



**CITY OF NEWPORT  
PLANNING COMMISSION MEETING  
NEWPORT CITY HALL**

**(May Be Held Electronically From Remote Locations)**

*Zoom Meeting Information* <https://us02web.zoom.us/j/85246335342> Meeting ID: 852 4633 5342 (PW: Newport)

**March 9, 2021 – 5:30 P.M.**

Commissioner: Anthony Mahmood  
Commissioner: Maria Bonilla  
Commissioner: Brandon Leyde  
Commissioner: Tami Fuelling  
Commissioner: Michael Kermes

City Administrator: Deb Hill  
Asst. to the City Admin: Travis Brierley  
City Planner: Sherri Buss  
Council Liaison: Marvin Taylor

**AGENDA**

1. CALL TO ORDER
2. ROLL CALL
3. MEETING MINUTES  
    A. February 11, 2021
4. PUBLIC HEARING- Shoreland Ordinance
5. TREE ORDINANCE
6. COMMISSION REPORTS
7. ADJOURNMENT



**CITY OF NEWPORT  
PLANNING COMMISSION MEETING MINUTES  
NEWPORT CITY HALL  
February 11, 2021**

**1. CALL TO ORDER**

Chair Mahmood called the Planning Commission Meeting to order at 5:30 p.m. on February 11, 2021.

**2. ROLL CALL**

Present (5): Chairman Anthony Mahmood, Commissioner Brandon Leyde, Commissioner Maria Bonilla (5:34 p.m.), Commissioner Tami Fuelling, and Commissioner Michael Kermes.

Not Present (0): None.

**3. MEETING MINUTES**

**A. January 14, 2021**

Chair Mahmood motioned to approve the Planning Commission Minutes from January 14, 2021. Seconded by Commissioner Leyde. Approved 4-0.

**4. PUBLIC HEARING- Zoning Map and Zoning Ordinances: Bailey Road Study Area**

City Planner Sherri Buss stated the Commission has been working on the Bailey Road Study area for over a year and the City put a moratorium on this area. In the comprehensive plan that was approved in 2019, the Bailey Road area was guided for urban development due to the extension of utilities. The Planning Commission then started working on regulations to manage the steep slopes that dominate that area. The Commission held a public hearing for the proposed R-2 zoning for the Bailey Road area in August 2020. At that time, they received public comments that people felt this area was not suited for urban development. The area has very limited road access and the County will only allow a right in and right out at Sterling Avenue. The Planning Commission reviewed these issues along with the City Council and concluded this area should remain Residential Estates (RE). RE has 2-acre minimum lot sizes and no sanitary sewer connections. There is one property in this area, the Libby property, that is located within 100 feet of City sewer and water and therefore would be treated as R-1.

Planner Buss stated the Planning Commission will hold a public hearing for the proposed RE zoning of this area with exception of the Libby property. There is also a final version of the bluff overlay ordinance that has regulations which include no development on slopes greater than 18%, setback rules, stormwater management, erosion control, and vegetation management. If the Planning Commission recommends the zoning ordinance and bluff overlay ordinance and the Council adopts these, the City can lift the moratorium.

Chair Mahmood opened the public hearing at 5:40 p.m. on February 11, 2021.

Gordon Nesvig, Attorney for the Crawford's who reside at 1002 Bailey Road, addressed the Commission. Mr. Nesvig inquired if the Crawford property can hook up to sewer and be treated as R-1. Planner Buss stated the way it is proposed the Crawford's would be in the RE district and would need to request a zoning change to R-1 or R-2 if they wanted to hook up to sewer and have denser development. Mr. Nesvig inquired if they could do a planned unit development (PUD). Planner Buss stated they could propose a PUD, request lot sizes smaller than two-acres, and request hook up to sewer and water. The City however would not allow multi-family PUD's in R-1 or RE. Mr. Nesvig inquired if there are exceptions to the bluff ordinance for developers if they can prove to Engineering a safe plan on the slopes. Planner Buss stated yes, the exceptions are still included.

Bill Sumner who resides at 737 21<sup>st</sup> Street addressed the Commission. Mr. Sumner stated he is in favor of development mainly for the City budget and for the future. Mr. Sumner stated some are concerned with road access however he gave examples of other roads in Newport with the same problem that are managing just fine. Mr. Sumner stated there are many options as well for managing steep slopes. Chair Mahmood stated his concern is losing the beautiful bluff line to housing. Mr. Sumner stated the area is such a small portion of the bluff line. Mr. Nesvig stated the view of the slopes will not change because there are still parts of the slope you cannot build on.

Brian Daly who resides at 1020 Bailey Road addressed the Commission. Mr. Daly stated his home is in the middle of the Bailey Road study area. Mr. Daly stated the Planning Commission was correct when they recommended this area be zoned RE. Mr. Daly supports this area staying zoned RE due to the steep slopes, traffic/access problems, and to preserve the natural beauty of this area.

Chair Mahmood stated Duane and Sharon Erickson, who reside at 1055 Bailey Road, submitted a letter to the City. City Administrator Deb Hill read the letter which stated the Erickson's would be negatively affected by multi-family development due to traffic.

Planner Buss stated the Libby's who reside at 1005 Bailey Road sent a letter to the City. This is the property that is right next to public works and could potentially have R-1 zoning and connect to sewer. They have provided a concept development to the City. Currently they are looking at 6 lots, each of which is approximately two-acres in size similar to RE. They feel the slope and traffic are issues for developing at urban densities.

Robin Ramberg who resides at 1045 Bailey Road addressed the Commission. Ms. Ramberg stated she and her husband would like the area to remain RE. Traffic is already an issue with getting into their driveway. They feel Newport needs business development and not housing development.

Chair Mahmood closed the public hearing at 6:00 p.m. on February 11, 2021.

Commissioner Leyde stated there are some who want development in this area, but there is a good amount of people saying no to this and those are the residents who will be directly affected by any development in this area. Commissioner Mahmood stated he understands the concerns for residents opposed to development. Commissioner Kermes stated he is in favor of RE as the traffic is already a big issue. Commissioner Fuelling agrees that traffic is a big factor.

Commissioner Leyde motioned to recommend Council adopt the Bluffland Overlay Ordinance and set the zoning for the Bailey Road area to Residential Estates. Seconded by Commissioner Bonilla. Approved 5-0.

## **5. PUBLIC HEARING- Non-Residential Uses: Zoning Amendment for “Catering” use**

Planner Buss stated that catering is currently not allowed as a use in the Newport zoning code. Mr. Mahmood is interested in establishing a food catering business on his property. Mr. Mahmood’s property is in a mixed-use zoning district which allows a mix of commercial and residential. Mr. Mahmood applied to the City to add food catering as a permitted use within Newport. The Planning Commission will need to determine if we want to add that use to the City, what zoning districts would be allowed, if an Interim Use Permit (IUP) or Conditional Use Permit (CUP) would be required, and what standards would be required.

