

SUB-ANALYSIS

CHAPTER 16

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CHAPTER 16

SHORELAND MANAGEMENT

SECTION 16.01. STATUTORY AUTHORIZATION AND POLICY.

Subd. 1. Statutory Authorization. This Chapter is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500 - 6120.3900 and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

Subd. 2. Policy. The uncontrolled use of shorelands of 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 Legislature of Minnesota has delegated responsibility to local governments of the State to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the City.

SEC. 16.02. GENERAL PROVISIONS AND DEFINITIONS.

Subd. 1. Jurisdiction. The provisions of this Chapter shall apply to the shorelands of the public water bodies as classified in this Chapter. Pursuant to Minnesota Regulations, Parts 6120.2500-6120.3900, no lake, pond, or flowage less than 10 acres in size in municipalities or 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 governing body, be exempt from this Chapter.

Subd. 2. Compliance. The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems; the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this Chapter and other applicable regulations.

Subd. 3. Enforcement. The City is responsible for the administration and enforcement of this Chapter. Any violation of the provisions of this Chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional

uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Chapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to permits which are required by the City.

Subd. 4. Interpretation. In their interpretation and application, the provisions of this Chapter shall be held to be minimum requirements and shall be liberally construed in favor of the City and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

Subd. 5. Abrogation and Greater Restrictions. It is not intended by this Chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail. All other City Code provisions inconsistent with this Chapter are hereby repealed to the extent of the inconsistency only.

Subd. 6. Definitions. Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Chapter its most reasonable application. For the purpose of this Chapter, the words "must" and "shall" are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

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

2. "Bluff" - A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):

A. Part or all of the feature is located in a shore land area;

B. The slope rises at least 25 feet above the ordinary high water level of the waterbody;

C. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and

D. The slope must drain toward the waterbody.

3. **"Bluff Impact Zone"** - A bluff and land located within 20 feet from the top of a bluff.
4. **"Boathouse"** - A structure designed and used solely for the storage of boats or boating equipment.
5. **"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.
6. **"Commercial Use"** - The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.
7. **"Commissioner"** - The Commissioner of the Department of Natural Resources.
8. **"Conditional Use"** - A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the Zoning Chapter exist, the use or development conforms to the comprehensive land use plan of the community and the use is compatible with the existing neighborhood.
9. **"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.
10. **"Duplex"** - A dwelling structure on a single lot, having two units being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.
11. **"Dwelling Site"** - A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.
12. **"Dwelling Unit"** - Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.
13. **"Extractive Use"** - The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 to 93.51.

14. **"Forest Land Conversion"** - The clear cutting of forested lands to prepare for a new land use other than re-establishment of a subsequent forest stand.
15. **"General Campground Facilities"** - Campgrounds are solely intended for tourists and transient guests using recreational vehicles, trailers or tents
16. **"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.
17. **"Hardship"** - The same as that term is defined in Minnesota Statutes, Chapter 462 (for municipalities).
18. **"Height of Building"** - The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.
19. **"Intensive Vegetation Clearing"** - The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
20. **"Lot"** - A parcel of land designated by plat, metes and bounds, registered land survey, auditor's plat. or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.
21. **"Lot Width"** - The shortest distance between lot lines measured at the midpoint of the building line.
22. **"Non-Conformity" (Non-Conforming Use)"** - Any building or land occupied by a use on the effective date of this Chapter, or any amendment to it rendering such use non-conforming, which does not comply with all of the regulations of this Chapter, or any amendment hereto, governing use for the zoning district in which such use is located.
23. **"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.

24. **"Public Waters"** - Any waters as defined in Minnesota Statutes, Section 105.37, Subdivisions 14 and 15.
25. **"Semi-Public Use"** - The use of land by a private, non-profit organization to provide public service that is ordinarily open to some persons outside the regular constituency of the organization.
26. **"Sensitive Resource Management"** - The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.
27. **"Setback"** - The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.
28. **"Sewage Treatment System"** - A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in this Chapter.
29. **"Sewer System"** - Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
30. **"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.
31. **"Shoreland"** - Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.
32. **"Significant Historic Site"** - Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic

site meets these criteria if it is presently listed on either register or if it is determined to meet the qualification for listing after review by the Minnesota State Archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

33. "Steep Slope" - Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Chapter. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

34. "Structure" - Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

35. "Subdivision" - Land that is divided for the purpose of sale, rent, or lease, including campground facilities.

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

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

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

39. "Variance" - The same as that term is defined or described in Minnesota Statutes, Chapter 462 (for municipalities).

