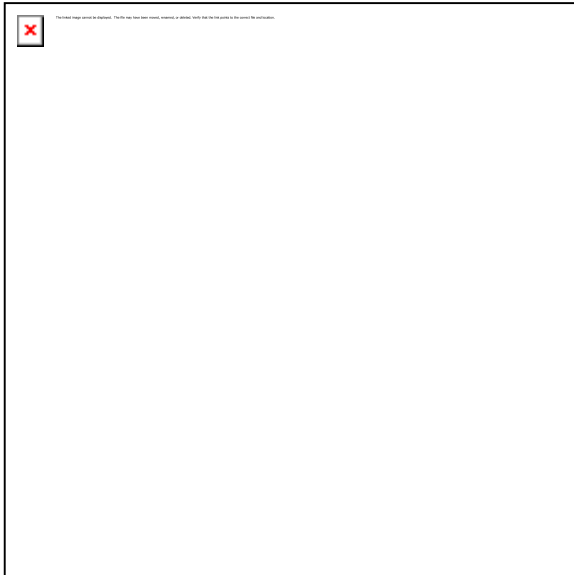
Sec. 36-330. - Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the same meaning they have in common usage and to give this ordinance its most reasonable application. For the purpose of this ordinance, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.

Accessory structure or facility: Any building or improvement subordinate to a principal structure or facility on the same lot as a principal building, or part of the principal building, exclusively occupied by or devoted to a use incidental to the main use of the property.

Bluff: A topographic feature such as a hill, cliff, or embankment having the following characteristics:

- (1) Part or all of the feature is located in a shoreland area;
- (2) The slope rises at least twenty-five (25) feet above the toe of bluff;
- (3) The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the toe of the bluff averages thirty (30) percent or greater, except that an area with an average slope of less than eighteen (18) percent over a distance of at least fifty (50) feet shall not be considered part of the bluff; and
- (4) The slope must drain toward the water body.



Bluff impact zone: A bluff and land located within twenty (20) feet of the top of a bluff.

Bluff, toe of: The lower point of a fifty (50)-foot segment with an average slope exceeding eighteen (18) percent or the ordinary high-water level, whichever is higher.

Bluff, top of: For the purposes of measuring setbacks, the higher point of a fifty (50)-foot segment with an average slope exceeding eighteen (18) percent.

Boathouse: A facility as defined by M.S.A section 103G.245.

Buffer: A vegetative feature as defined by M.S.A, section 103F.48.

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.

Controlled access lot: A lot used to access public waters or as a recreation area for owners of nonriparian lots within the same subdivision containing the controlled access lot.

Commercial planned unit developments: Developments 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.

Conditional use: A permitted use which may be appropriate in a given zoning district but which requires special planning considerations in each instance, and which shall only be allowed in a specific location under conditions specified by the Zoning Ordinance and by the city council.

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, attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

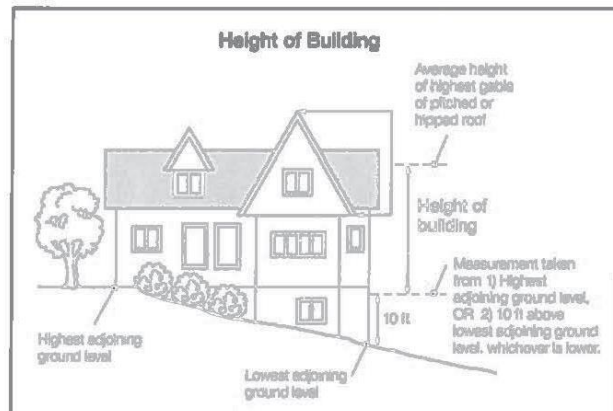
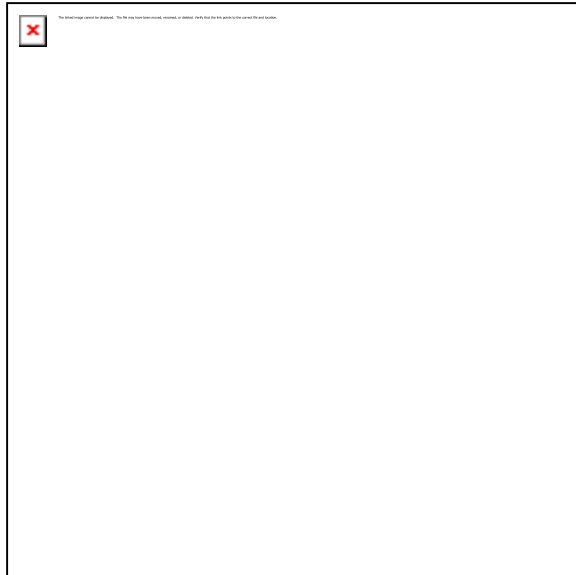
Dwelling site: A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Dwelling unit: Any structure or portion of a structure, or other shelter designed and used exclusively for residential purposes for the occupancy of one or more persons.

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 M.S.A. sections 93.44 to 93.51.

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.

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

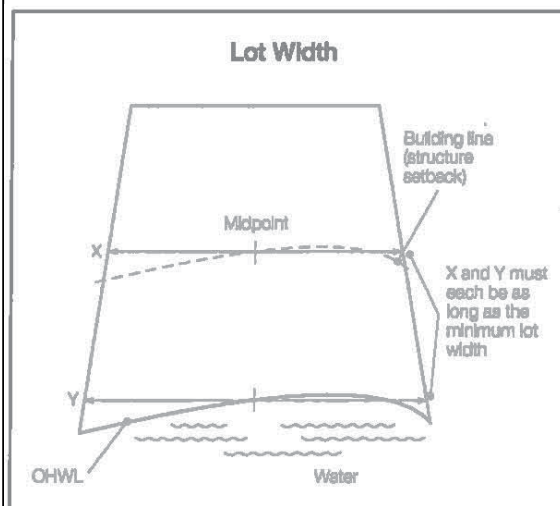
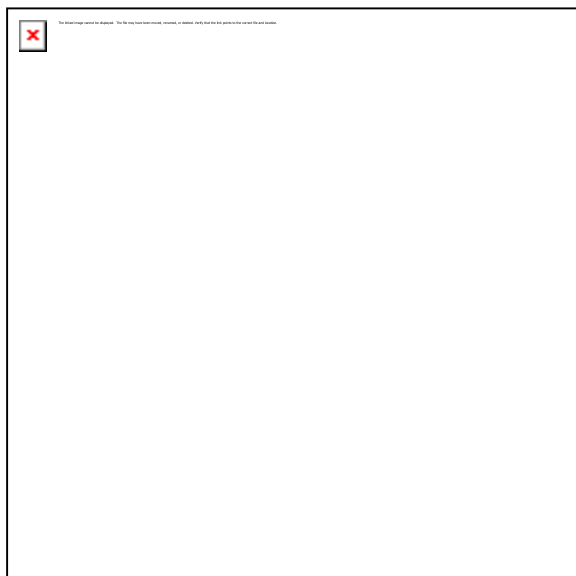


Impervious surface: A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, or gravel driveways; and other similar surfaces.

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, development, lease, transfer of ownership, or separation.



Lot width: The minimum horizontal distance between:

- (1) Side lot lines measured at right angles to the lot depth at the established front building setback line; and

- (2) Side lot lines at the ordinary high-water level, if applicable.

Nonconformity: Any legal use, structure, or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not have been permitted to become established under the terms of the official controls as now written.

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.

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, that may involve 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, dwelling grounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

Public waters: Any water as defined in M.S.A, section 103G.005, subd. 15 and 15a.

Residential planned unit development: A type of development characterized by unified site design that may include a mixture of residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

Resort: "Resort" has the meaning in M.S.A, section 103F.227.

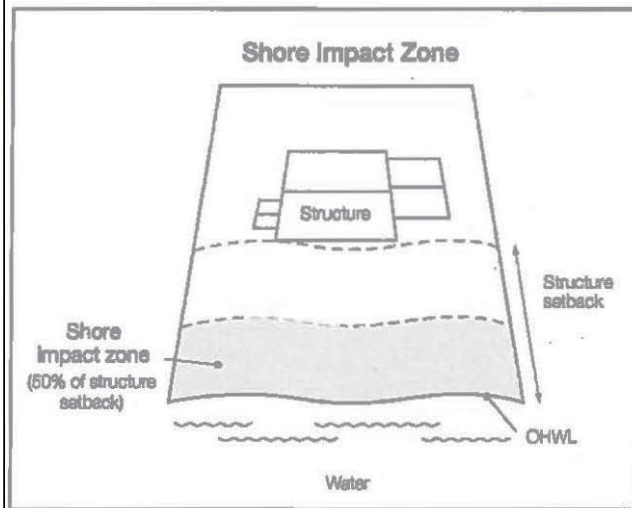
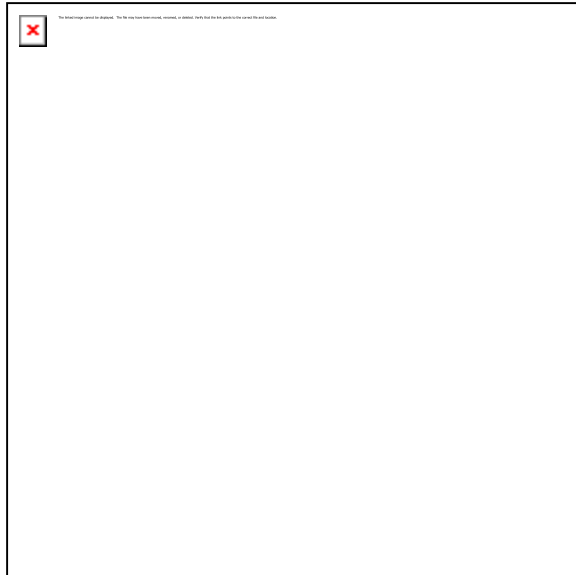
Semipublic use: The use of land by a private or private nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization. This use may include denominational cemeteries, private schools, clubs, lodges, recreational facilities, and churches.

Setback or setback line: 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, roadway, roadway right-of-way or easement, property line, or other facility as defined by the regulations of this division or the Zoning Ordinance.

Sewage treatment system: "Sewage treatment system" has the meaning given under Minnesota Rules, part 7080.1100, subpart 82.

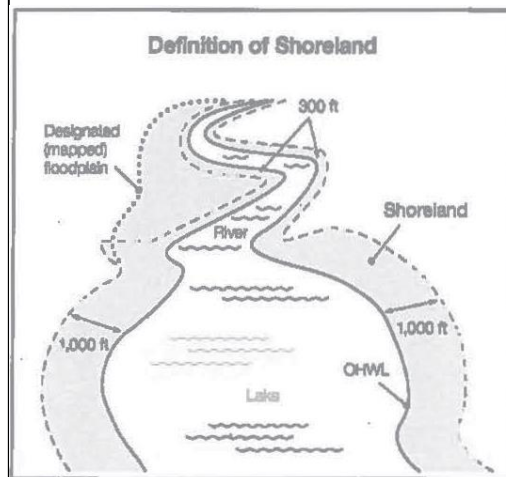
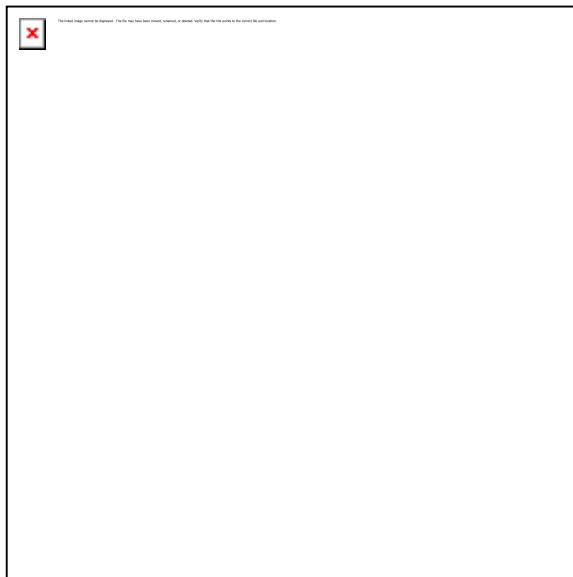
Sewer system, municipal: Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

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: "Shoreland" means land located within the following distances from public waters:

- (1) 1,000 feet from the ordinary high-water level of a lake, pond, or flowage; and
- (2) 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.