Chair Mahmood stated that since he has a personal stake in this issue, he will not vote and will let Commissioner Leyde lead the discussion.

Commissioner Leyde opened the public hearing at 6:15 p.m. on February 11, 2021.

Bill Sumner who resides at 737 21<sup>st</sup> Street addressed the Commission. Mr. Sumner stated Newport already has Tinucci’s as a catering option and fully supports this as a business opportunity and hopes the Planning Commission will move this forward.

Assistant to the City Administrator Travis Brierley stated we received a few phone calls and the main concern is will this directly affect their property. There were no strong objections and we did not receive any written comments.

Commissioner Leyde closed the public hearing at 6:17 p.m. on February 11, 2021.

Commissioner Leyde stated he feels we should consider making this a use with an IUP so the permit would sever once the property was sold. Planner Buss stated a CUP becomes a property right and runs with the land whereas an IUP would not automatically transfer to a new owner.

The Commission discussed which districts make sense for catering.

Commissioner Bonilla inquired the differences between a CUP and an IUP. Planner Buss stated the process and standards are the same. You still need an application and public hearing, but the difference is one runs with the land and the other has a date or event when the permit ends. Typically, the event is a change in ownership.

Anthony Mahmood residing at 822 High Street addressed the Commission. Mr. Mahmood stated if you are going to do the IUP he would not limit it to when the resident leaves. Instead, he would suggest setting a time to review the IUP as it would give the City more power if there were any problems.

Planner Buss inquired if there is a need for unique performance standards. Planner Buss stated there is already a list of items required to look at when doing an IUP or CUP. The Commission feels comfortable with these standards. Mr. Mahmood stated in the list of requirements you should add a requirement that the applicant be fully licensed with the state and fully insured.

Commissioner Leyde motioned to recommend Council allow food catering in MX-1, MX-3, and MX-4 zoning districts utilizing an IUP and using the performance standards that are in the code. Seconded by Commissioner Bonilla. Approved 4-0-1 (Mahmood).

## **6. PLANNING COMMISSION ROLES AND RESPONSIBILITIES**

Planner Buss stated since there are new members on the Planning Commission, she wanted to go over the basic responsibilities. One big item is working on the comprehensive plan, however a comprehensive plan was adopted in 2019, so the next process would not be until 2027. In the meantime, any amendments to the comprehensive plan would come to the Planning Commission. The Planning Commission is also responsible for the zoning map and zoning ordinance amendments. The Planning Commission will receive applications for variances, IUP's, CUP's, and other kinds of zoning permits. In general, the Planning Commission is the recommending body and then it goes to the City Council for final decisions.

City Administrator Deb Hill stated she contacted the League of Minnesota Cities who have done training for Planning Commissions for numerous years. They are willing to give an hour training to the Planning Commission as a basic overview and to answer questions. Administrator Hill stated she can coordinate that meeting.

## **7. HERITAGE LANDMARKS**

Assistant Brierley stated the Heritage Preservation Commission (HPC) is requesting opinions on five historic properties being nominated for landmark registration in 2021. If a property is designated a historic landmark, there are certain rules and restrictions that must be followed for the property. The Planning Commission is to consider these locations and give recommendations to the Council.

Chair Mahmood stated the Planning Commission should research these properties and then we can discuss at the March meeting.

## **8. MEETING DAYS AND TIMES**

Administrator Hill stated Mayor Elliott and the Council have inquired whether the Planning Commission could change their meeting day to earlier in the week. This would allow a few extra days to get necessary information to the Council for review before their scheduled meetings.

The Commission discussed that Tuesday's would be a good option.

Chair Mahmood motioned to change the Planning Commission meeting days to the second Tuesday of each month starting at 5:30 p.m. Seconded by Commissioner Leyde. Approved 5-0.

## **9. COMMISSION REPORTS**

None.

## **10. ADJOURNMENT**

Chair Mahmood motioned to adjourn the Planning Commission Meeting. Seconded by Commissioner Leyde. Approved 5-0.

The Planning Commission Meeting was adjourned at 7:03 p.m. on February 11, 2021.

Respectfully Submitted:  
Jill Thiesfeld,  
Administrative Assistant II

Signed: \_\_\_\_\_  
Anthony Mahmood, Chairman

# Planning Memorandum

<b>To:</b>	Newport Planning Commission	<b>Reference:</b>	February PC Meeting and Public Hearing
<b>Copies To:</b>	Deb Hill, City Administrator		
	Travis Brierley, Assistant to the Administrator		
		<b>Project No.:</b>	N2019-0002
<b>From:</b>	Sherri Buss, City Planner	<b>Routing:</b>	
<b>Date:</b>	March 3, 2021		

## 1. Public Hearing – Proposed Amendments to Shoreland Ordinance to Eliminate Duplication with Mississippi River Corridor Critical Area (MRCCA) Ordinance

*Summary: The City needs to address the overlap and inconsistencies between its new MRCCA Overlay ordinance and the existing Shoreland Overlay ordinance in the corridor along the Mississippi River that is covered by both ordinances. 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 would be around Ria Lake and La Lake if the City adopts the changes. The city would need to update the zoning map to show the changes.*

### 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. A copy of the zoning map that shows the MRCCA corridor within Newport is attached.

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 corridor that is shown on the city's zoning map, attached (the MRCCA district is outlined with a red dashed line; the Shoreland district is outlined in blue.)

The MRCCA corridor overlaps 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 will become Division 3 of Article VII of the zoning ordinance. The Shoreland Ordinance is Division 2 of Article VII.

The DNR has given 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.
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.)

Staff 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.
- In future years if rules change, only one ordinance will need to be updated.

Staff have attached a proposed amended version of the Shoreland ordinance. The proposed changes are shown in the document. The Planning Commission will hold a public hearing on the proposed ordinance amendment at its meeting on March 11.

## **2. Tree Ordinances**

The City's code has several sections that regulate trees, including section 18-31 that regulates tree diseases and sections of the Subdivision and Bluff Area ordinances that regulate tree protection and planting during development.

Susan Lindoo, a former Planning Commission member and active volunteer who works on tree inventories and pruning projects, and Matt Yokiell, the City staff person from Public Works who works with the Park Committee and natural resource issues, have requested that the City review its ordinances in light of the most recent recommendations from the Minnesota DNR and U.S. Forest Service to determine if the code should be updated.

Staff reviewed the information from the DNR and U.S. Forest Service regarding municipal tree ordinances. The information emphasized the following:

- Cities should have up to date ordinances that address 1) Tree/Urban Forest management for disease and hazardous tree issues and 2) Tree Protection that are related to development activities.