40. "Water-Oriented Accessory Structure or Facility" - A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

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

Source: Ordinance No. 217, 2nd Series
Effective Date: 7-1-94

42. "Shared-interest community" - Also known as a common interest community, is contiguous or noncontiguous real estate within Minnesota that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for (i) real estate taxes levied against; (ii) insurance premiums payable with respect to; (iii) maintenance of; or (iv) construction, maintenance, repair or replacement of improvements located on, one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies. Real estate which satisfies the definition of a common interest community is a common interest community whether or not it is subject to MS 515B. Real estate subject to a master association, regardless of when the master association was formed, shall not collectively constitute a separate common interest community unless so stated in the master declaration recorded against the real estate pursuant to section MS 515B. For the purposes of this ordinance a common interest community shall be treated as a planned development.

43. "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, but not less than 50 feet. This area serves as the primary shoreline buffer.

Source: Ordinance No. 359, 2nd Series
Effective Date: 4-24-2009

44. "Wind Energy Conversion System (WECS)" - An aggregation of parts including the base, tower, generator, rotor blades, supports, guy wires, and accessory equipment such as utility interconnect and battery banks, etc., in such configuration as necessary to convert the power of the wind into mechanical or electrical energy, i.e., wind charger, windmill, or wind turbine.

Source: Ordinance No. 370, 2nd Series
Effective Date: 03-28-2010

(Sections 16.03 through 16.09, inclusive, reserved for future expansion.)

(Pages 737 through 741 reserved)

SEC. 16.10. ADMINISTRATION. Permits, variances, conditional use permits, certificates and notifications to DNR can be found in City Code, Chapter 11, Section 11.75, Administration and Enforcement.

SEC. 16.11. SHORELAND CLASSIFICATION SYSTEM AND LAND DISTRICTS.

Subd. 1. Shoreland Classification System.

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

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

Subd. 2. Lakes. (1,000 feet from the normal high water mark.)

A. Natural Environment Lakes (NE or W-1).

<u>Protected Waters</u>	<u>ID #</u>	<u>Legal Description</u>	
Day Lake	69-906P	Sec 4-5-8-9	T 58, R 21
Little Harriet	69-897W	Sec 27-28-33-34	T 56, R 21
Moran Lake	69-938P	Sec 6-7	T 58, R 21
Six Mile Lake	69-840P	Sec 1	T 58, R 20
Welcome Lake	69-902W	Sec 19	T 57, R 21

B. Recreational Development Lakes (RD or W-2).

<u>Protected Waters</u>	<u>ID #</u>	<u>Legal Description</u>	
Carey Lake	69-856P	Sec 12-13-14	T 57, R 20
Harriett Lake	69-896P	Sec 23-26-27	T 56, R 21
O'Brien Lake	69-1012W	Sec 18	T 57, R 20
Sand Lake	69-895P	Sec 32	T 56, R 21

C. General Development Lakes (GD or W-3).

<u>Protected Waters</u>	<u>ID #</u>	<u>Legal Description</u>	
Deer Lake or Kleffman Lake	69-1273P	Sec 16	T58, R 21
Kelly Lake	69-901	Sec 15-16-21	T 57, R 21
Snowshoe Lake	69-900W	Sec 15	T 57, R 21

Subd. 3. Rivers and Streams* (300 feet from the normal high water mark.

A. Forested Rivers & Streams.

(Zoning - Adjacent to
Rivers and Streams)

Legal Description

Barber Creek (A-R, R-R)	Sec 15 T57 R20 to Sec 33 T57 R20
Carey Creek (E/SE of Carey Lake) (A-R)	Sec 13 T57 R20 to Sec 24 T57 R20
Day Brook (F-A)	Sec 5 T58 R21 to Sec 4 T58 R21
Deer Creek (O, F-A)	Sec 9 T58 R21 to Sec 3 T57 R21
Dempsey Creek (E of the Airport) (A-R)	Sec 24 T57 R20 to Sec 11 T57 R20
East Swan River (I-1, O, A-R, R-R, A-1, O-1)	Sec 34 T58 R20 to Sec 35 T56 R20
Penobscott Creek (R-R)	Sec 17 T57 R20 to Sec 33 T57 R20
Unnamed Tributaries to East Swan River (I-2, A-R, A-1, O-1)	Sec 27 T56 R20 Sec 25 T56 R20 to Sec 35 T56 R20 Sec 23 T56 R20 Sec 9 T57 R20 to Sec 3 T57 R20 Sec 33 T57 R20 to Sec 3 T57 R20 Sec 2 T58 R21
Unnamed Tributary to Shannon River (O)	
Unnamed Tributary to Sixmile Lake (O, A-R)	Sec 35 T58 R20 to Sec 1 T57 R20
West Swan River (I-2, O, R-R, A-R, A-1, F-A)	Sec 16 T57 R21 to Sec 33 T56 R21

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

SEC. 16.12. LAND USE DISTRICT DESCRIPTIONS.