Shore recreation facilities: Swimming areas, docks, watercraft mooring areas and launching ramps, and other water recreation facilities.

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 M.S.A, 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 state archaeologist or the director of the state historical society. All unplatted cemeteries are automatically considered to be significant historic sites.

Steep slope: Lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more, which are not bluffs.

Structure: anything constructed or erected that requires permanent location on the ground or attachment to something having a permanent location on the ground, including any building or appurtenance, decks, swimming pools, recreational courts, etc. Structures do not include aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and related supporting facilities.

Subdivision: (1) The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership, building or development; (2) Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

Suitability analysis: An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.

Variance: A modification or variation of the provisions of the Zoning Ordinance, as applied to a specific piece of property. "Variance" means the same as that defined in M.S.A, section 462.357 subd. 6 (2).

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 surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, saunas, patios, and detached decks. Boathouses and boat storage structures given the meaning under M.S.A, section 103G.245 are not a water-oriented accessory structures.

Water-dependent use: The use of land for commercial, industrial, public or semi-public purposes, where access to and use of a public water is an integral part of the normal conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of commercial uses typically found in shoreland areas.

Wetland: "Wetland" has the meaning given under Minnesota Rule, part 8420.0111.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-331. - Administration.

- (a) *Permits required.* A permit shall be required for the construction of buildings or building additions (and such related activities as construction of decks and signs) and those grading and filling activities not exempted by this division or other applicable Code provisions. An application for such a permit shall be made to the zoning administrator on forms provided by the city. The application shall include the necessary information so that the zoning administrator can determine the site's suitability for the intended use in the Shoreland District and compliance with Shoreland District regulations.
- (b) *Permit compliance.* The zoning administrator shall review each proposed activity requiring a permit within shoreland areas for compliance with the standards of this division. The permit approval shall specify that the use of land conforms to the requirements of this division. Any use, arrangement, or construction at variance with the action that was authorized by permit shall be deemed a violation of this division and shall be punishable as provided in this division.
- (c) *Application materials.* Applications for permits and other zoning applications such as variances shall be made to the zoning administrator on the forms provided by the city. The application shall include the required information so that the zoning administrator can evaluate whether the application complies with the requirements of this division.

- (d) *Variances.* Variances may only be granted in accordance with M.S.A, section 462.357 and with section 36-46 of the Zoning Ordinance, and are subject to the following:
- (1) A variance may not circumvent the general purposes and intent of this division; and
 - (2) For properties with existing on-site sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules, chapter 7082.0700, subp. 3, is required for variance approval. An on-site sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high-water level.
- (e) *Conditional uses.* All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:
- (1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction; and
 - (2) The visibility of structures and other facilities as viewed from public waters is limited; and
 - (3) There is adequate water supply and sewage treatment; and
 - (4) The types, uses, and numbers of watercraft that the development will generate are compatible in relation to the suitability of public waters to safely accommodate watercraft.
- (f) *Conditions for variances, conditional uses, and zoning and permit applications.* In evaluating applications for variances, conditional uses, and other zoning and permit applications, the city shall require the property owner to address the following conditions to address the potential impacts of the proposed action and to meet the purpose of this ordinance, to protect adjacent properties, and the public interest. The city may include conditions in the approval that shall be related and proportional to the potential impacts of the proposed development.
- (1) Storm water runoff management and treatment and erosion and sediment control to meet the standards of the South Washington Watershed District and the city;
 - (2) Reducing impervious surfaces;
 - (3) Increasing setbacks from the ordinary high water level;
 - (4) Restoration of wetlands;
 - (5) Limiting vegetation removal and/or riparian vegetation restoration;
 - (6) Provisions from the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
 - (7) Other conditions the zoning authority deems necessary.
- (g) *Construction on steep slopes.* In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, the city may attach conditions to 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.
- (h) *Nonconformities.* All legally established nonconformities as of the date of this ordinance may continue, ~~and~~ will be managed according to M.S.A 462.357, subd. 1e and the Zoning Ordinance for alterations, repair after damage, discontinuation of use, and intensification of use. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this ordinance and the Zoning Ordinance. Any deviation from these requirements must be authorized by a variance.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-332. - Board of appeals and adjustments.

- (a) The board of appeals and adjustments shall hear and the City Council will decide requests for variances in accordance with the rules that it has adopted for the conduct of business.
- (b) When a variance is approved after the department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance required in section 36-333, shall also include the board of appeals and adjustment's and City Council's summaries of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-333. - Notification to the department of natural resources and environmental review.

- (a) Copies of all notices of any public hearings to consider variances, ordinance amendments, or conditional uses under local shoreland management controls shall be sent to the commissioner or the commissioner's designated representative and shall be postmarked at least thirty (30) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- (b) A copy of all approved amendments and subdivision/plats, and final decisions granting variances or conditional uses under local shoreland management controls shall be sent to the commissioner or the commissioner's designated representative and shall be postmarked within ten (10) days of final action. When a variance is approved after the department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
- (c) Any request to change the shoreland management classification of public waters within the city must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data as required by Minnesota Rules, part 6120.3000, subp. 4.
- (d) Any request to reduce the boundaries of shorelands of public waters within the city must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.
- (e) Mandatory EAW. An environmental assessment worksheet consistent with Minnesota Rules, chapter 4410, must be prepared for projects meeting the thresholds of Minnesota Rules part 4410.4300, subparts 19a, 20a, 25, 27, 28, 29 and 36a.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-334. - Shoreland classification system.

- (a) Purpose. To ensure that shoreland development on the public waters of the city is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300, the public waters listed below have been classified consistent with the criteria found in Minnesota Rules and the protected waters inventory map for Washington County, Minnesota.
- (b) The shoreland area for the waterbody listed in subsection (c) of this section shall be as defined in this division and as shown on the official zoning map.
- (c) Lakes in the city are classified as follows:

<i>Natural Environment Lake</i>	<i>DNR Public Waters I.D. Number</i>

Ria Lake	82-98
<i>Recreational Development Lake</i>	
La Lake	82-97

~~(d) Rivers in the city are classified as follows~~

Urban River	DNR Public Waters I.D. Number
Mississippi River	19-5

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-335. - Land uses.

- (a) Purpose. To identify land uses compatible with the protection and preservation of shoreland resources in order to conserve the economic and environmental values of shoreland and sustain water quality.
- (b) Shoreland district land uses listed on the tables below are regulated as:
 - (1) *Permitted uses (P)*. These uses are allowed, provided all standards in this ordinance are followed.
 - (2) *Conditional uses (C)*. These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in this division and the Zoning Ordinance.
 - (3) *Not permitted uses (N)*. These uses are prohibited.
- (c) Land uses for lake classifications:

Land Uses	Recreational Development Lakes	Natural Environment Lakes
Single residential	P	P
Duplex, triplex, quad residential	P	C
Residential PUD	C	C

Water-dependent commercial—As accessory to a residential planned unit development	C	C
Commercial (P or C depending on type of use and the underlying zoning district requirements)	P/C	C
Commercial PUD—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 10.0 of this ordinance are satisfied.	C	C
Parks and historic sites	C	C
Public, semipublic	P	C
Industrial	C	N
Agricultural: cropland and pasture	P	P

(d) ~~Land uses for river classifications:~~

Land uses	Urban
Single family residential	P
Duplex, triplex, quad residential	C
Residential PUD	C
Water-dependent commercial—As accessory to a residential PUD	C
Mixed residential and commercial	C
Commercial	C
Public, semi-public	C
Parks, historic sites	C

Industrial storage	€
General business	€
Light industrial	€

P = Permitted; C = by Conditional use permit; N = Not permitted

(e) Special land use provisions for commercial, industrial and semipublic use standards.

- (1) Water-dependent uses may be located on parcels or lots with frontage on public waters provided that:
 - a. The use complies with section 36-340;
 - b. The use is designed to incorporate topographic and vegetative screening of parking areas and structures;
 - c. 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; and
 - d. Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:
 1. Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff;
 2. Signs placed within the shore impact zone are no higher than ten feet above the ground, and not greater than thirty-two (32) square feet in size; and if illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and
 3. Other lighting may be located within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination across public waters. This does not preclude use of navigational lights.
- (2) Commercial, industrial, public, and semi-public uses that are not water-dependent 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 ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(f) *Agriculture 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 perennial 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 natural resource conservation service, as provided by a qualified individual or agency.
- (2) The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the ordinary high-water level.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-336. - Dimensional and general performance standards.

- (a) *Purpose.* To establish dimensional and performance standards that protect shoreland resources from impacts of development.
- (b) *Lot area and width standards.* After the effective date of this ordinance, all new lots must meet the minimum lot area and lot width requirements in (c) below, subject to the following standards:
- (1) Only lands above the ordinary high-water level can be used to meet lot area and width standards; and
 - (2) Lot width standards must be met at both the ordinary high-water level and at the building line; and
 - (3) The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property; and
 - (4) Residential subdivisions with dwelling unit densities exceeding those identified in this section are allowed only if designed and approved as residential PUDs under section 36-346 of this ordinance.

(c) *Lake minimum lot area and width standards:*

Recreational Development Lakes —No Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490
Other Uses	2 AC	150	2 AC	150

Recreational Development Lakes —Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)

Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245
Other uses	1 AC	160	1 AC	160

Natural Environment Lakes —No Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
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
Other uses	2 AC	160	2 AC	160

Natural Environment Lakes —Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
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
Other uses	1 AC	150	1 AC	150

~~(d) River/stream minimum lot width standards.~~

	Urban and Tributary	
	No Sewer	Sewer
Single	100	75
Duplex	150	115
Triplex	200	150
Quad	250	190

-

(e) *Special residential lot provisions*

- (1) Subdivisions of duplexes, triplexes, and quads are conditional uses on natural environment lakes, and must also meet the following standards:
 - a. Each building must be set back at least two hundred (200) feet from the ordinary high water level;
 - b. The development must be served by municipal sewer and water services;
 - c. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
 - d. No more than twenty-five (25) percent of a lake's shoreline can be in duplex, triplex, or quad developments.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-337. - Additional requirements.