- Tree ordinances are needed to protect the significant benefits of trees in cities including the reduction of noise and air pollution; providing shade and cooling that saves energy; wildlife habitat; improving local property values and aesthetics; and contributing to the community's image and quality of life. In Newport, the woodlands on the bluffs in the eastern portion of the city, woodland areas in the city's parks, and the mature tree canopy in the "old town" area are an important aspect the community's image, property values, and quality of life for residents.
- City tree ordinances should include the following:
  - Clear goal statement(s)
  - Designate the responsibility and authority for carrying out the ordinance
  - Basic performance standards
  - Flexibility that lets the city forester address issues on individual properties
  - Enforcement mechanism(s)

Staff reviewed the current ordinances from the cities of Maplewood, Woodbury, and Cottage Grove as examples from neighboring communities. The Maplewood and Woodbury ordinances are good examples of ordinances that have been updated to meet current standards and statutes.

Staff have prepared an initial draft amended tree ordinance (attached) for Newport including items that would bring Newport's ordinance up to current standards used by other nearby cities and recommended by the agencies, while leaving sections that are unique to Newport in place. The draft covers the diseased and hazardous tree issues. Staff will provide additional information and an ordinance amendment that addresses tree preservation options at the April PC meeting.

The main updates in the attached draft include:

- The Policy section has been updated to include current language and statutory references
- The draft adds a Definitions section, which most ordinances have to clarify the terms used in the ordinance
- The draft puts the Program information into one unified section and updates it with the current recommendations of the DNR and US Forest Service.
- Sections 18-35 through 18-40 are unchanged. These sections are unique to Newport's ordinance and the PC should discuss whether these should continue to be in the ordinance—such as the requirement for a Council action to order abatement and the requirement for an annual report from the forester.
- Added Section 18-41 Enforcement so that there is a clear mechanism for enforcement that is similar to other city ordinances.



## DIVISION 2. - SHORELAND MANAGEMENT DISTRICT<sup>11</sup>

### Footnotes:

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**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)

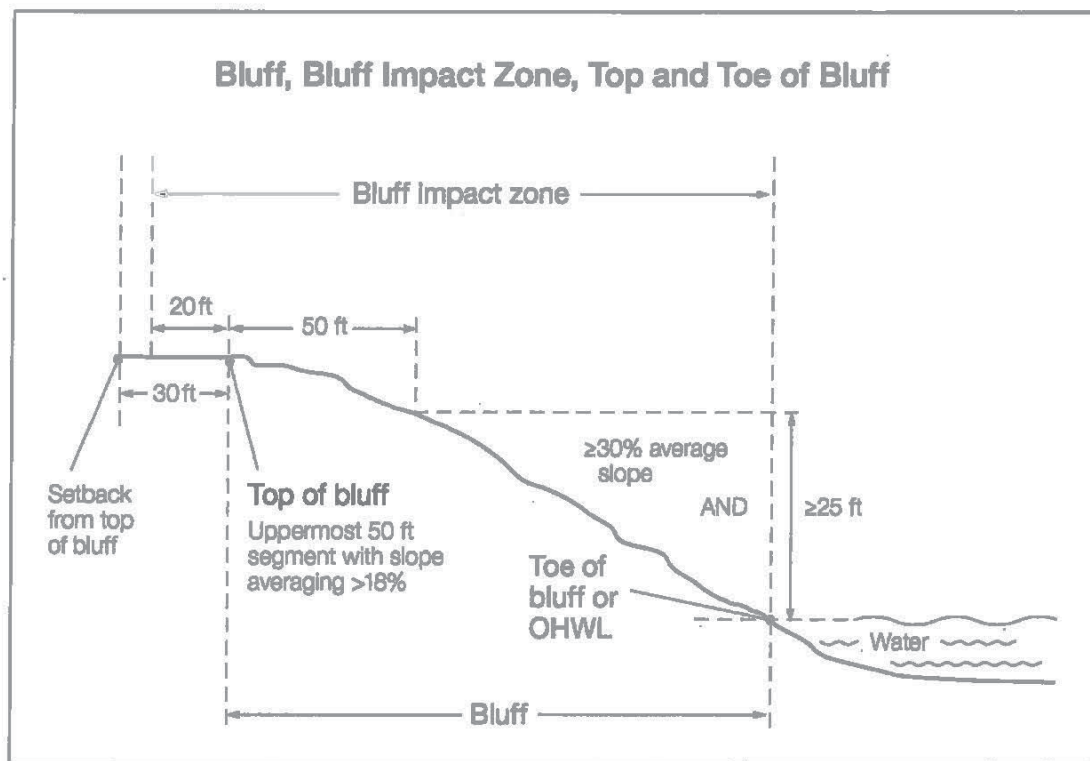
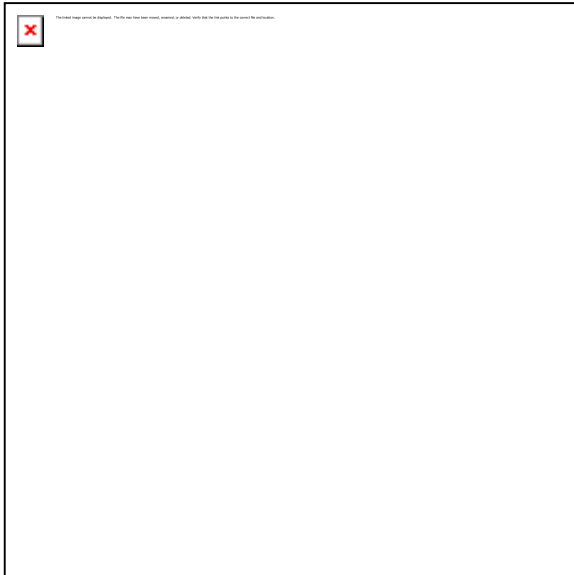
Sec. 36-330. - Definitions.

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.

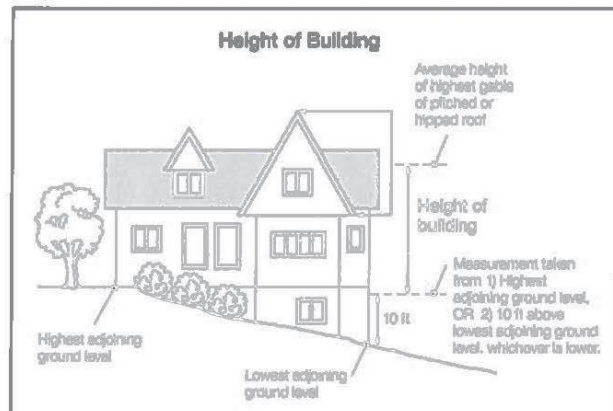
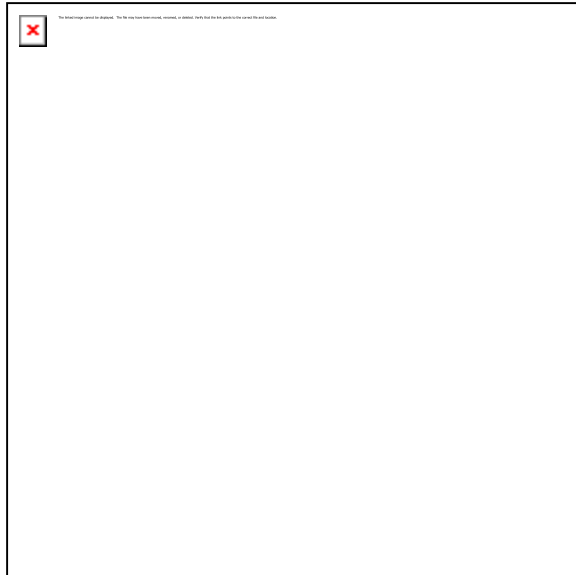
*Dwelling site:* A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

*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.