Subd. 1. Criteria for Designation. The land use districts in this Section, and the delineation of a land use district's boundaries on the Official Zoning Map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan and the following criteria, considerations and objectives:

A. General Considerations and Criteria for All Land Uses.

1. Preservation of natural area;
2. Present ownership and development of shoreland areas;
3. Shoreland soil types and their engineering capabilities;
4. Topographic characteristics;
5. Vegetative cover;
6. In-water physical characteristics, values, and constraints;
7. Recreational use of the surface water;
8. Road and service center accessibility;
9. Socioeconomic development needs and plans as they involve water and related land resources;
10. The land requirements of industry which, by its nature, requires location in shoreland areas; and
11. The necessity to preserve and restore certain areas having significant historical or ecological value.

B. Factors and Criteria for General Campgrounds Facilities.

1. Existing recreational use of the surface waters and likely increases in use associated with General Campground Facilities;
2. Physical and aesthetic impacts of increased density;
3. Suitability of lands for the general campground facilities approach;
4. Level of current development in the area; and
5. Amounts and types of ownership of undeveloped lands.

Subd. 2. Land Use District Descriptions. The land use districts provided below, and the allowable land uses therein for the given classifications of waterbodies, shall be properly delineated on the Official Zoning Map for the shorelands of the City. These land use districts are in conformance with the criteria specified in Minnesota Regulation, Part 6120.3200, Subp. 3:

Source: Ordinance No. 217, 2nd Series
Effective Date: 7-1-94

A. Land Use Districts.

Use	NE / W-1	RD / W-2	GD / W-3
Dwelling, one family	P	P	P
Dwelling, two family		P	P
Public, non-commercial recreational uses including parks, trails, beaches, wayside rests, etc.	P	P	P
Beach, private or commercial	CU	P	
Agricultural activities, excluding livestock	CU	P	P
Agricultural activities including livestock	CU	CU	
Game management areas and wildlife refuges	P	P	
Production and harvesting of forest crops; forest management activities including planting, culture, thinning, and harvesting of trees	P	P	P
Harvesting of wild crops, including but not limited to wild rice, marsh hay, ferns, moss, and berries, provided all rules and regulations governing such activities are observed	P	P	P
Fire towers and related facilities		P	P
Accessory uses clearly incidental to principal use	P	P	P
Solar collectors or panels shall be permitted as an accessory use	CU		P
Public and semi-public uses including but not limited to the following: public and private schools, churches, community buildings, hospitals, rest homes, fire and police stations, public maintenance repair or storage buildings		CU	CU
Utility corridors and related facilities including but not limited to dams, transmission towers and lines, microwave relay towers, substations, and pipelines	CU	CU	CU
Necessary facilities for the production of electric power including but not limited to dams, reservoirs, and power plants. Projects requiring mandatory review by the Minnesota Environmental Quality Board shall be exempt from conditional use review.		CU	CU

Use	NE / W-1	RD / W-2	GD / W-3
Topographic alteration	P	P	P
Excavation pits and related facilities including but not limited to portable crushing, screening, and batching equipment	CU	CU	CU
Mineral exploration	CU	CU	CU
Temporary forest processing activities including portable sawmills, debarking and chipping facilities, and temporary yarding areas		CU	CU
Airports, including seaplane bases		CU	CU
Transfer stations		CU	CU
Boathouses to ten feet (10') from the ordinary high water mark		CU	CU
General campground facility		CU	CU
Signs, Class D (exempt)	NP	NP	NP
Towers	CU	CU	CU
Wind energy conversion systems	CU	CU	CU

Notes:

NE = Natural Environmental Lakes and Streams
RD = Recreational Development Lakes and Streams
GD = General Development Lakes and Streams
P = Permitted Use
CU = Conditional Use
I = Interim Use
NP = No Permit required

Source: Ordinance No. 359, 2nd Series
Effective Date: 4-24-2009

(Sections 16.13 through 16.19, inclusive, reserved for future expansion)

(Pages 747 through 754 reserved)

SEC. 16.20. ZONING AND WATER SUPPLY/SANITARY PROVISIONS.