- (a) Controlled access lots are permissible if created at the time of and as part of a subdivision and in compliance with the following standards:
- (1) The lot must meet the area and width requirements for residential lots and be suitable for the intended uses of controlled access lots as provided in item (5).
 - (2) If docking, mooring, or over-water storage of more than six 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 a percentage 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 percent increase in frontage
Less than 100	25%
100—200	20%
201—300	15%
301—400	10%
Greater than 400	5%

- (3) The lots must be jointly owned by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.
- (4) Covenants or other equally effective legal instruments must be developed that:
 - a. Specify which lot owners have authority to use the access lot.
 - b. Identify what activities are allowed. The allowed activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking.
 - c. Limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water.
 - d. Require centralization of all common facilities and activities in the most suitable locations on the lot, to minimize topographic and vegetation alterations.
 - e. 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.
- (b) One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in section 36-336 provided the following standards are met:
 - (1) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within an area equal to the smallest duplex-sized lot that could be created including the principal dwelling unit.

- (2) A guest cottage must not cover more than seven hundred (700) square feet of land surface and must not exceed fifteen (15) feet in height.
- (3) A guest cottage must 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.

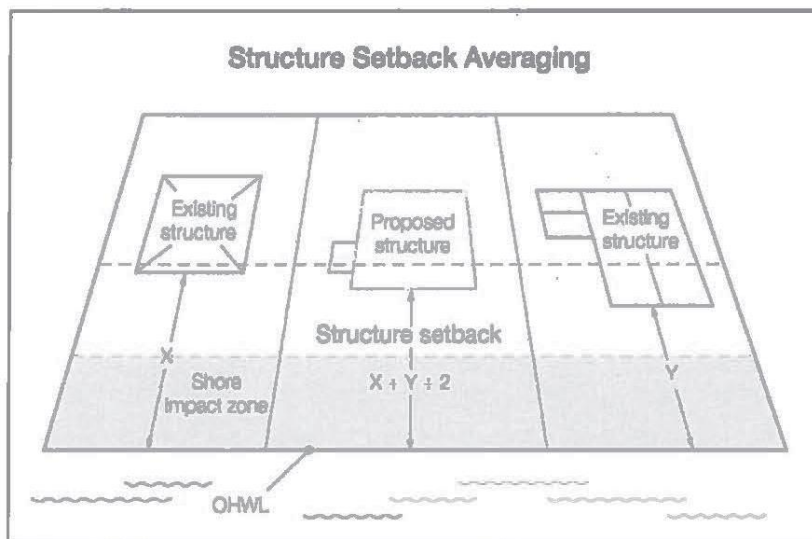
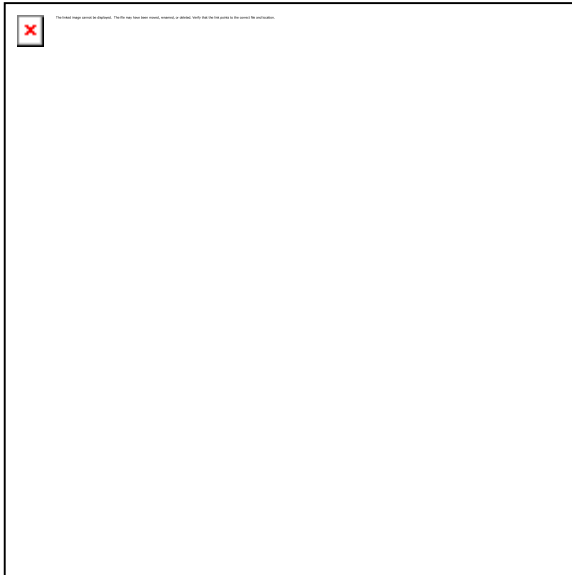
(Ord. No. 2017-9, 12-21-2017)

Sec. 36-338. - Placement, design and height of structures.

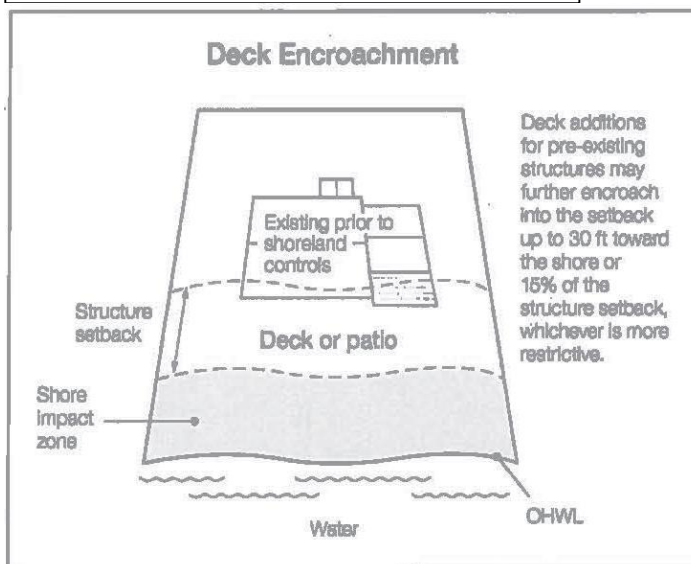
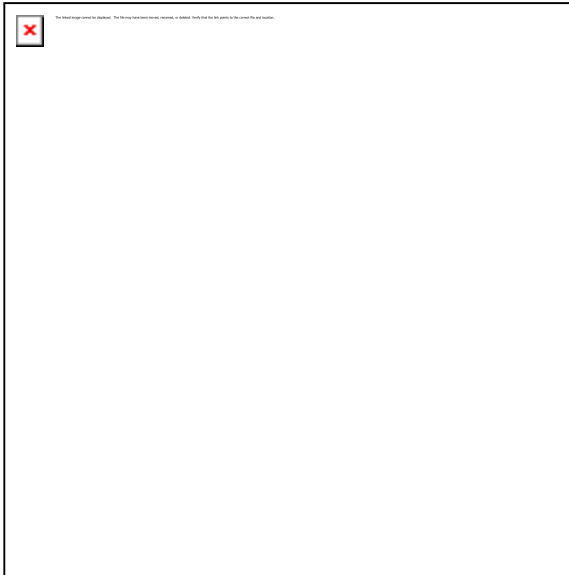
- (a) *Placement of structures and sewage treatment systems on lots.* When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following provisions:
 - (1) *OHWL setbacks.* Structures, impervious surfaces, and sewage treatment systems must meet the required setbacks from the ordinary high-water level (OHWL), except that one water-oriented accessory structure or facility, designed in accordance with item 36-337 of this ordinance, may be set back a minimum distance of ten feet from the OHWL.

OHWL Setback Requirements			
Classification	Structures		Sewage Treatment System
	No Sewer	Sewer	
Lakes			
Natural Environment	150	150	150
Recreational Development	100	75	75
Rivers and Streams			
Urban and Tributary	100	50	75

- (2) *Setback averaging.* 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 OHWL provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.



- (3) *Setbacks of decks.* Deck additions may be allowed without a variance to a structure not meeting the required setback from the OHWL if all of the following criteria are met:
- The structure existed on the date that the structure setbacks were established.
 - A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing OHWL setback of the structure.
 - The deck encroachment toward the OHWL does not exceed fifteen (15) percent of the existing setback of the structure from the OHWL or is no closer than thirty (30) feet from the OHWL, whichever is more restrictive.
 - The deck is constructed primarily of wood and is not roofed or screened.



- (4) *Additional structure setbacks.* Structures must also meet the following setbacks regardless of the water body classification apply as follows:

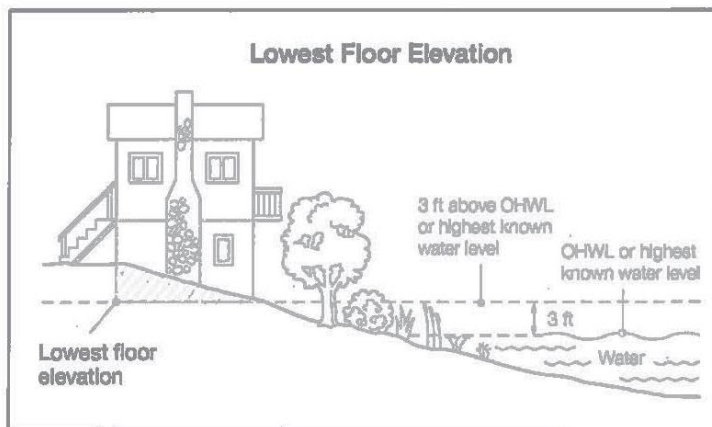
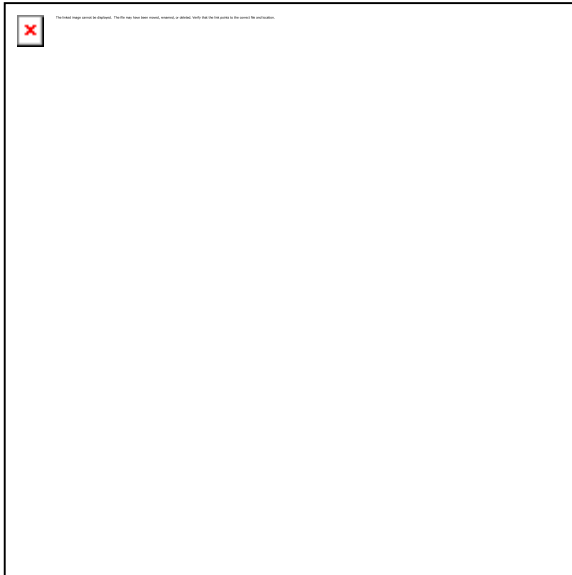
Setback from:	Setback (ft)
Top of bluff	30
Unplatted cemetery or historic site	50
Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, public street, or other roads not classified	20

- (5) *Bluff impact zones.* All structures impervious surfaces, and accessory facilities, except stairway and landings, shall not be placed within bluff impact zones.
- (6) *Minimum floor elevation above flood of record.* The minimum floor elevation above the flood elevation shall be three feet where floodplain controls do not exist.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-339. - Design criteria for structures.

- (a) *Height of structures.* All structures in residential districts, except churches and agricultural structures must not exceed twenty-five (25) feet in height. The maximum height of commercial and industrial structures shall be regulated by the district standards in the Zoning Ordinance.
- (b) *Lowest floor elevation.* 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 must 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 OHWL, whichever is higher;
 - ~~(2) For rivers and streams, by placing the lowest floor at least three feet above the highest known flood elevation. 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 must be used for placing structures and other facilities; and~~
 - (3) If the structure is floodproofed instead of elevated under items (a) ~~and (b)~~ above, then it must be floodproofed in accordance with Minnesota Rules, part 6120.5900 subp. 3(D).



(c) *Water supply and sewage treatment.*

- (1) Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the state department of health and state pollution control agency.
- (2) Any premises used for human occupancy must be connected to a publicly-owned sewer system, where available, or comply with the Washington County SSTS Ordinance and Minnesota Rules (Ordinance 196) and Minnesota Rules, chapters 7080-7081.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-340. - Performance standards for public and private facilities.