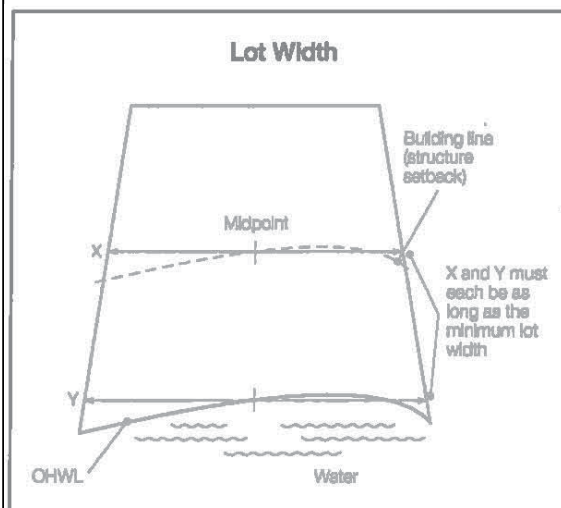
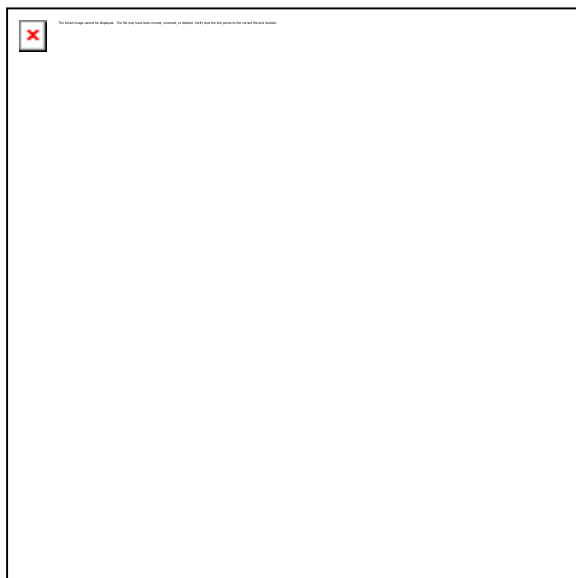


**Impervious surface:** A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots;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

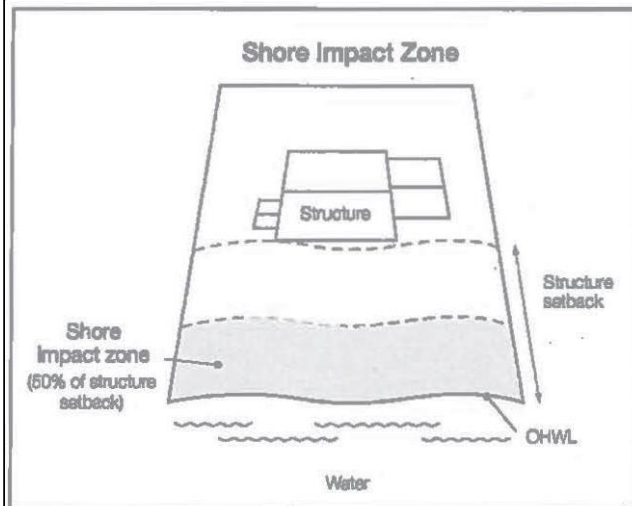
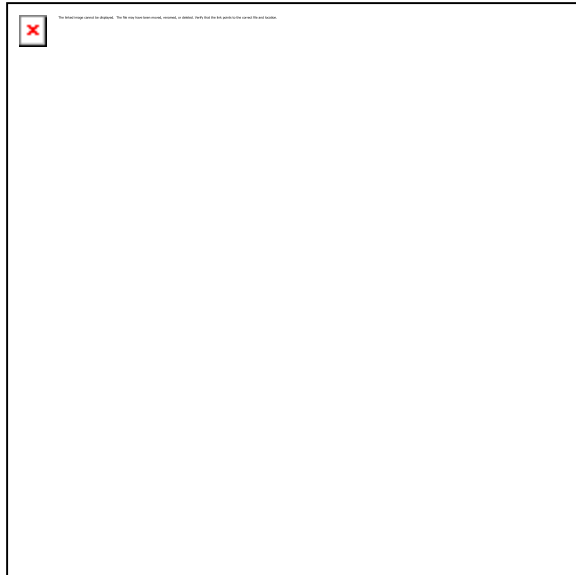
*Semipublic use:* The use of land by a private or private nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization. This use may include denominational cemeteries, private schools, clubs, lodges, recreational facilities,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

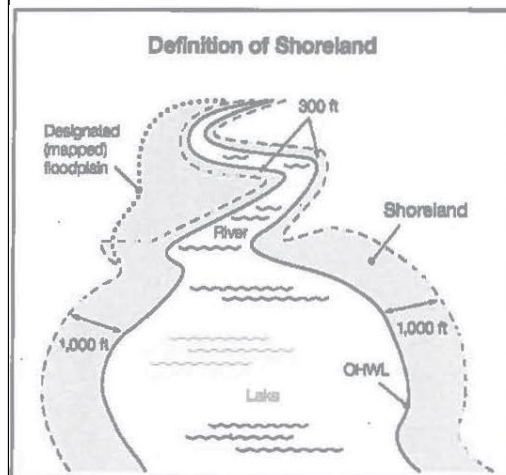
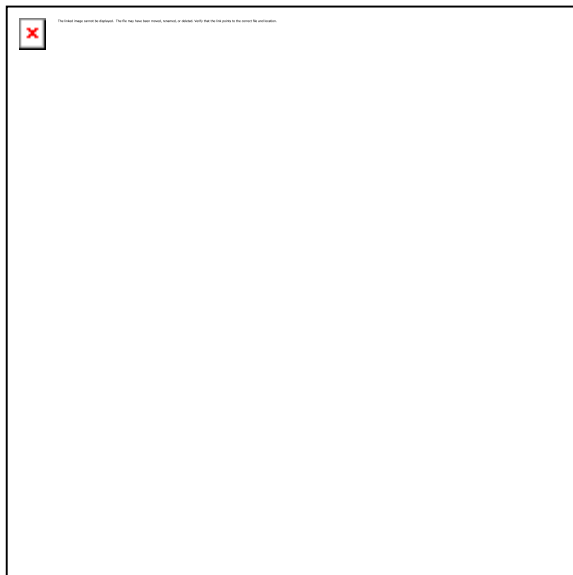
*Sewer system, municipal:* Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

*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~~

<del>Urban River</del>	<del>DNR Public Waters I.D. Number</del>
<del>Mississippi River</del>	<del>19-5</del>

(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.~~

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

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(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.