Subd. 1. Lot Area and Width Standards. The lot area (in square feet) and lot width standards (in feet) for single and duplex residential lots created after the effective date of this Chapter for the lake and river/stream classifications are the following:

Subd. 2. Unsewered Lakes.**A. Natural Environment (NE or W-1):**

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	87,120	200	87,120	200
Duplex	127,120	300	174,240	400

B. Recreational Development (RD or W-2):

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	43,560	150	43,560	150
Duplex	87,120	225	87,120	265

C. General Development (GD or W-3):

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	21,780	100	43,560	150
Duplex	43,560	180	87,120	265

Subd. 3. Sewered Lakes.**A. Natural Environment (NE or W-1):**

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220

B. Recreational Development (RD or W-2):

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135

C. General Development (GD or W-3):

	Riparian Lots		Nonriparian Lots	
	<u>Area</u>	<u>Width</u>	<u>Area</u>	<u>Width</u>
Single	15,000	75	10,000	75
Duplex	26,000	135	17,500	135

Subd. 4. River/Stream Lot Width Standards. Rivers and streams lot size shall comply with the minimum standards of the adjacent zoning district. Where permitted or conditionally permitted the lot width standards for single residential and duplex developments for the river/stream classifications are:

	Forested:	
	<u>No Sewer</u>	<u>Sewer</u>
Single	200	75
Duplex	300	115

Subd. 5. Additional Special Provisions.

A. One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in this Section, provided the following standards are met:

1. For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within the smallest duplex-sized lot that could be created including the principal dwelling unit;
2. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and
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.

B. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

1. They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.

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

Controlled Access Lot Frontage Requirements

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

3. They must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and

4. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

SEC. 16.21. PLACEMENT, DESIGN, AND HEIGHT OF STRUCTURES.

Subd. 1. Placement of Structures on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

A. Structures and On-Site Sewage System Setbacks (in feet) From Ordinary High Water Level.

Classes of Public Waters Lakes	Setbacks*		Sewage Treatment System
	Unsewered	Sewered	
Natural Environment (W-1)	200	150	150
Recreational Development (W-2)	100	75	75
General Development (W-3)	75	50	50
Rivers			
Forested	150	150	100
Tributary	100	50	75

* One water-oriented accessory structure designed in accordance with this Section may be set back a minimum distance of ten (10) feet from the ordinary high water level.

Source: Ordinance No. 217, 2nd Series
Effective Date: 7-1-94

B. Side/Rear Yard Setbacks (in feet) from applicable property lines.

Classes of Public Waters	Principal Structures	Accessory Structures
Lakes	<u>Side/Rear</u>	<u>Side/Rear</u>
Natural Environment (W-1)	20/50	10/10

Recreational Development (W-2)	20/45	10/10
General Development (W-3)	15/40	10/10

Rivers

Forested and Tributary Applicable setback requirements of the zoning district adjacent to river/stream.

Source: Ordinance No. 255, 2nd Series
Effective Date: 3-4-99

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

<u>Setback From:</u>	<u>Setback (in feet)</u>
1. Top of bluff;	30
2. Unplatted cemetery;	50
3. Setbacks from road right-of-ways shall be 35 feet, or the following road centerline setbacks, whichever is greater:	
Federal, State or County highway; (Principal and Minor Arterials)	110
town road, public street (Major Collectors)	85
or other roads or streets not classified (Minor Collectors and Local Roads).	68

Source: Ordinance No. 269, 2nd Series
Effective Date: 7-27-01

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

E. Uses Without Water-Oriented Needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal

ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

Source: Ordinance No. 255, 2nd Series
Effective Date: 3-4-99

Subd. 2. Design Criteria For Structures.

A. High Water Elevations. Structures must 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 ordinary high water level, whichever is higher;
2. For rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with 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. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this Subdivision if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

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

1. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
2. The setback of the structure or facility from the ordinary high water level must be at least ten feet;
3. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
4. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;

5. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and

6. As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

Source: Ordinance No. 217, 2nd Series
Effective Date: 7-1-94

C. Structures for Accessory Uses, Attached/Detached Garages Without Water-Oriented Needs. Each lot may have garages that are attached to the principal structure or detached, and/or other accessory structures not meeting the definition of water-oriented accessory structures. Each structure in compliance with all applicable requirements may be constructed up to a maximum size limit of 1500 square feet in area.

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

1. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for public open-space recreational properties;

2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for public open-space recreational properties;

3. Canopies or roofs are not allowed on stairways, lifts, or landings;

4. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;

5. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and

6. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of this Subparagraph are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

E. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

F. Steep Slopes. The St. Louis County Health Department and the City Building Inspector must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer leaf-on vegetation.