- (a) *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the value of the site unless adequate information about the site has been removed and documented in a public depository.
- (b) *Placement and design of roads, driveways and parking areas.* Public and private roads and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from the public waters and comply with the following standards:
 - (1) 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 alternative exist, they may be placed within these areas, and must be designed to minimize adverse impacts;

- (2) 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 division are met.
 - (3) Private facilities must comply with the grading and filling provisions of this ordinance.
 - (4) For public roads, driveways, and parking areas, documentation shall be provided by the city engineer that they 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 technical materials.
- (c) *Stairways, lifts and landings.* Stairways and lifts shall be the preferred alternative to major topographical 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 (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments.
 - (2) Landings for stairways and lifts on residential lots shall not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public recreational uses, 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.
 - (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 this section are complied with, in addition to Minnesota Rules Chapter 1341.
- (d) *Water-oriented accessory structures or facilities.* Each lot may have one water-oriented accessory structure or facility if it complies with the following provisions:
- (1) The water-oriented accessory structure or facility shall not exceed ten feet in height, exclusive of safety rails, and shall not occupy an area greater than two hundred and fifty (250) square feet. The structure or facility may include patios or detached decks not exceeding eight (8) feet above grade at any point.
 - (2) The structure or facility shall not be located in the bluff impact zone.
 - (3) The setback of structure or facility from the ordinary high-water level shall be at least ten feet.
 - (4) The structure is not a boathouse or boat storage structure as defined under M.S.A, section 103G.245.
 - (5) The structure or facility shall be treated to reduce visibility as viewed from the river and adjacent shorelands by vegetation, topography, increased setbacks, or color, assuming summer leaf-on conditions.
 - (6) The roof of the structure or facility may be used as a deck with safety rails but shall not be enclosed or used as a storage area.
 - (7) The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewer treatment facilities.

~~(8) In a general use zone as an alternative for general development and recreational development along the river, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area of up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.~~

- (9) Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in this ordinance 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.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-341. - Vegetation and land alterations.

- (a) *Purpose.* Alterations of vegetation and topography shall be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, sustain water quality, and protect fish and wildlife habitat.
- (b) *Vegetation management.* Removal or alteration of vegetation shall comply with the provisions of this subsection except for:
- (1) Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for those facilities.
 - (2) The construction of public roads and parking areas if consistent with this ordinance.
 - (3) Agricultural uses consistent with this ordinance.
- (c) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is prohibited. Intensive clearing outside of these areas is allowed if consistent with the forest management standards of this ordinance.
- (d) Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes is allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
- (1) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions shall not be substantially reduced.
 - ~~(2) Existing shading of water surfaces along rivers shall be preserved.~~
 - (3) Cutting debris or slash shall be scattered and not mounded on the ground.
 - (4) Perennial ground cover is retained.
- (e) Removal of trees, limbs, or branches that are dead, diseased, dying or pose safety hazards is allowed.
- (f) Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-342. - Grading and filling.

Grading and filling activities must comply with the provisions of this subsection, except for the construction of public roads and parking areas if consistent with section 36-340 of this ordinance.

- (1) Grading, filling, and excavations necessary for the construction of structures and sewage treatment systems, if part of an approved permit, shall not require a separate grading and filling permit; however, the grading and filling standards in this section shall be incorporated into the issuance of permits.
- (2) For all other work, a grading and filling permit shall be required for:
 - a. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - b. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
- (3) Grading, filling and excavation activities must meet the following standards:
 - a. Grading or filling of any wetland shall meet or exceed the wetland protection standards under Minnesota Rules, chapter 8420, and any other permits, reviews, or approvals by other local, state, or federal agencies such as watershed districts, the DNR, or U.S. Army Corps of Engineers.
 - b. Land alterations shall be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:
 1. Limiting the amount and time of bare ground exposure.
 2. Using temporary ground covers such as mulches or similar materials.
 3. Establishing permanent vegetation cover as soon as possible.
 4. Using sediment traps, vegetative buffer strips, or other appropriate techniques.
 5. Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district.
 6. Not placing fill or excavated material in a manner that creates unstable slopes. 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.
 7. Fill or excavated material shall not be placed in a manner that creates an unstable slope.
 8. Any alterations below the ordinary high water level of public waters shall first be authorized by the Commissioner under M.S.A section 103G.
 9. Alterations of topography shall only be allowed if they are accessory to permitted or conditional uses and shall not adversely affect adjacent or nearby properties.
 10. Placement of natural rock riprap, including associated grading of the shorelines and placement of a filter blanket, shall be permitted if the finished slope shall not exceed three (3) feet horizontal to one foot vertical; the landward extent of the riprap shall be within ten (10) feet of the ordinary high water level; and the height of the riprap above the ordinary high water level shall not exceed three (3) feet.
- (4) Connections to public waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, chapter 6115.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-343. - Stormwater management.

(a) *General standards.*

- (1) Stormwater management shall meet the requirements of the city's Stormwater Ordinance and the rules and standards of the South Washington Watershed District, including wetland protection and buffer requirements.
 - (2) When possible, existing natural drainageways and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to ~~the river~~ public waters.
 - (3) Development shall be planned and conducted in a manner that shall 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.
 - (4) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds, and infiltration may be used. Preference shall be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.
- (b) *Specific standards.*
- (1) Impervious surface coverage of lots shall not exceed twenty-five (25) percent of the lot area above the OHWL.
 - (2) 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 district or the Minnesota Stormwater Manual, as applicable.
 - (3) New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-344. - Special provisions for water-oriented commercial uses.

- (a) *Standards for water-oriented commercial uses.* Existing surface water-oriented industrial, light industrial, industrial storage, public and semipublic uses with similar needs have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those existing 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) Existing 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.
 - (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 standards:
 - (4) No advertising signs or supporting facilities for signs may be placed in or upon public waters.
 - (5) 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 Washington ~~or Dakota~~ County Sheriff.
 - (6) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey the location and name of the establishment. The signs shall not contain other detailed information such as product and prices, shall not be located higher than ten feet above the ground, and shall not exceed thirty-two (32) square feet in size. If

illuminated by artificial lights, the lights shall be shielded or directed to prevent illumination out across ~~the river~~public waters.

- (7) Other outside lighting may be located within the shore impact zone ~~or over the river~~ 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 the use of navigational lights.
- (b) Uses without water-oriented needs shall be located on lots or parcels without ~~river~~public waters frontage, or, if located on lots or parcels with ~~river~~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.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-345. - Subdivision/platting provisions.

- (a) *Purpose.* To ensure that new development minimizes impacts to shoreland resources and is safe and functional.
- (b) *Land suitability.* Each lot created through subdivision, including Planned Unit Developments authorized under this section, shall be suitable in its natural state for the proposed use with minimum alteration. A suitability analysis shall be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
- (c) *Consistency with other controls.* Subdivisions and each lot in the subdivision shall conform to all official controls of the city Subdivision Ordinance. 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.
- (d) *Water and sewer design standards.*
 - (1) A potable water supply and a sewage treatment system consistent with Minnesota Rules, chapters 7080-7081 must be provided for every lot.
 - (2) Each lot that uses a subsurface septic treatment system (SSTS) must comply with Washington County SSTS Ordinance 196 and Minnesota Rules chapter 7080.
 - (3) Lots that would require the use of holding tanks are prohibited.
- (e) *Information requirements.* Sufficient information shall be submitted by the applicant for the city to make a determination of land suitability. The information shall include all of the information required by the Subdivision Ordinance (chapter 28 of the City Code) and the following:
 - (1) Topographical contours at two-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics.
 - (2) The surface water features required in M.S.A section 505.02, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources.
 - (3) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation test, or other methods.
 - (4) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and propose methods for controlling stormwater runoff and erosion, both during and after construction activities.
 - (5) Location of 100-year floodplain areas and floodway districts from existing adopted maps or data.

- (6) 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 river.
- (f) *Dedications.* When a land or easement dedication is a condition of subdivision approval, the approval shall provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- (g) *Platting.* All subdivisions shall be processed as a plat in accordance with M.S.A. 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.
- (h) *Control access or recreational lots.* Controlled access lots within a subdivision shall meet or exceed the sizing criteria of this section.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-346. - Planned unit developments (PUDs).

- (a) *Purpose.* To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.
- (b) *Types of PUDs permissible.* Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of section 36-336 of this ordinance is allowed if the standards in this section are met. However, in no circumstances shall densities greater than those determined in this section (36-346) be allowed.
- (c) *Processing of PUDs.* Planned unit developments must be processed as a conditional use and in compliance with the city's Zoning Ordinance, including chapter 35, article VI. An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance 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 section 10.5. Approval cannot occur until all applicable environmental reviews are complete.
- (d) *Application for a PUD.* The application for a PUD shall follow the procedures and submittal requirements of chapter 35, article VI of the Zoning Ordinance, and shall also include:
 - (1) *Property owners association.* A property owners association agreement shall be created for residential PUDs with mandatory membership and consistent with this ordinance.
 - (2) *Deed restrictions, covenants, permanent easements, etc., for open space.* PUDs shall include deed restrictions, covenants, permanent easements, or other instruments that:
 - a. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
 - b. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in section 35-346(g) of this ordinance.
- (e) *Density determination.* Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.
 - (1) Identify density analysis tiers. Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high-water level at the following intervals, proceeding landward:

Classification	Tier Depth	
	No Sewer (ft)	Sewer (ft)

Recreational Development Lakes	267	267
Natural Environment Lakes	400	320
All Rivers/Streams	300	300

- (2) Calculate suitable area for development. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high-water level of public waters.
- (3) Determine base density:
 - a. For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. ~~For rivers, if a minimum lot area is not specified, divide the tier width by the minimum single residential lot width.~~
 - b. For commercial PUDs:
 1. Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.
 - i. For dwelling units, determine the average inside living floor area of dwelling units in each tier. Do not include decks, patios, garages, porches, or basements unless they are habitable space.
 - ii. For dwelling sites (campgrounds), determine the area of each dwelling site as follows:
 - (A) For manufactured homes, use the area of the manufactured home, if known, otherwise use one thousand (1,000) square feet.
 - (B) For recreational vehicles, campers or tents, use four hundred (400) square feet.
 2. Select the appropriate floor area/dwelling site area ratio from the following table for the floor area or dwelling site area determined in the section above.

Inside Living Floor Area or Dwelling Site Area (sf)	Floor Area/Dwelling Site Area Ratio		
	Agricultural, Urban and Tributary Rivers	Recreational Development Lakes	Natural Environment Lakes
≤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

3. Multiply the suitable area within each tier determined in section 36-346(e)(2) by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.
 4. Divide the total floor area or dwelling site area for each tier calculated in section 36-346(e)(3)b.2. by the average inside living floor area for dwelling units or dwelling site area determined in 36-346(e)(3)b.3. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.
- c. Allowable densities may be transferred from any tier to any other tier further from the waterbody but must not be transferred to any tier closer to the waterbody.
 - d. All PUDs with densities at or below the base density must meet the design standards in this ordinance.
- (4) Determine if the site can accommodate increased density:
- a. The following increases to the dwelling unit or dwelling site base densities determined section 36-346(e) are allowed if the design criteria in section 36-346(f) of this ordinance are satisfied as well as the standards in the following table:

Shoreland Tier	Maximum density increase within each tier (percent)
1 st	50

2 nd	100
3 rd	200
4 th	200
5 th	200

b. Structure setbacks from the ordinary high-water level:

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

(f) *Design criteria.* All PUDs must meet the following design criteria.

(1) General design standards.

- a. All residential planned unit developments must contain at least five dwelling units or sites.
- b. Municipal sewer and water services must be available and utilized.
- c. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.
- d. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in sections 36-336(c) and 36-336(d).
- e. Shore recreation facilities:
 1. Must be centralized and located in areas suitable for them based on a suitability analysis.
 2. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).
 3. 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.
- f. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
- g. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.
- h. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in section 7.3 of this ordinance and are centralized.