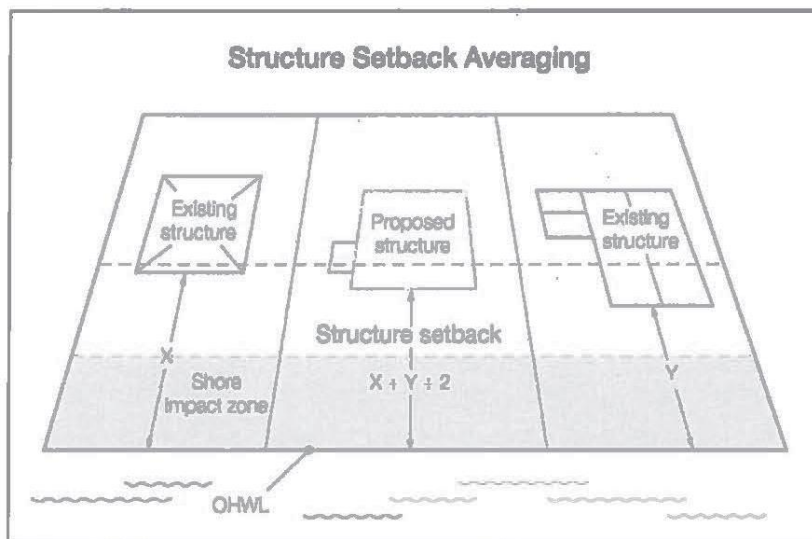
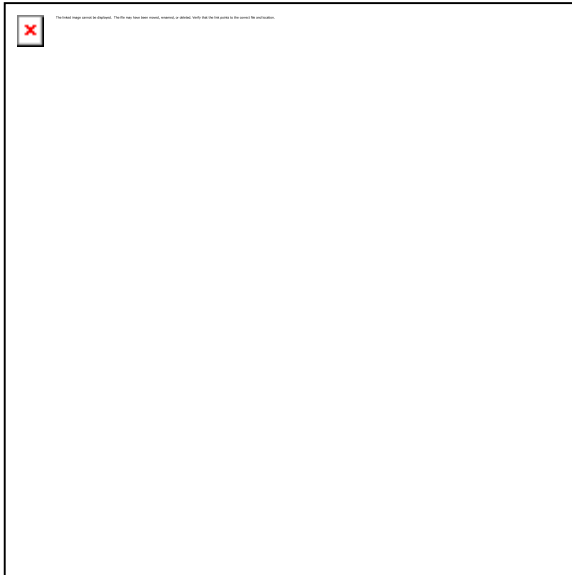
(Ord. No. 2017-9, 12-21-2017)

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

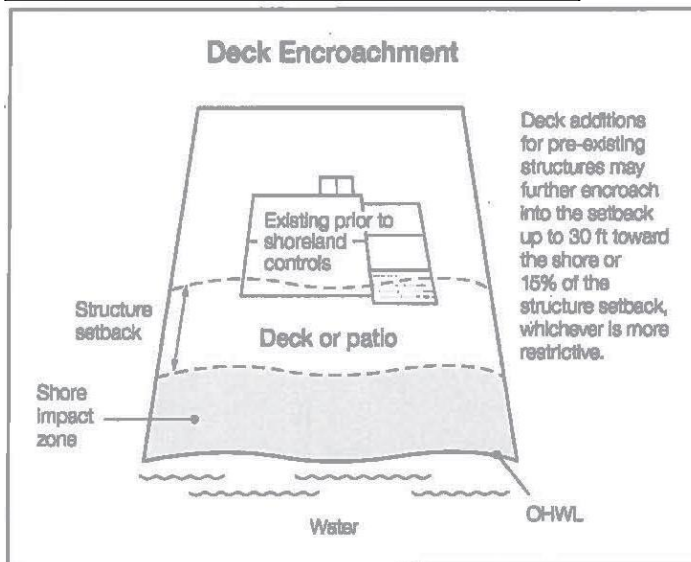
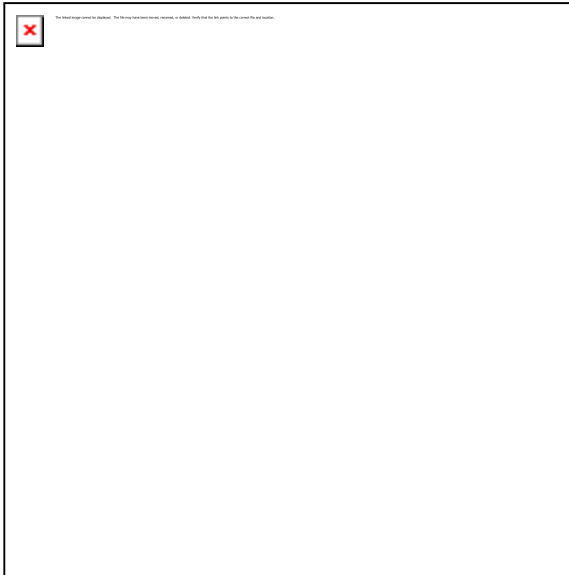
- (a) *Placement of structures and sewage treatment systems on lots.* When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following provisions:
  - (1) *OHWL setbacks.* Structures, impervious surfaces, and sewage treatment 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:

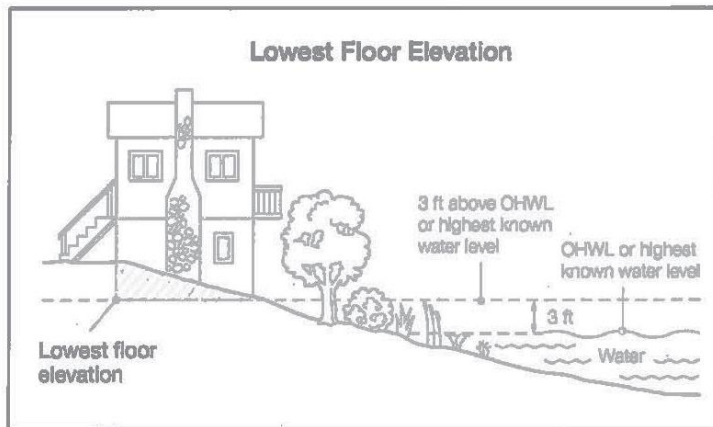
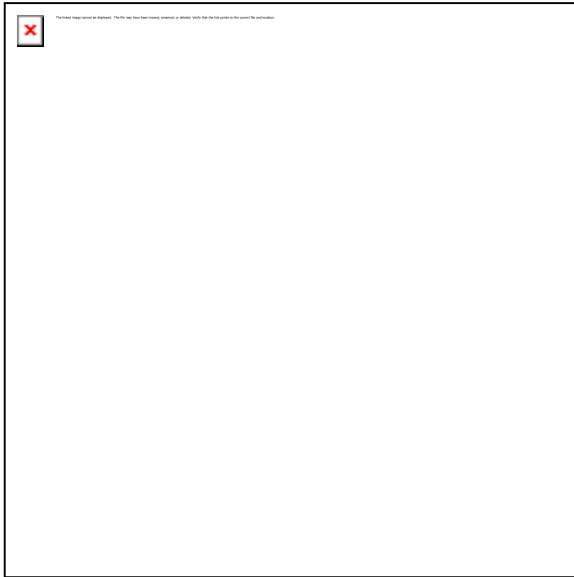
Setback from:	Setback (ft)
Top of bluff	30
Unplatted cemetery or historic site	50
Right-of-way line of federal, state, or county highway	50
Right-of-way line of town road, public street, or other roads not classified	20

- (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
<del>All Rivers/Streams</del>	<del>300</del>	<del>300</del>

- (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		
	<del>Agricultural, Urban and Tributary Rivers</del>	Recreational Development Lakes	Natural Environment Lakes
≤200	<del>.040</del>	.020	.010
300	<del>.048</del>	.024	.012
400	<del>.056</del>	.028	.014
500	<del>.065</del>	.032	.016

600	<del>.072</del>	.038	.019
700	<del>.082</del>	.042	.021
800	<del>.091</del>	.046	.023
900	<del>.099</del>	.050	.025
1,000	<del>.108</del>	.054	.027
1,100	<del>.116</del>	.058	.029
1,200	<del>.125</del>	.064	.032
1,300	<del>.133</del>	.068	.034
1,400	<del>.142</del>	.072	.036
≥1,500	<del>.150</del>	.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 <sup>st</sup>	50

2 <sup>nd</sup>	100
3 <sup>rd</sup>	200
4 <sup>th</sup>	200
5 <sup>th</sup>	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.



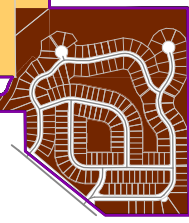
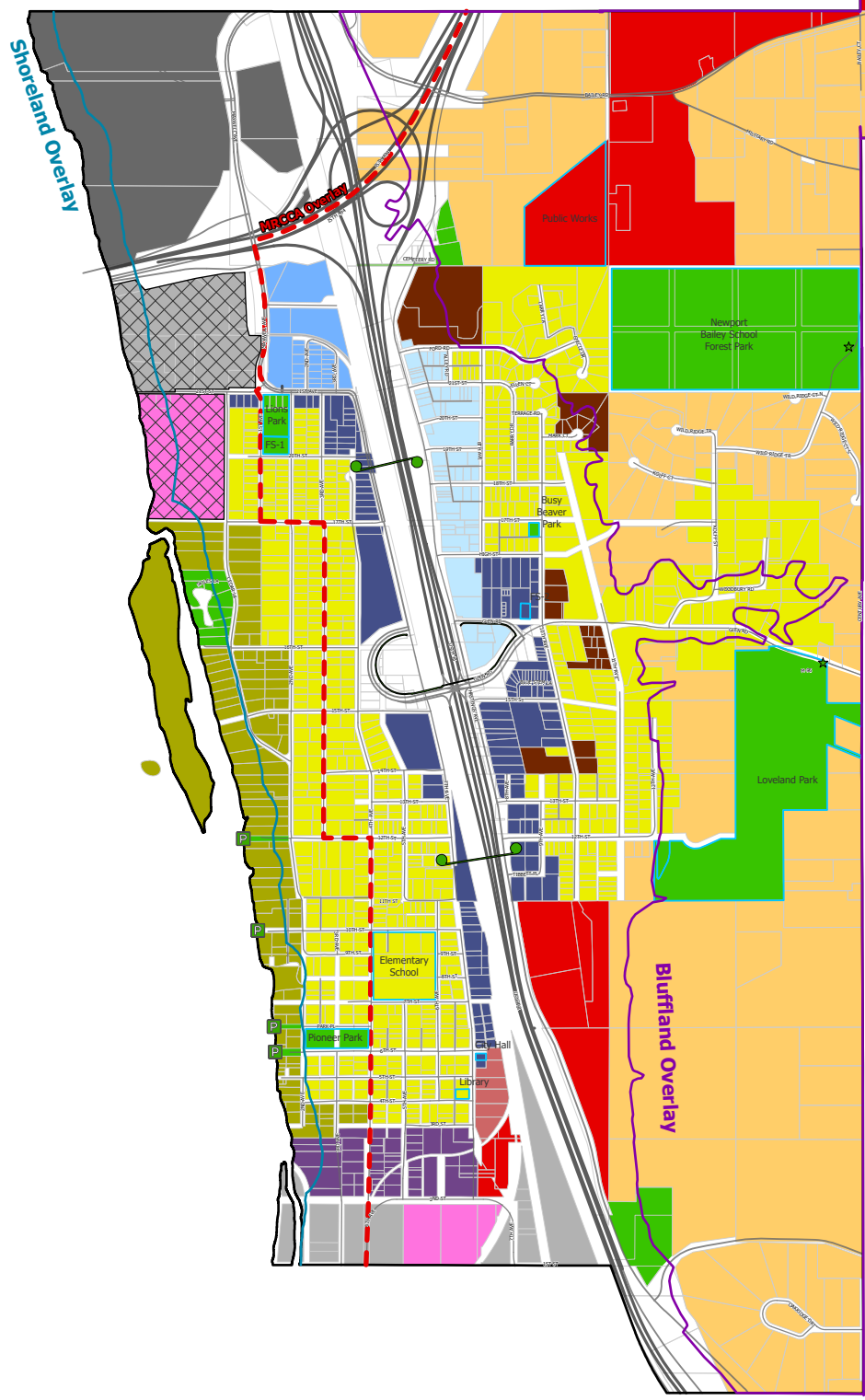
- (2) Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff to meet federal, state, and local requirements. For commercial PUDs, impervious surfaces within any tier must not exceed twenty-five (25) percent of the tier area.