Subd. 3. Height of Structures. All residential dwellings, seasonal cabins, and other structures without specified height limitations elsewhere in this Chapter, except churches and non-residential agricultural structures, shall not exceed 35 feet in height. Privies/Outhouses shall not exceed 10 feet in height.

Source: Ordinance No. 255, 2nd Series
Effective Date: 3-4-99

(Sections 16.22 through 16.29, inclusive, reserved for future expansion)

(Pages 763 through 767 reserved)

SEC. 16.30. SHORELAND ALTERATIONS. Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, limit direct and indirect impacts on water quality, and protect fish and wildlife habitat. A shoreline buffer shall be required in the shore impact zone. Vegetation removal necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities shall be exempt from the standards in this subpart. However, the grading and filling conditions of this subpart must be met for issuance of permits for structures and sewage treatment systems. Public roads and parking areas, as regulated in Section 16.31, and public swimming areas are exempt from the provisions of this part.

Subd. 1. Vegetation Alterations.

A. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 16.31 hereof, are exempt from the vegetation alteration standards that follow.

B. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Section 16.33 hereof, is allowed subject to the following standards:

1. A shoreline buffer shall exist within the shore impact zone, consisting of trees, shrubs, and low ground cover of native plants and understory in a natural state.

2. Vegetation clearing and removal of ground cover, including leaf litter and the forest floor duff layer, within the shore and bluff impact zones and on steep slopes shall not be allowed except as follows:

(a) Limited clearing of trees and shrubs, and cutting, pruning, and trimming of trees to accommodate the placement of stairways and landings, access paths, view corridors, recreation use areas, and permitted water-oriented structures or facilities shall be allowed within the shore impact zone. Trees, shrubs, and a low ground cover consisting of native plants and understory shall be maintained in a natural state within this area. An access path permitted within this area shall not exceed a clear width of 6 feet and must be oriented generally perpendicular to the shoreline. Only one shoreline recreation use area shall be allowed on each residential lot and it shall not exceed the following dimensions:

Class or District	Width (maximum distance in feet parallel to shore)	Length (feet)
Special Protection	10	15
Sensitive Area	10	15
Natural Environment	10	15
Recreational Development	20	15
General Development	30	15
Remote River segments	10	15
Forested and Transition river segments	20	15
Agriculture, urban, and tributary river segments	30	15

For conservation subdivisions, planned unit developments and new resorts, shoreline recreation use areas shall be no larger than 20 feet in width along the shoreline for each 100 feet of shoreline, not to exceed 5000 square feet in total area, with the depth of the shoreline recreational area not exceeding 25 feet landward from the ordinary high water level. A perennial ground cover shall be maintained to prevent erosion on all shoreline recreation use areas, and a tree canopy shall cover half of the area to intercept rainfall and lessen erosion potential.

(b) Limited clearing of trees and shrubs, and cutting, pruning, and trimming of trees to accommodate the placement of stairways and landings, and access paths shall be allowed in bluff impact zones and on steep slopes. Trees, shrubs, and a low ground cover consisting of native grasses and plants shall be maintained in these areas.

(c) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

3. Removal of trees and shrubs within the secondary shoreline buffer zone may be allowed, provided that a well-distributed stand of trees and shrubs is maintained. A well-distributed stand of trees and shrubs means that a tree and shrub canopy covers over 50 percent of the area. A ground layer of predominantly perennial vegetation, such as grass, flowers, forbs, of preferably native plants, shall be preserved, established, or maintained in this area.

C. Use of fertilizer shall not be allowed within the shore impact zone. Use of fertilizer and pesticides elsewhere within the shoreland management district must be done in such a way as to minimize runoff into the shore impact zone or public water.

D. Vegetation within the shore impact zone shall be maintained to screen structures with trees and shrubs so that the structures are at most 50 percent visible from public waters during summer, leaf-on conditions.

E. No impervious surfaces shall be allowed within the shore impact zone, except for boat launches, stairways, lifts or landings, and, where permitted, one water-oriented accessory structure.

F. Open areas and lawns within the shore impact zone, except those allowed in Part B, shall be left unmowed or replanted with native vegetation of trees and shrubs to establish and maintain a vegetative buffer, with a natural ground layer of understory plants.