(g) *Open space requirements.* Open space must constitute at least fifty (50) percent of the total project area and must include:

- (1) Areas with physical characteristics unsuitable for development in their natural state.
 - (2) Areas containing significant historic sites or unplatted cemeteries.
 - (3) Portions of the shore impact zone preserved in its natural or existing state as follows:
 - a. For existing residential PUD's, at least fifty (50) percent of the shore impact zone.
 - b. For new residential PUDs, at least seventy (70) percent of the shore impact zone.
 - c. For all commercial PUD's, at least fifty (50) percent of the shore impact zone.
 - (4) Open space may include:
 - a. 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.
 - b. Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
 - c. Non-public-water wetlands.
 - (5) Open space shall not include:
 - a. Dwelling units or sites and residential lots; road rights-of-way, or land covered by road surfaces; parking areas, or structures, except water-oriented accessory structures or facilities.
 - b. Commercial facilities or uses.
 - c. Land below the OHWL of public waters.
- (i) *Open Space Maintenance and Administration Requirements.*
- (1) Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means.

The instruments must prohibit:

 - a. Commercial uses (for residential PUD's);
 - b. Vegetation and topographic alterations other than routine maintenance;
 - c. Construction of additional buildings or storage of vehicles and other materials; and
 - d. Uncontrolled beaching of watercraft.
 - (2) Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners' association with the following features:
 - a. Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;
 - b. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling 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.
- (i) *Erosion Control and Stormwater Management.*
- (1) Erosion control plans must be developed and must be consistent with the city's Stormwater Management Ordinance and Watershed District requirements.

- (2) Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff to meet federal, state, and local requirements. For commercial PUDs, impervious surfaces within any tier must not exceed twenty-five (25) percent of the tier area.

(Ord. No. 2017-9, 12-21-2017)

City of Newport, MN
Ordinance No. 2021-06
An Ordinance Amending
Chapter 36- Zoning, Division 2- Shoreland Management

DIVISION 2.- SHORELAND MANAGEMENT DISTRICT

Footnotes:

--- (1) ---

Editor's note— Ord. No. 2017-9, adopted Dec. 21, 2017, repealed the former div. 2, §§ 36-328—36-351, and enacted a new div. 2 as set out herein. The former div. 2 pertained to similar subject matter and derived from the 1997 Code.

Sec. 36-328. - Statutory authorization and policy.

- (a) *Statutory authorization.* This shoreland ordinance is adopted pursuant to the authorization and policies contained in M.S.A, chapter 103F, Minnesota Regulations 6120.2500—6120.3900, and the planning and zoning enabling legislation in M.S.A, chapter 462.
- (b) *Policy.* The uncontrolled use of shoreland in the city 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 state legislature 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 recognized by the city.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-329. - General provisions.

- (a) *Interpretation.* In their interpretation and application, the provisions of this division 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.
- (b) *Jurisdiction.* The provisions of this division shall apply to the shorelands of the public water bodies as classified in this division and illustrated on the official zoning map. Pursuant to Minnesota Regulations, parts 6120.2500 and 6120.3900, no lake, pond, or flowage less than ten acres in size in municipalities, or twenty-five (25) acres in size in unincorporated areas, need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the city council, be exempt from this division.

The Mississippi River and adjacent river corridor lands are designated and classified as a "Critical Area" by the State of Minnesota and are regulated by provisions of the Mississippi River Corridor Critical Area Overlay District, Division 3 of this code, and any other applicable provisions, whichever is more restrictive.

- (c) *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 division and other applicable regulations.
- (d) *Enforcement.* The zoning administrator shall be responsible for the administration and enforcement of this division. Any violation of the provisions of this division 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 division can occur regardless of whether or not a permit is required for a regulated activity pursuant to this chapter.

- (e) *Severability.* If any section, clause, provision, or portion of this division is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
- (f) *Abrogation and greater restrictions.* It shall not be intended by this division to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this division imposes greater restrictions, the provisions of this division shall prevail. All other divisions or sections of the Zoning Ordinance that are inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

(Ord. No. 2017-9, 12-21-2017)

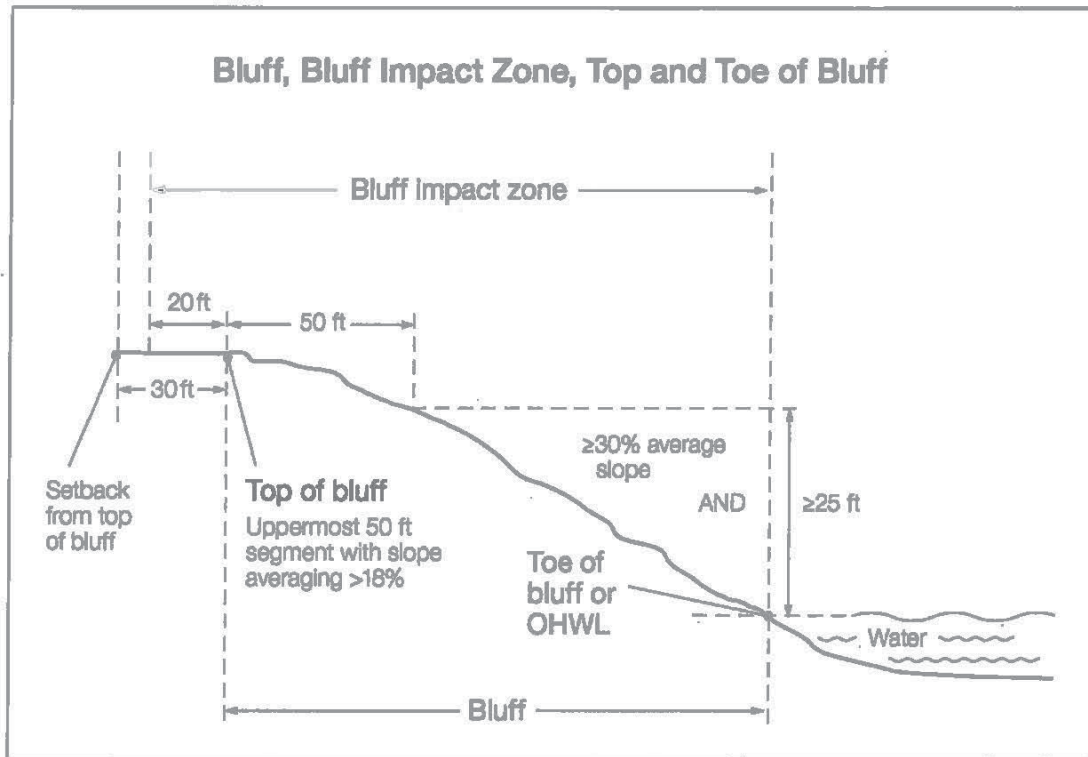
Sec. 36-330. - Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning: Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the same meaning they have in common usage and to give this ordinance its most reasonable application. For the purpose of this ordinance, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.

Accessory structure or facility: Any building or improvement subordinate to a principal structure or facility on the same lot as a principal building, or part of the principal building, exclusively occupied by or devoted to a use incidental to the main use of the property.

Bluff: A topographic feature such as a hill, cliff, or embankment having the following characteristics:

- (1) Part or all of the feature is located in a shoreland area;
- (2) The slope rises at least twenty-five (25) feet above the toe of bluff;
- (3) The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the toe of the bluff averages thirty (30) percent or greater, except that an area with an average slope of less than eighteen (18) percent over a distance of at least fifty (50) feet shall not be considered part of the bluff; and
- (4) The slope must drain toward the water body.



Bluff impact zone: A bluff and land located within twenty (20) feet of the top of a bluff.

Bluff, toe of: The lower point of a fifty (50)-foot segment with an average slope exceeding eighteen (18) percent or the ordinary high-water level, whichever is higher.

Bluff, top of: For the purposes of measuring setbacks, the higher point of a fifty (50)-foot segment with an average slope exceeding eighteen (18) percent.

Boathouse: A facility as defined by M.S.A section 103G.245.

Buffer: A vegetative feature as defined by M.S.A, section 103F.48.

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.

Controlled access lot: A lot used to access public waters or as a recreation area for owners of nonriparian lots within the same subdivision containing the controlled access lot.

Commercial planned unit developments: Developments 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.

Conditional use: A permitted use which may be appropriate in a given zoning district but which requires special planning considerations in each instance, and which shall only be allowed in a specific location under conditions specified by the Zoning Ordinance and by the city council.

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, attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

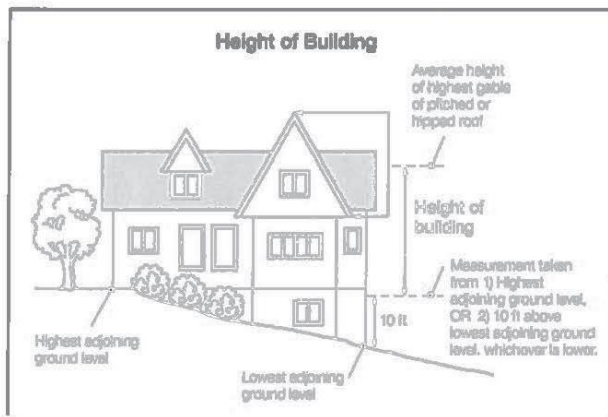
Dwelling site: A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Dwelling unit: Any structure or portion of a structure, or other shelter designed and used exclusively for residential purposes for the occupancy of one or more persons.

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 M.S.A, sections 93.44 to 93.51.

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.

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

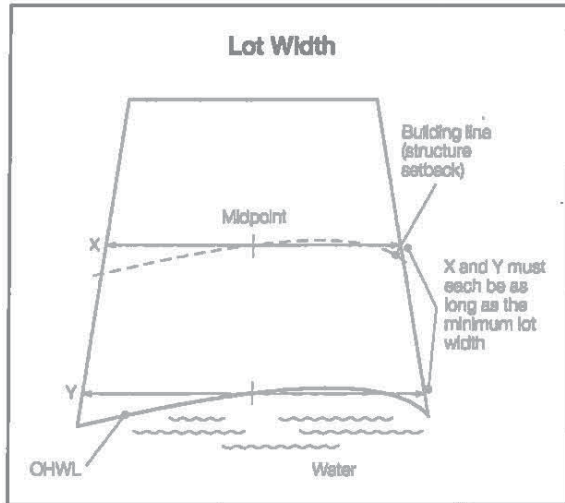


Impervious surface: A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, or gravel driveways; and other similar surfaces.

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, development, lease, transfer of ownership, or separation.



Lot width: The minimum horizontal distance between:

- (1) Side lot lines measured at right angles to the lot depth at the established front building setback line; and
- (2) Side lot lines at the ordinary high-water level, if applicable.

Nonconformity: Any legal use, structure, or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments to those controls that would not have been permitted to become established under the terms of the official controls as now written.

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.

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, that may involve 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, dwelling grounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

Public waters: Any water as defined in M.S.A, section 103G.005, subd. 15 and 15a.

Residential planned unit development: A type of development characterized by unified site design that may include a mixture of residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

Resort: "Resort" has the meaning in M.S.A, section 103F.227.

Semipublic use: The use of land by a private or private nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization. This use may include denominational cemeteries, private schools, clubs, lodges, recreational facilities, and churches.