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



# City of Newport Zoning Map

Print Date: 2/17/2021



## Zoning Districts

- OS Open Space
- RE Residential Estate
- R1 Low-Density Single-Family Residential
- R-1A River Residential
- R-2 Urban Residential
- MX-1 Downtown
- MX-2 Transit-Oriented Design
- MX-3 General Mixed Use
- MX-4 Mixed Use Buffer
- B-1 Business Park
- B-2 General Business
- I-S Industrial Storage
- I-1 Light Industrial
- I-2 General Industrial

## Overlay Districts

- River Development
- Mississippi River Critical Area (MRCCA) Boundary
- Bluffland Area\*\*
- Shoreland Area\*\*

Floodplain Overlay District: see current FEMA Floodplain map.  
\*\*Estimated boundary. Exact boundary to be determined by survey at time of development.

## Other Public Features

- ★ Park Entrance
- Public Access/Overlook
- Public Facility
- Hwy 61 Pedestrian Crossing



Data Sources:  
City of Newport  
Washington County  
Met. Council  
MN DNR

## Other Map Features

- City of Newport Municipal Boundary
- Parcels, Spring 2019



## ZONING MAP

CITY OF NEWPORT  
WASHINGTON CO., MN

## ARTICLE II. - ~~TREE DISEASES TREES~~

### Sec. 18-31. - Policy findings ~~Diseased and Hazardous Trees.~~

The council has determined that the health of the trees within the municipal limits is threatened by ~~fatal tree diseases epidemic shade tree pests~~. It is further determined that the loss of trees growing upon public and private property would substantially depreciate the value of property within the city and impair the safety, good order, general welfare, and convenience of the public. ~~It shall be declared to be the intention of the council to control and prevent the spread of tree diseases, and this section shall be enacted for that purpose.~~

It is the intention of the City of Newport to conduct a program of tree pest control pursuant to the authority granted by M.S. Statutes. 89.001, 89.01, and 89.54-64, as amended. This program is directed specifically at the control and elimination of shade tree disease and shade tree pests and is undertaken at the recommendation of the commissioners of agriculture and natural resources. The city's forester shall act as coordinator between the commissioners of agriculture and natural resources and the city in the conduct of this program.

(Code 1997, § 810.01)

### Sec. 18-32. — Definitions

Unless specifically defined below, words or phrases used in this division shall be interpreted to give them the same meaning as they have in common usage and to give this chapter its most reasonable application. The words "must" and "shall" are mandatory and not permissive.

City is the City of Newport.

Forester is a qualified person hired to perform the duties of the city forester as designated by the city council. The powers and duties of the forester may be assigned to other qualified persons in the absence of the forester.

Nuisance tree is:

- (1) Any living or standing tree or part thereof infected to any degree with a shade tree disease or shade tree pest.
- (2) Any logs, stumps, branches, firewood, or other part of dead or dying tree(s) infected with a shade tree disease or shade tree pest unless properly treated under the direction of the city forester-tree inspector.

Shade tree disease is Dutch elm disease (Ophiostoma ulmi or Ophiostoma novo-ulmi), oak wilt (Ceratocystis fagacearum), or any other tree disease of epidemic nature.

Shade tree pest is Emerald Ash Borer (Agrilus plannipenis), European elm bark beetle (Scolytus multistriatus), Native elm bark beetle (Hylurgopinus rufipes) or any other shade tree pest with potential to cause widespread damage.

### Sec. 18-33. -Forester.

- (a) *Position created.* The powers and duties of the city forester as provided by this article shall be conferred on the public works supervisor.
- ~~(b) *Duties.* It shall be the duty of the forester to coordinate, under the direction and control of the council, all activities of the city relating to the control and prevention of tree diseases. The forester shall recommend to the council the details of a program for the control of tree diseases, and perform the duties incident to such a program adopted by the council.~~

(Code 1997, § 810.02)

Sec. 18-3~~3~~4. - Program.

- (a) It is the duty of the city forester to coordinate all activities of the city relating to the control and prevention of shade tree disease and pests. The forester shall recommend the details of a program for the control of shade tree disease and pests and perform the duties of such a program.
- (b) It is unlawful for any person to prevent, delay or interfere with the forester while the forester is engaged in the performance of duties under this division.
- (c) It is unlawful for any person to permit any nuisance tree as defined in section 18-32 to remain on any premises owned or controlled by the person within the city. Such nuisance trees may be abated in the manner prescribed by this division.
- (d) Inspection and investigation.
  - (1) The forester may enter upon private premises at any reasonable time for the purpose of carrying out of any of the duties assigned under this division with prior notification to landowner. In situations of imminent danger to human life and safety, notification is not necessary.
  - (2) The forester has the authority to inspect properties within the city to determine whether any nuisance tree exists thereon. The forester has the authority to investigate all reported incidents of shade tree disease or shade tree pests.
  - (3) The forester has the authority to, upon finding conditions indicating shade tree disease or shade tree pests, remove samples or specimens for further diagnosis, or take such other steps for diagnosis as may be recommended by the commissioner of agriculture. No action to remove nuisance trees or wood shall be ordered until the forester finds with reasonable certainty a shade tree disease or shade tree pest is present.
- (e) Abatement of a nuisance tree shall be by spraying, removing, burning, or otherwise effectively treating the nuisance tree or wood to prevent the spread of shade tree disease and shade tree pests. Such abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as designated by the commissioner of agriculture.
- (f) Whenever the forester finds with reasonable certainty that a shade tree disease or shade tree pest infestation exists on any public or private property in the city, the forester has the authority to follow the procedures below:
  - (1) If the danger of infestation of other trees is not imminent because of shade tree disease or shade tree pest dormancy, the forester may choose to reinspect either later in the same growing season or at the beginning of the following growing season before the active period. If at that time the tree has not recovered, the forester shall proceed by notifying the property owner that the nuisance tree must be abated within a specified time. If the property owner fails to abate the nuisance tree by said period of time, the forester may proceed by abating the nuisance as a public improvement under M.S. Ch. 429.
  - (2) If danger of infestation of other trees by shade tree disease or shade tree pest is imminent, the forester shall proceed by notifying the property owner that the nuisance tree must be abated within a specified time. If the property owner fails to abate the nuisance tree by said period of time the forester may order the work done either by city employees or by contractor. The cost of this work shall be billed to the owner. If the bill is not paid within 30 days, the city shall assess the costs to the property.
- ~~(b) Immediate action.~~
  - If the forester finds with reasonable certainty that immediate action is required to prevent the spread of the disease, he shall proceed to abate the nuisance forthwith. He shall report the action immediately to the council and to the owner of the property where the nuisance is located.