G. Land disturbing activities within the shoreland management district shall meet or exceed the following standards:

1. Filling of any wetlands within the shore impact and secondary shoreline buffer zones shall be prohibited.

2. Natural swales, depressions, steep slopes, and topsoil shall be preserved. Alterations to these areas may only be permitted in conjunction with erosion control, stormwater management, and vegetation buffer plans that are approved by the zoning office and effectively implemented.

3. Excavation or placement of more than 5 cubic yards of material within shore impact zone may be permitted provided that erosion control, stormwater management, and vegetation buffer plans are approved by the zoning office and effectively implemented.

4. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.

5. Mulches or similar materials must be used for erosion control, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.

6. Silt fences or other methods to trap sediments before they reach any surface water feature must be used.

7. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation district and the Natural Resources Conservation Service.

H. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, may be permitted as a conditional use. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters pursuant to Minnesota Statutes, section 103G.245. Structure setbacks and the shore impact zone shall be measured from the excavation.

Source: Ordinance No. 359, 2nd Series
Effective Date: 4-24-2009

Subd. 2. Topographic Alterations/Grading and Filling.

A. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

B. Public roads and parking areas are regulated by Section 16.31 hereof.

C. Notwithstanding Subparagraphs A and B, above, a grading and filling permit will be required for:

1. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
2. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

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

1. Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland*:

- (a) Sediment and pollutant trapping and retention;
- (b) Storage of surface runoff to prevent or reduce flood damage;
- (c) Fish and wildlife habitat;
- (d) Recreational use;
- (e) Shoreline or bank stabilization; and
- (f) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

* This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, State, or Federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.

2. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;

3. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;

4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

5. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;

6. Fill or excavated material must not be placed in a manner that creates an unstable slope;

7. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;

8. Fill or excavated material must not be placed in bluff impact zones;

9. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under Minnesota Statutes, Section 105.42;

10. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

11. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

E. Connections to Public Waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

SEC. 16.31. PLACEMENT AND DESIGN OF ROADS, DRIVEWAYS, AND PARKING AREAS.

Subd. 1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

Subd. 2. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

Subd. 3. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this Section are met. For private facilities, the grading and filling provisions of Section 16.30 hereof, must be met.

SEC. 16.32. STORMWATER MANAGEMENT. The following general and specific standards shall apply:

Subd. 1. General Standards.

A. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

B. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.

C. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

Source: Ordinance No. 217, 2nd Series
Effective Date: 7-1-1994

Subd. 2. Specific Standards.

A. The maximum impervious surface coverage must be in accordance with the following table:

Development or Use	Class or District (5)	Impervious Surface Coverage (percent of applicable area) (4) (6)	Applicable Area
Noncommercial	General Development and Recreational Development	15 (1)	Lot or parcel
Noncommercial	Natural Environment, Special Protection, Sensitive Area, and all river classes	12	Lot or parcel
Access lots	All	12	Lot or parcel
Conventional subdivision	Where allowed	12	Lot or parcel
Conservation subdivision	General Development and Recreational Development	15 (1)	Riparian lots
Conservation subdivision	Natural Environment, Special Protection, Sensitive Area, and all river classes	12	Riparian lots
Conservation subdivision	All	35	Nonriparian lots
Planned Unit Development	All	15	Total project area and first tier
Resort	Where allowed	25	Total project area and any tier
Resort (2)	General Development	35	2 nd and 3 rd tiers

Development or Use	Class or District (5)	Impervious Surface Coverage (percent of applicable area) (4) (6)	Applicable Area
Commercial (3)	Commercial districts	25	Total project area and any tier

Notes:

- (1) Up to 20 percent impervious surface coverage may be allowed with an approved stormwater management plan consistent with this section. Plans shall conform to the provisions of the latest Pollution Control Agency General Stormwater Permit for Construction Activity, and the specific best management practices must be designed and installed to meet those standards. Preference must be given to permanent stormwater management designs that include porous pavement, filter strips, enhanced swales, infiltration basins, disconnected impervious areas, rain gardens, and other conservation designs.
- (2) The total project area impervious surface coverage shall exceed 25 percent.
- (3) Commercial properties besides planned unit developments and resorts.
- (4) Half the area covered by porous pavers or other porous material shall be counted as impervious surface if best management practices were followed in design, installation, and maintenance as found in the Pollution Control Agency's stormwater best management practices manuals.
- (5) Construction or reconstruction activity that results in the disturbance of 10,000 square feet or more on general development lakes, recreational development lakes, and all river classes, and 5,000 square feet on natural environment lakes, special protection lakes, and sensitive area districts must meet Pollution Control Agency General Stormwater Permit for Construction Activity requirements for Erosion Prevention and Sediment Control. These requirements must be incorporated into the project plans and specifications. Construction activity that results in the disturbance of one or more acres will require a stormwater permit from the Pollution Control Agency.
- (6) For a commercial property, for development on a residential lot where the maximum land surface to be covered by structures exceeds 5,000 square feet, or where construction or reconstruction activity results in the disturbance of one or more acres, certified personnel in erosion and sediment control shall be responsible for best management practice design, installation, inspection, and management to meet the Pollution Control Agency General Stormwater Permit requirements. The stormwater pollution prevention plan developed for the project shall incorporate all appropriate provisions of the permit requirements, including both pre- and