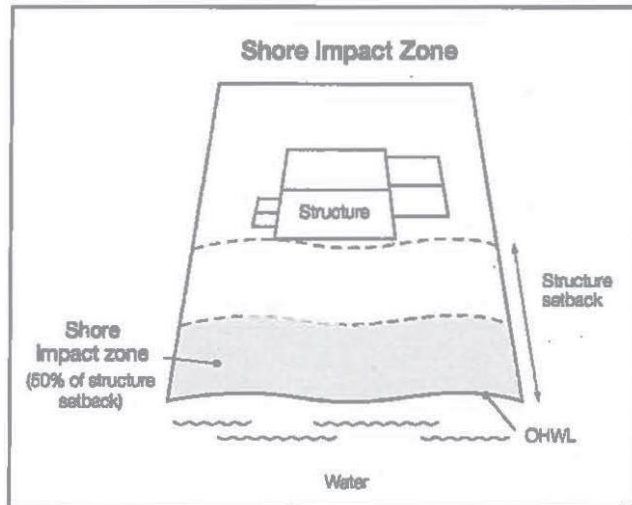
Setback or setback line: The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high-water level, sewage treatment system, top of a bluff, roadway,

roadway right-of-way or easement, property line, or other facility as defined by the regulations of this division or the Zoning Ordinance.

Sewage treatment system: "Sewage treatment system" has the meaning given under Minnesota Rules, part 7080.1100, subpart 82.

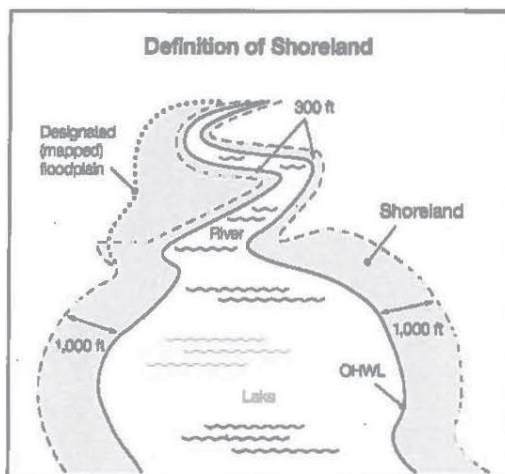
Sewer system, municipal: Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

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: "Shoreland" means land located within the following distances from public waters:

- (1) 1,000 feet from the ordinary high-water level of a lake, pond, or flowage; and
- (2) 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.



Shore recreation facilities: Swimming areas, docks, watercraft mooring areas and launching ramps, and other water recreation facilities.

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 M.S.A, 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 state archaeologist or the director of the state historical society. All unplatted cemeteries are automatically considered to be significant historic sites.

Steep slope: Lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more, which are not bluffs.

Structure: anything constructed or erected that requires permanent location on the ground or attachment to something having a permanent location on the ground, including any building or appurtenance, decks, swimming pools, recreational courts, etc. Structures do not include aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and related supporting facilities.

Subdivision: (1) The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership, building or development; (2) Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

Suitability analysis: An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.

Variance: A modification or variation of the provisions of the Zoning Ordinance, as applied to a specific piece of property. "Variance" means the same as that defined in M.S.A, section 462.357 subd. 6 (2).

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 surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, saunas, patios, and detached decks. Boathouses and boat storage structures given the meaning under M.S.A, section 103G.245 are not a water-oriented accessory structures.

Water-dependent use: The use of land for commercial, industrial, public or semi-public purposes, where access to and use of a public water is an integral part of the normal conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of commercial uses typically found in shoreland areas.

Wetland: "Wetland" has the meaning given under Minnesota Rule, part 8420.0111.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-331. - Administration.

- (a) *Permits required.* A permit shall be required for the construction of buildings or building additions (and such related activities as construction of decks and signs) and those grading and filling activities not exempted by this division or other applicable Code provisions. An application for such a permit shall be made to the zoning administrator on forms provided by the city. The application shall include the necessary information so that the zoning administrator can determine the site's suitability for the intended use in the Shoreland District and compliance with Shoreland District regulations.
- (b) *Permit compliance.* The zoning administrator shall review each proposed activity requiring a permit within shoreland areas for compliance with the standards of this division. The permit approval shall specify that the use of land conforms to the requirements of this division. Any use, arrangement, or construction at variance with the action that was authorized by permit shall be deemed a violation of this division and shall be punishable as provided in this division.

- (c) *Application materials.* Applications for permits and other zoning applications such as variances shall be made to the zoning administrator on the forms provided by the city. The application shall include the required information so that the zoning administrator can evaluate whether the application complies with the requirements of this division.
- (d) *Variances.* Variances may only be granted in accordance with M.S.A, section 462.357 and with section 36-46 of the Zoning Ordinance, and are subject to the following:
 - (1) A variance may not circumvent the general purposes and intent of this division; and
 - (2) For properties with existing on-site sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules, chapter 7082.0700, subp. 3, is required for variance approval. An on-site sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high-water level.
- (e) *Conditional uses.* All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:
 - (1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction; and
 - (2) The visibility of structures and other facilities as viewed from public waters is limited; and
 - (3) There is adequate water supply and sewage treatment; and
 - (4) The types, uses, and numbers of watercraft that the development will generate are compatible in relation to the suitability of public waters to safely accommodate watercraft.
- (f) *Conditions for variances, conditional uses, and zoning and permit applications.* In evaluating applications for variances, conditional uses, and other zoning and permit applications, the city shall require the property owner to address the following conditions to address the potential impacts of the proposed action and to meet the purpose of this ordinance, to protect adjacent properties, and the public interest. The city may include conditions in the approval that shall be related and proportional to the potential impacts of the proposed development.
 - (1) Storm water runoff management and treatment and erosion and sediment control to meet the standards of the South Washington Watershed District and the city;
 - (2) Reducing impervious surfaces;
 - (3) Increasing setbacks from the ordinary high water level;
 - (4) Restoration of wetlands;
 - (5) Limiting vegetation removal and/or riparian vegetation restoration;
 - (6) Provisions from the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
 - (7) Other conditions the zoning authority deems necessary.
- (g) *Construction on steep slopes.* In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, the city may attach conditions to 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.
- (h) *Nonconformities.* All legally established nonconformities as of the date of this ordinance may continue, and will be managed according to M.S.A 462.357, subd. 1e and the Zoning Ordinance for alterations, repair after damage, discontinuation of use, and intensification of use. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this ordinance and the Zoning Ordinance. Any deviation from these requirements must be authorized by a variance.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-332. - Board of appeals and adjustments.

- (a) The board of appeals and adjustments shall hear and the City Council will decide requests for variances in accordance with the rules that it has adopted for the conduct of business.
- (b) When a variance is approved after the department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance required in section 36-333, shall also include the board of appeals and adjustment's and City Council's summaries of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-333. - Notification to the department of natural resources and environmental review.

- (a) Copies of all notices of any public hearings to consider variances, ordinance amendments, or conditional uses under local shoreland management controls shall be sent to the commissioner or the commissioner's designated representative and shall be postmarked at least thirty (30) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- (b) A copy of all approved amendments and subdivision/plats, and final decisions granting variances or conditional uses under local shoreland management controls shall be sent to the commissioner or the commissioner's designated representative and shall be postmarked within ten (10) days of final action. When a variance is approved after the department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
- (c) Any request to change the shoreland management classification of public waters within the city must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data as required by Minnesota Rules, part 6120.3000, subp. 4.
- (d) Any request to reduce the boundaries of shorelands of public waters within the city must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.
- (e) Mandatory EAW. An environmental assessment worksheet consistent with Minnesota Rules, chapter 4410, must be prepared for projects meeting the thresholds of Minnesota Rules part 4410.4300, subparts 19a, 20a, 25, 27, 28, 29 and 36a.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-334. - Shoreland classification system.

- (a) Purpose. To ensure that shoreland development on the public waters of the city is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300, the public waters listed below have been classified consistent with the criteria found in Minnesota Rules and the protected waters inventory map for Washington County, Minnesota.
- (b) The shoreland area for the waterbody listed in subsection (c) of this section shall be as defined in this division and as shown on the official zoning map.
- (c) Lakes in the city are classified as follows:

<i>Natural Environment Lake</i>	<i>DNR Public Waters I.D. Number</i>
Ria Lake	82-98
<i>Recreational Development Lake</i>	
La Lake	82-97

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-335. - Land uses.

- (a) Purpose. To identify land uses compatible with the protection and preservation of shoreland resources in order to conserve the economic and environmental values of shoreland and sustain water quality.
- (b) Shoreland district land uses listed on the tables below are regulated as:
- (1) *Permitted uses (P)*. These uses are allowed, provided all standards in this ordinance are followed.
 - (2) *Conditional uses (C)*. These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in this division and the Zoning Ordinance.
 - (3) *Not permitted uses (N)*. These uses are prohibited.
- (c) Land uses for lake classifications:

Land Uses	Recreational Development Lakes	Natural Environment Lakes
Single residential	P	P
Duplex, triplex, quad residential	P	C
Residential PUD	C	C
Water-dependent commercial—As accessory to a residential planned unit development	C	C
Commercial (P or C depending on type of use and the underlying zoning district requirements)	P/C	C
Commercial PUD—Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may	C	C

be allowed as a permitted use provided the provisions of section 10.0 of this ordinance are satisfied.		
Parks and historic sites	C	C
Public, semipublic	P	C
Industrial	C	N
Agricultural: cropland and pasture	P	P

P = Permitted; C = by Conditional use permit; N = Not permitted

(e) Special land use provisions for commercial, industrial and semipublic use standards.

- (1) Water-dependent uses may be located on parcels or lots with frontage on public waters provided that:
 - a. The use complies with section 36-340;
 - b. The use is designed to incorporate topographic and vegetative screening of parking areas and structures;
 - c. 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; and
 - d. Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:
 1. Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff;
 2. Signs placed within the shore impact zone are no higher than ten feet above the ground, and not greater than thirty-two (32) square feet in size; and if illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and
 3. Other lighting may be located within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination across public waters. This does not preclude use of navigational lights.
- (2) Commercial, industrial, public, and semi-public uses that are not water-dependent 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 ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(f) *Agriculture 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 perennial 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 natural resource conservation service, as provided by a qualified individual or agency.

- (2) The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the ordinary high-water level.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-336. - Dimensional and general performance standards.

- (a) *Purpose.* To establish dimensional and performance standards that protect shoreland resources from impacts of development.
- (b) *Lot area and width standards.* After the effective date of this ordinance, all new lots must meet the minimum lot area and lot width requirements in (c) below, subject to the following standards:
 - (1) Only lands above the ordinary high-water level can be used to meet lot area and width standards; and
 - (2) Lot width standards must be met at both the ordinary high-water level and at the building line; and
 - (3) The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property; and
 - (4) Residential subdivisions with dwelling unit densities exceeding those identified in this section are allowed only if designed and approved as residential PUDs under section 36-346 of this ordinance.
- (c) *Lake minimum lot area and width standards:*

Recreational Development Lakes—No Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490
Other Uses	2 AC	150	2 AC	150

Recreational Development Lakes—Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245
Other uses	1 AC	160	1 AC	160

Natural Environment Lakes—No Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
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
Other uses	2 AC	160	2 AC	160

Natural Environment Lakes—Sewer				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)

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
Other uses	1 AC	150	1 AC	150

(e) *Special residential lot provisions*

- (1) Subdivisions of duplexes, triplexes, and quads are conditional uses on natural environment lakes, and must also meet the following standards:
 - a. Each building must be set back at least two hundred (200) feet from the ordinary high water level;
 - b. The development must be served by municipal sewer and water services;
 - c. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
 - d. No more than twenty-five (25) percent of a lake's shoreline can be in duplex, triplex, or quad developments.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-337. - Additional requirements.