(g) *Emergency abatement.* Nothing in this division shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

(Code 1997, § 810.03)

~~Sec. 18-34.— Nuisance declared.~~

~~The following are declared to be public nuisances whenever they may be found within the city:~~

- ~~(1) Any living or standing elm tree or part thereof infected to any degree with the Dutch elm disease fungus, *Ceratocystis ulmi* (Buisman) Moreau, or which harbors any of the elm bark beetles, *Scolytus multistriatus* (eich.) or *Hylurgopinus rufipes* (March).~~
- ~~(2) Any elm tree or part thereof, including logs, branches, stumps, firewood, or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle insecticide.~~
- ~~(3) Any living or standing oak tree or part thereof infected to any degree with the oak wilt disease fungus *Ceratoisytis fagacearum*.~~
- ~~(4) Any dead oak trees or part thereof which in the opinion of the forester constitutes a hazard, including, but not limited to, logs, branches, stumps, firewood, or other oak material, which has not been stripped of its bark and burned or sprayed with an effective fungicide.~~
- ~~(5) Any other shade trees with an epidemic disease.~~

(Code 1997, § 810.04)

~~Sec. 18-35.— Abatement.~~

~~It is unlawful for any person to permit any public nuisance as defined in section 18-34 to remain on any premises owned or controlled by him within the city. The nuisance may be abated in the manner prescribed by sections 18-38 to 18-43.~~

~~(Code 1997, § 810.05)~~

~~Sec. 18-36.— Inspection and investigation.~~

~~The forester shall inspect all premises and places with the city as often as practicable to determine whether any condition described in sections 18-34 and 18-35 exists thereon. He shall investigate all reported incidents of diseased trees.~~

(Code 1997, § 810.06)

~~Sec. 18-37.— Entry on private premises.~~

~~The forester or his duly authorized agents may enter upon private premises at any reasonable time for the purpose of carrying out any of the duties assigned him under this article.~~

(Code 1997, § 810.07)

~~Sec. 18-38.—Diagnosis.~~

~~The forester shall, upon finding conditions indicating disease infestation, immediately send appropriate specimens or samples to the commissioner of agriculture for analysis, or take such other steps for diagnosis as may be recommended by the commissioner of agriculture. Except as provided in sections 18-40 through 18-42, no action to remove infected trees or wood shall be taken until positive diagnosis of the disease has been made.~~

(Code 1997, § 810.08)

~~Sec. 18-39.—Abatement of tree disease nuisances.~~

~~In abating the nuisances defined in sections 18-34 and 18-35, the forester shall cause the infected tree or wood to be sprayed, removed, burned, or otherwise effectively treated so as to destroy and prevent as fully as possible the spread of tree diseases. The abatement procedures shall be carried out in accordance with current technical and expert opinions and plans as may be designated by the commissioner of agriculture.~~

(Code 1997, § 810.09)

~~Sec. 18-40.—Procedures for removal of infected trees and wood.~~

~~(a) —Ordinary procedure. Whenever the forester finds with reasonable certainty that the infestation defined in sections 18-34 and 18-35 exists in any tree or wood in any public or private place in the city, he shall proceed as follows: If the forester finds that the danger of infestation of the trees is not imminent because of dormancy, he will determine a specified time as to when the nuisance shall be abated according to the infestation and dormant season. The abutting property owner or the owner of the property upon which the tree is located will be notified of the specified time by certified mail. The forester shall immediately report the action to the council, and after the expiration of the time limited by the notice he may abate the nuisance by:~~

~~(1) — Abating the nuisance as a public improvement under M.S.A. § 429.101; or~~

~~(2) — Abating the nuisance as provided in section 18-41.~~

~~(b) —Immediate action. If the forester finds with reasonable certainty that immediate action is required to prevent the spread of the disease, he shall proceed to abate the nuisance forthwith. He shall report the action immediately to the council and to the owner of the property where the nuisance is located.~~

(Code 1997, § 810.10)

Sec. 18-~~41~~35. - Council action.

Upon receipt of the forester's report required by section 18-40(a), the council shall by resolution order the nuisance abated. Before action shall be taken on such resolution, the council shall publish notice of its intention to meet to consider taking action to abate the nuisance. This notice shall be mailed to affected property owners and published once no less than one week prior to the meeting. The notice shall state the time and place of the meeting, the property affected, action proposed, the estimated cost of the abatement, and the proposed bases of assessment, if any, of costs. At the hearing or adjournment thereof, the council shall hear property owners with reference to the scope and desirability of the proposed project. The council shall thereafter adopt a resolution confirming the original resolution with such modifications as it considers desirable and provide for the doing of the work of day labor or by contract.

(Code 1997, § 810.11)

Sec. 18-~~42~~36. - Records.

The forester shall keep a record of the costs of abatements done under this section and shall report ~~monthly~~annually to the clerk-administrator. All work done for each assessment shall be made stating and certifying the description of land, lots, parcels involved and the amount chargeable to each.

(Code 1997, § 810.12)

Sec. 18-~~43~~37. - Assessments.

On or before November 30 of each year, the clerk-administrator shall list the total unpaid charges for each abatement against each separate lot or parcel to which they are attributable under this section. The council may then spread the charges or any portion thereof against the property involved as a special assessment under M.S.A. § 429.101 and other pertinent statutes for certification to the county auditor and collection the following year along with current taxes.

(Code 1997, § 810.13)

Sec. 18-4438. - Treatment.

Whenever the forester determines that any tree or wood within the city is infected with disease, he may spray or otherwise treat all nearby high value trees with an effective disease destroying agent. Spraying and other treatment activities authorized by this section shall be conducted in accordance with technical and expert opinions and plans of the commissioner of agriculture and under the supervision of the commissioner and his agents whenever possible. The notice provisions of section 18-~~44~~35 apply to spraying and treatment operations conducted under this section.

(Code 1997, § 810.14)

Sec. 18-~~45~~39. - Transporting wood prohibited.

It is unlawful for any person to transport within the city any diseased wood or any bark-bearing elm or oak wood without having first obtained permission from the forester. The forester shall grant such permission only when the purpose of this section shall be served by minimizing the risk of spread of the disease.

(Code 1997, § 810.15)

Sec. 18-~~46~~40. - Interference prohibited.

It is unlawful for any person to prevent, delay or interfere with the forester or his agents while they are engaged in the performance of duties imposed by sections 18-314~~through 18-45~~.

(Code 1997, § 810.16)

Sec. 18-41. - Enforcement.

The city shall be responsible for the enforcement of this division. Any person who fails to comply with or violates any section of this division shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to punishment in accordance with this Code. All land use, building, and grading permits shall be suspended until the applicant has corrected the violation. Each day that a separate violation exists shall constitute a separate offense.

The city reserves the right to inspect the site or property at any reasonable time for compliance with tree preservation requirements. If the city finds the site in violation, the city may issue a stop work order until conditions are corrected.

Secs. 18-4~~72~~—18-65. - Reserved.