post-construction activity. Permanent stormwater management requirements must be met for all impervious surfaces located on the project. This means that a volume of water equal to one-half or one inch, depending on the location, multiplied by the area of impervious surfaces on the project must be treated by one or more of the options outlined in the permit standards. For those areas of a project where there is no feasible way to meet the treatment requirements of the permit standards, other treatment, such as grassed swales, off-line retention areas, and natural depressions for infiltration, is required prior to discharge to surface waters. Construction activity that results in the disturbance of one or more acres will require a stormwater permit from the Pollution Control Agency.

B. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and consistent with the field office technical guide of the local soil and water conservation district. Applicants may be required to provide a properly engineered stormwater pollution prevention plan upon issuance of any permit.

C. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

Source: Ordinance No. 359, 2nd Series
Effective Date: 4-24-2009

SEC. 16.33. SPECIAL PROVISIONS FOR PUBLIC/SEMIPUBLIC, AGRICULTURAL, FORESTRY AND EXTRACTIVE USES AND MINING OF METALLIC MINERALS AND PEAT.

Subd. 1. Standards for Public and Semipublic Uses.

A. Surface water-oriented public or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

1. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Chapter, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

2. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

3. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

(a) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff:

(b) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

(c) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

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

Subd. 2. Agriculture Use Standards.

A. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

B. Animal feedlots must meet the following standards:

1. New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins; and

2. Modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

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

Subd. 4. Extractive Use Standards.

A. Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

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

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

Source: Ordinance No. 217, 2nd Series
Effective Date: 7-1-94

(Sections 16.34 through 16.39, inclusive, reserved for future expansion)

(Pages 775 through 779 reserved)

SEC. 16.40. CONDITIONAL USES. Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community-wide. The following additional evaluation criteria and conditions apply within shoreland areas:

Subd. 1. Evaluation Criteria. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:

- A. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- B. The visibility of structures and other facilities as viewed from public waters is limited;
- C. The site is adequate for water supply and on-site sewage treatment; and
- D. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

Subd. 2. Conditions Attached to Conditional Use Permits. The Council, upon consideration of the criteria listed above and the purposes of this Chapter, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Chapter. Such conditions may include, but are not limited to, the following:

- A. Increased setbacks from the ordinary high water level;
- B. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
- C. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

SEC. 16.41. WATER SUPPLY AND SEWAGE TREATMENT. The St. Louis County Health Department has jurisdiction regarding permit applications and inspections for private water supply and private sewage treatment for the City. St. Louis County requirements are in compliance with the Minnesota Pollution Control Agency, and the Minnesota Department of Health.

Subd. 1. Publicly-owned sewer systems must be used where available.

Subd. 2. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 16.21 hereof.

Subd. 3. Non-conforming sewage treatment systems shall be regulated and upgraded in accordance with Section 16.50 hereof, and the St. Louis County regulations.

Subd. 4. Non-conforming sewage treatment systems shall be regulated and upgraded in accordance to St. Louis County regulations. Structures and on-site sewage system setbacks can be found in Section 16.21 hereof.

Source: Ordinance No. 217, 2nd Series
Effective Date: 7-1-94

(Sections 16.42 through 16.49, inclusive, reserved for future expansion)

(Pages 782 through 786 reserved)

SEC. 16.50. NON-CONFORMITIES. All legally established non-conformities as of the effective date of this Chapter may continue, but they will be managed according to applicable State statutes and other City Code provisions for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

Subd. 1. Construction on Non-conforming Lots of Record.

A. Lots of record in the office of the County Recorder on the effective date of local shoreland controls that do not meet the requirements of Section 16.20 hereof, may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met.

B. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

C. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Section 16.20, hereof, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Section 16.20 hereof, as much as possible.

Subd. 2. Additions/Expansions to Non-Conforming Structures.

A. All additions or expansions to the outside dimensions of an existing non-conforming structure must meet the setback, height, and other requirements of Section 16.20 hereof. Any deviation from these requirements must be authorized by a variance from the City.