- (a) Controlled access lots are permissible if created at the time of and as part of a subdivision and in compliance with the following standards:
 - (1) The lot must meet the area and width requirements for residential lots and be suitable for the intended uses of controlled access lots as provided in item (5).
 - (2) If docking, mooring, or over-water storage of more than six 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 a percentage 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 percent increase in frontage
Less than 100	25%

100—200	20%
201—300	15%
301—400	10%
Greater than 400	5%

- (3) The lots must be jointly owned by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot.
- (4) Covenants or other equally effective legal instruments must be developed that:
 - a. Specify which lot owners have authority to use the access lot.
 - b. Identify what activities are allowed. The allowed activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking.
 - c. Limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water.
 - d. Require centralization of all common facilities and activities in the most suitable locations on the lot, to minimize topographic and vegetation alterations.
 - e. 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.
- (b) One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in section 36-336 provided the following standards are met:
 - (1) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within an area equal to the smallest duplex-sized lot that could be created including the principal dwelling unit.
 - (2) A guest cottage must not cover more than seven hundred (700) square feet of land surface and must not exceed fifteen (15) feet in height.
 - (3) A guest cottage must 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.

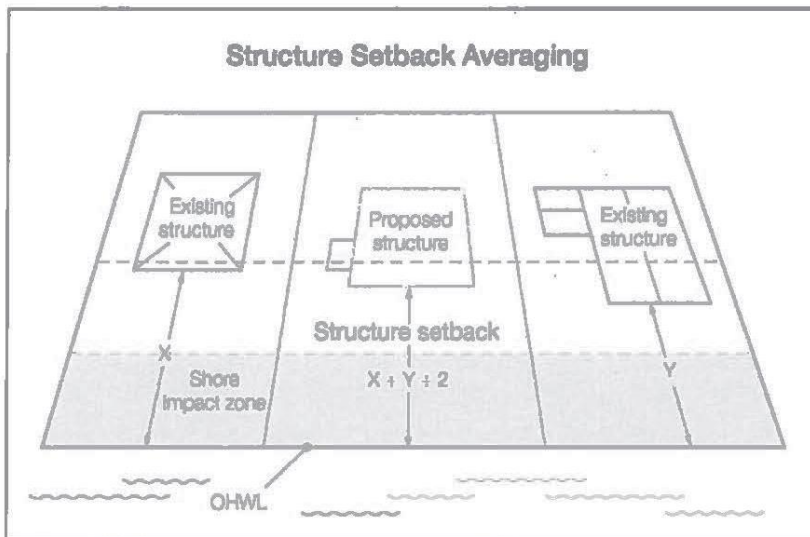
(Ord. No. 2017-9, 12-21-2017)

Sec. 36-338. - Placement, design and height of structures.

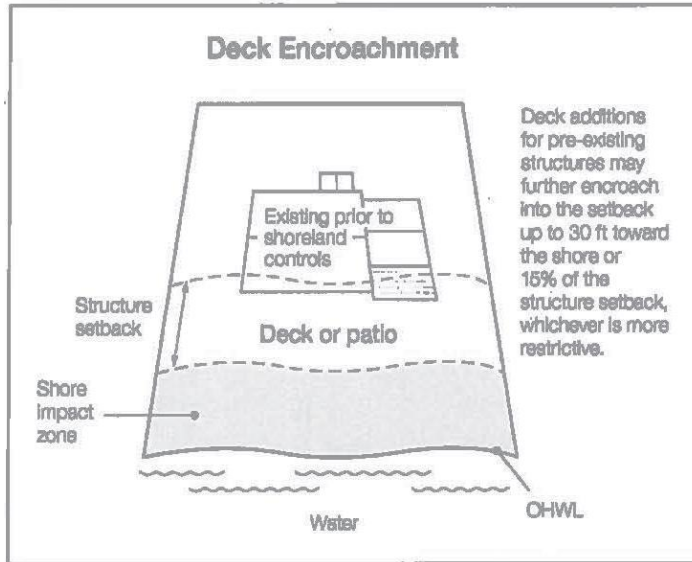
- (a) *Placement of structures and sewage treatment systems on lots.* When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following provisions:
 - (1) *OHWL setbacks.* Structures, impervious surfaces, and sewage treatment systems must meet the required setbacks from the ordinary high-water level (OHWL), except that one water-oriented accessory structure or facility, designed in accordance with item 36-337 of this ordinance, may be set back a minimum distance of ten feet from the OHWL.

OHWL Setback Requirements			
Classification	Structures		Sewage Treatment System
	No Sewer	Sewer	
Lakes			
Natural Environment	150	150	150
Recreational Development	100	75	75

- (2) *Setback averaging.* 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 OHWL provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.



- (3) *Setbacks of decks.* Deck additions may be allowed without a variance to a structure not meeting the required setback from the OHWL if all of the following criteria are met:
- The structure existed on the date that the structure setbacks were established.
 - A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing OHWL setback of the structure.
 - The deck encroachment toward the OHWL does not exceed fifteen (15) percent of the existing setback of the structure from the OHWL or is no closer than thirty (30) feet from the OHWL, whichever is more restrictive.
 - The deck is constructed primarily of wood and is not roofed or screened.



- (4) *Additional structure setbacks.* Structures must also meet the following setbacks regardless of the water body classification apply as follows:

Setback from:	Setback (ft)
Top of bluff	30
Unplatted cemetery or historic site	50
Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, public street, or other roads not classified	20

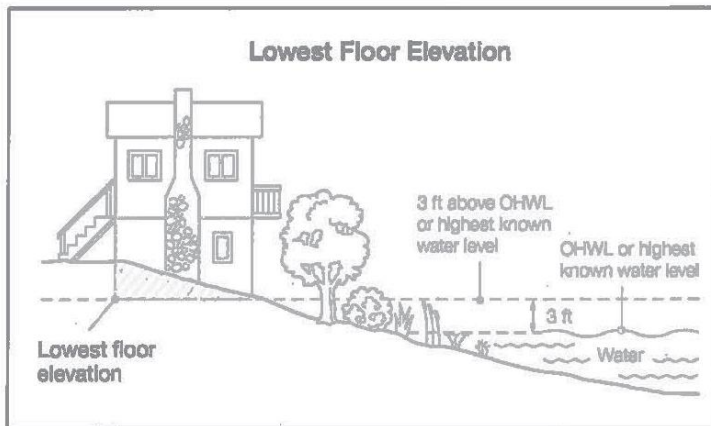
- (5) *Bluff impact zones.* All structures impervious surfaces, and accessory facilities, except stairway and landings, shall not be placed within bluff impact zones.
- (6) *Minimum floor elevation above flood of record.* The minimum floor elevation above the flood elevation shall be three feet where floodplain controls do not exist.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-339. - Design criteria for structures.

- (a) *Height of structures.* All structures in residential districts, except churches and agricultural structures must not exceed twenty-five (25) feet in height. The maximum height of commercial and industrial structures shall be regulated by the district standards in the Zoning Ordinance.
- (b) *Lowest floor elevation.* 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 must 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 OHWL, whichever is higher;
- (3) If the structure is floodproofed instead of elevated under item (a) above, then it must be floodproofed in accordance with Minnesota Rules, part 6120.5900 subp. 3(D).



(c) *Water supply and sewage treatment.*

- (1) Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the state department of health and state pollution control agency.
- (2) Any premises used for human occupancy must be connected to a publicly-owned sewer system, where available, or comply with the Washington County SSTS Ordinance and Minnesota Rules (Ordinance 196) and Minnesota Rules, chapters 7080-7081.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-340. - Performance standards for public and private facilities.

- (a) *Significant historic sites.* No structure may be placed on a significant historic site in a manner that affects the value of the site unless adequate information about the site has been removed and documented in a public depository.
- (b) *Placement and design of roads, driveways and parking areas.* Public and private roads and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from the public waters and comply with the following standards:
 - (1) 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 alternative exist, they may be placed within these areas, and must be designed to minimize adverse impacts;
 - (2) 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 division are met.
 - (3) Private facilities must comply with the grading and filling provisions of this ordinance.
 - (4) For public roads, driveways, and parking areas, documentation shall be provided by the city engineer that they 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 technical materials.

- (c) *Stairways, lifts and landings.* Stairways and lifts shall be the preferred alternative to major topographical 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 (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments.
 - (2) Landings for stairways and lifts on residential lots shall not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public recreational uses, 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.
 - (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 this section are complied with, in addition to Minnesota Rules Chapter 1341.
- (d) *Water-oriented accessory structures or facilities.* Each lot may have one water-oriented accessory structure or facility if it complies with the following provisions:
- (1) The water-oriented accessory structure or facility shall not exceed ten feet in height, exclusive of safety rails, and shall not occupy an area greater than two hundred and fifty (250) square feet. The structure or facility may include patios or detached decks not exceeding eight (8) feet above grade at any point.
 - (2) The structure or facility shall not be located in the bluff impact zone.
 - (3) The setback of structure or facility from the ordinary high-water level shall be at least ten feet.
 - (4) The structure is not a boathouse or boat storage structure as defined under M.S.A, section 103G.245.
 - (5) The structure or facility shall be treated to reduce visibility as viewed from the river and adjacent shorelands by vegetation, topography, increased setbacks, or color, assuming summer leaf-on conditions.
 - (6) The roof of the structure or facility may be used as a deck with safety rails but shall not be enclosed or used as a storage area.
 - (7) The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewer treatment facilities.
 - (9) Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in this ordinance 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.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-341. - Vegetation and land alterations.

- (a) *Purpose.* Alterations of vegetation and topography shall be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, sustain water quality, and protect fish and wildlife habitat.
- (b) *Vegetation management.* Removal or alteration of vegetation shall comply with the provisions of this subsection except for:
 - (1) Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for those facilities.
 - (2) The construction of public roads and parking areas if consistent with this ordinance.
 - (3) Agricultural uses consistent with this ordinance.
- (c) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is prohibited. Intensive clearing outside of these areas is allowed if consistent with the forest management standards of this ordinance.
- (d) Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes is allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - (1) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions shall not be substantially reduced.
 - (2) Cutting debris or slash shall be scattered and not mounded on the ground.
 - (3) Perennial ground cover is retained.
- (e) Removal of trees, limbs, or branches that are dead, diseased, dying or pose safety hazards is allowed.
- (f) Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-342. - Grading and filling.

Grading and filling activities must comply with the provisions of this subsection, except for the construction of public roads and parking areas if consistent with section 36-340 of this ordinance.

- (1) Grading, filling, and excavations necessary for the construction of structures and sewage treatment systems, if part of an approved permit, shall not require a separate grading and filling permit; however, the grading and filling standards in this section shall be incorporated into the issuance of permits.
- (2) For all other work, a grading and filling permit shall be required for:
 - a. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - b. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
- (3) Grading, filling and excavation activities must meet the following standards:
 - a. Grading or filling of any wetland shall meet or exceed the wetland protection standards under Minnesota Rules, chapter 8420, and any other permits, reviews, or approvals by other local, state, or federal agencies such as watershed districts, the DNR, or U.S. Army Corps of Engineers.

- b. Land alterations shall be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:
 1. Limiting the amount and time of bare ground exposure.
 2. Using temporary ground covers such as mulches or similar materials.
 3. Establishing permanent vegetation cover as soon as possible.
 4. Using sediment traps, vegetative buffer strips, or other appropriate techniques.
 5. Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district.
 6. Not placing fill or excavated material in a manner that creates unstable slopes. 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.
 7. Fill or excavated material shall not be placed in a manner that creates an unstable slope.
 8. Any alterations below the ordinary high water level of public waters shall first be authorized by the Commissioner under M.S.A section 103G.
 9. Alterations of topography shall only be allowed if they are accessory to permitted or conditional uses and shall not adversely affect adjacent or nearby properties.
 10. Placement of natural rock riprap, including associated grading of the shorelines and placement of a filter blanket, shall be permitted if the finished slope shall not exceed three (3) feet horizontal to one foot vertical; the landward extent of the riprap shall be within ten (10) feet of the ordinary high water level; and the height of the riprap above the ordinary high water level shall not exceed three (3) feet.
- (4) Connections to public waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, chapter 6115.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-343. - Stormwater management.

(a) General standards.

- (1) Stormwater management shall meet the requirements of the city's Stormwater Ordinance and the rules and standards of the South Washington Watershed District, including wetland protection and buffer requirements.
- (2) When possible, existing natural drainageways and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- (3) Development shall be planned and conducted in a manner that shall 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.
- (4) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds, and infiltration may be used. Preference shall be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

(b) *Specific standards.*

- (1) Impervious surface coverage of lots shall not exceed twenty-five (25) percent of the lot area above the OHWL.
- (2) 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 district or the Minnesota Stormwater Manual, as applicable.
- (3) New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-344. - Special provisions for water-oriented commercial uses.

- (a) *Standards for water-oriented commercial uses.* Existing surface water-oriented industrial, light industrial, industrial storage, public and semipublic uses with similar needs have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those existing 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) Existing 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.
 - (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 standards:
 - (4) No advertising signs or supporting facilities for signs may be placed in or upon public waters.
 - (5) 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 Washington County Sheriff.
 - (6) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey the location and name of the establishment. The signs shall not contain other detailed information such as product and prices, shall not be located higher than ten feet above the ground, and shall not exceed thirty-two (32) square feet in size. If illuminated by artificial lights, the lights shall be shielded or directed to prevent illumination out across public waters.
 - (7) Other outside lighting may be located within the shore impact zone 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 the 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, 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.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-345. - Subdivision/platting provisions.

- (a) *Purpose.* To ensure that new development minimizes impacts to shoreland resources and is safe and functional.
- (b) *Land suitability.* Each lot created through subdivision, including Planned Unit Developments authorized under this section, shall be suitable in its natural state for the proposed use with minimum alteration. A suitability analysis shall be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
- (c) *Consistency with other controls.* Subdivisions and each lot in the subdivision shall conform to all official controls of the city Subdivision Ordinance. 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.
- (d) *Water and sewer design standards.*
 - (1) A potable water supply and a sewage treatment system consistent with Minnesota Rules, chapters 7080-7081 must be provided for every lot.
 - (2) Each lot that uses a subsurface septic treatment system (SSTS) must comply with Washington County SSTS Ordinance 196 and Minnesota Rules chapter 7080.
 - (3) Lots that would require the use of holding tanks are prohibited.
- (e) *Information requirements.* Sufficient information shall be submitted by the applicant for the city to make a determination of land suitability. The information shall include all of the information required by the Subdivision Ordinance (chapter 28 of the City Code) and the following:
 - (1) Topographical contours at two-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics.
 - (2) The surface water features required in M.S.A section 505.02, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources.
 - (3) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation test, or other methods.
 - (4) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and propose methods for controlling stormwater runoff and erosion, both during and after construction activities.
 - (5) Location of 100-year floodplain areas and floodway districts from existing adopted maps or data.
 - (6) 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 river.
- (f) *Dedications.* When a land or easement dedication is a condition of subdivision approval, the approval shall provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- (g) *Platting.* All subdivisions shall be processed as a plat in accordance with M.S.A. 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.
- (h) *Control access or recreational lots.* Controlled access lots within a subdivision shall meet or exceed the sizing criteria of this section.

(Ord. No. 2017-9, 12-21-2017)

Sec. 36-346. - Planned unit developments (PUDs).

- (a) *Purpose.* To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.
- (b) *Types of PUDs permissible.* Planned unit developments (PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of section 36-336 of this ordinance is allowed if the standards in this section are met. However, in no circumstances shall densities greater than those determined in this section (36-346) be allowed.
- (c) *Processing of PUDs.* Planned unit developments must be processed as a conditional use and in compliance with the city's Zoning Ordinance, including chapter 35, article VI. An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance 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 section 10.5. Approval cannot occur until all applicable environmental reviews are complete.
- (d) *Application for a PUD.* The application for a PUD shall follow the procedures and submittal requirements of chapter 35, article VI of the Zoning Ordinance, and shall also include:
- (1) *Property owners association.* A property owners association agreement shall be created for residential PUDs with mandatory membership and consistent with this ordinance.
 - (2) *Deed restrictions, covenants, permanent easements, etc., for open space.* PUDs shall include deed restrictions, covenants, permanent easements, or other instruments that:
 - a. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
 - b. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in section 35-346(g) of this ordinance.
- (e) *Density determination.* Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.
- (1) Identify density analysis tiers. Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high-water level at the following intervals, proceeding landward:

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

(2) Calculate suitable area for development. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high-water level of public waters.

(3) Determine base density:

- a. For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier.

b. For commercial PUDs:

1. Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.
 - i. For dwelling units, determine the average inside living floor area of dwelling units in each tier. Do not include decks, patios, garages, porches, or basements unless they are habitable space.
 - ii. For dwelling sites (campgrounds), determine the area of each dwelling site as follows:
 - (A) For manufactured homes, use the area of the manufactured home, if known, otherwise use one thousand (1,000) square feet.
 - (B) For recreational vehicles, campers or tents, use four hundred (400) square feet.
2. Select the appropriate floor area/dwelling site area ratio from the following table for the floor area or dwelling site area determined in the section above.

Inside Living Floor Area or Dwelling Site Area (sf)	Floor Area/Dwelling Site Area Ratio	
	Recreational Development Lakes	Natural Environment Lakes
≤200	.020	.010
300	.024	.012
400	.028	.014
500	.032	.016
600	.038	.019
700	.042	.021
800	.046	.023
900	.050	.025
1,000	.054	.027
1,100	.058	.029
1,200	.064	.032

1,300	.068	.034
1,400	.072	.036
≥1,500	.075	.038

3. Multiply the suitable area within each tier determined in section 36-346(e)(2) by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.
 4. Divide the total floor area or dwelling site area for each tier calculated in section 36-346(e)(3)b.2. by the average inside living floor area for dwelling units or dwelling site area determined in 36-346(e)(3)b.3. This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.
- c. Allowable densities may be transferred from any tier to any other tier further from the waterbody but must not be transferred to any tier closer to the waterbody.
 - d. All PUDs with densities at or below the base density must meet the design standards in this ordinance.
- (4) Determine if the site can accommodate increased density:
- a. The following increases to the dwelling unit or dwelling site base densities determined section 36-346(e) are allowed if the design criteria in section 36-346(f) of this ordinance are satisfied as well as the standards in the following table:

Shoreland Tier	Maximum density increase within each tier (percent)
1 st	50
2 nd	100
3 rd	200
4 th	200
5 th	200

- b. Structure setbacks from the ordinary high-water level:
 - 1. Are increased to at least fifty (50) percent greater than the minimum setback; or
 - 2. The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least twenty-five (25) percent greater than the minimum setback.
- (f) *Design criteria.* All PUDs must meet the following design criteria.
 - (1) General design standards.
 - a. All residential planned unit developments must contain at least five dwelling units or sites.
 - b. Municipal sewer and water services must be available and utilized.
 - c. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.
 - d. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in sections 36-336(c) and 36-336(d).
 - e. Shore recreation facilities:
 - 1. Must be centralized and located in areas suitable for them based on a suitability analysis.
 - 2. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).
 - 3. 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.
 - f. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
 - g. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.
 - h. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in section 7.3 of this ordinance and are centralized.
- (g) *Open space requirements.* Open space must constitute at least fifty (50) percent of the total project area and must include:
 - (1) Areas with physical characteristics unsuitable for development in their natural state.
 - (2) Areas containing significant historic sites or unplatted cemeteries.
 - (3) Portions of the shore impact zone preserved in its natural or existing state as follows:
 - a. For existing residential PUD's, at least fifty (50) percent of the shore impact zone.
 - b. For new residential PUDs, at least seventy (70) percent of the shore impact zone.
 - c. For all commercial PUD's, at least fifty (50) percent of the shore impact zone.
 - (4) Open space may include:
 - a. 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.

- b. Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
 - c. Non-public-water wetlands.
- (5) Open space shall not include:
 - a. Dwelling units or sites and residential lots; road rights-of-way, or land covered by road surfaces; parking areas, or structures, except water-oriented accessory structures or facilities.
 - b. Commercial facilities or uses.
 - c. Land below the OHWL of public waters.
- (i) *Open Space Maintenance and Administration Requirements.*
 - (1) Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means.

The instruments must prohibit:

 - a. Commercial uses (for residential PUD's);
 - b. Vegetation and topographic alterations other than routine maintenance;
 - c. Construction of additional buildings or storage of vehicles and other materials; and
 - d. Uncontrolled beaching of watercraft.
 - (2) Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners' association with the following features:
 - a. Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;
 - b. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling 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.
- (i) *Erosion Control and Stormwater Management.*
 - (1) Erosion control plans must be developed and must be consistent with the city's Stormwater Management Ordinance and Watershed District requirements.
 - (2) Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff to meet federal, state, and local requirements. For commercial PUDs, impervious surfaces within any tier must not exceed twenty-five (25) percent of the tier area.

(Ord. No. 2017-9, 12-21-2017)

Adopted this 1st Day of April, 2021 by the Newport City Council.

Motion by: _____, Seconded by: _____

VOTE:	Elliott	_____
	Chapdelaine	_____
	Ingemann	_____
	Taylor	_____
	Johnson	_____

Signed: _____
Laurie Elliott, Mayor

Attest: _____
Deb Hill, City Administrator



MEMO

TO: Newport City Council

FROM: Travis Brierley, Assistant to the City Administrator

DATE: April 1, 2021

SUBJECT: Pioneer Day

Background: Due to the COVID-19 pandemic, the City Council elected to cancel Pioneer Day in 2020. Staff has reached out to key vendors and to Cottage Grove.

Discussion: It is uncertain what restrictions might be required for Pioneer Day and without knowing what requirements there will need to be, it is difficult for staff to determine what items the City would need to acquire and how long that might take to have a safe Pioneer Day. Staff did learn that getting corn for the day is unlikely, button sales would be a non-starter, and kids games would not be provided as there is not a good way to keep the materials sanitized.

Talking with Cottage Grove, they have chosen to cancel Strawberry Days and possible move it to September. Cottage Grove has a committee which is dedicated to their event which allows them more flexibility to adjust to changing conditions. Newport has not had a committee in several years to perform Pioneer Day planning.

During the Council Workshop on March 18, 2021 it was a majority consensus to only host Pioneer Day if it was logistically possible. Based on the information obtained over the past month, it does not appear that Pioneer Day could be held with the uncertainties and lack of activities that are normally held during the event.

Recommendation: It is the recommendation of staff that the City Council formally cancel Pioneer Day for 2021 and the City prepares for Pioneer Day in 2022.