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

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

Subd. 3. Non-Conforming Sewage Treatment Systems.

A. A sewage treatment system not meeting the requirements of Section 16.41 hereof, must be upgraded, at a minimum, at any time a permit or variance of any type is required for any change in the outside dimensions of the structure, addition of dwelling units, or the addition of accessory structures. For the purposes of this provision, a sewage treatment system shall not be considered non-conforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

B. The Council has by formal resolution notified the Commissioner of its program to identify non-conforming sewage treatment systems. The City will inspect one (1) lake per year to identify non-conforming sewage systems. This program will take twelve (12) years. The City will require upgrading or replacement of any non-conforming system identified by this program within a reasonable period of time which will not exceed two (2) years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, Section 105.485, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered non-conforming.

Source: Ordinance No. 217, 2nd Series
Effective Date: 7-1-94

(Sections 16.51 through 16.59, inclusive, reserved for future expansion)

(Pages 790 through 794 reserved)

SEC. 16.60. SUBDIVISION/PLATTING PROVISIONS.

Subd. 1. Land Suitability. Each lot created through subdivision, including general campground facilities authorized under Section 16.70 hereof, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the Council shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

Subd. 2. Consistency With Other Controls. Subdivisions must conform to all official controls of the City. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly-owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Sections 16.21 and 16.70 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 16.21 including at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

Subd. 3. Information Requirements. Sufficient information must be submitted by the applicant for the City to make a determination of land suitability. The information shall include at least the following:

- A. Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
- B. The surface water features required in Minnesota Statutes, Section 505.02, Subd. 1, to be shown on plats obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
- C. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;

D. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;

E. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and

F. A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

Subd. 4. Dedications. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

Subd. 5. Platting. All subdivisions that create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

Subd. 6. Controlled Access or Recreational Lots. Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Section 16.20 hereof.

Source: Ordinance No. 217, 2nd Series
Effective Date: 7-1-94

SEC. 16.61 CONSERVATION SUBDIVISION.

Subd. 1. Scope of Provisions. These provisions may allow development for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Each lot or dwelling created through subdivision must be suitable in its natural state for the proposed use with minimal alteration.

Subd. 2. Information Requirements. Developers are encouraged to discuss these requirements with zoning staff so as to better understand the review process and community interests. Developers must submit, at a minimum, the following information on the proposed development:

A. Topographic contours at 10-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics such as bluffs and slopes greater than 25 percent.

B. The surface water features required in Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained

from United States Geological Survey quadrangle topographic maps or more accurate sources.

C. Adequate soils information to determine suitability for building and two standard on-site sewage treatment system capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods.

D. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths out to 15 feet, type of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities.

E. A site plan for the project showing property boundaries, surface water features, existing and proposed structures, sewage treatment systems, topographic contours at 10-foot intervals or less, trees, unusual geological features, vernal pools, wetlands, swimming beaches, docks and continuous mooring sites and other lake related implements including rafts and buoys, markers delineating swimming and bathing areas, beaches, and other facilities.

F. Documents explaining how the project is designed and will function. These shall include all covenants, operating rules and procedures of any property owners association, all easements associated with the development, a concept statement describing the project, all structures, and various other drawings or plans as required by the local government.

G. A context map showing the natural features on both the proposed development site and on adjacent properties.

H. For conservation easements, a statement of preliminary acceptance from a qualified holder as defined in Minnesota Statutes, section 84C.01-02.

Subd. 3. Dwelling unit or site density evaluation. Proposed new or expansions to existing developments must be evaluated using the following procedures and standards:

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

Shoreland Tier	Dimension (feet)
General development lakes -- first tier	200
General development lakes -- second tier	267
Recreational development lakes -- first tier	267
Recreational development lakes -- second tier	267
General and Recreational development lakes -- third tier	All remaining lot area
Natural environment lakes -- all tiers	400
Sensitive Area Districts (lake) -- all tiers	400
Special protection lakes -- all tiers	400
All river classes	300

B. The suitable area within each tier is next calculated. This area is then subjected to the development density evaluation steps to arrive at an allowable number of dwelling units/sites. In areas with overlapping tiers due to close proximity of public waters to each other, topographic divides shall be used to determine which shoreland standard would apply, and in those areas where the topographic divide cannot be determined, the more restrictive rules for the area shall be used.

C. Minimum structures setbacks must be at least:

Shoreland Class	Setback from ordinary high water level (feet)
Special Protection	200
Natural Environment	200
Recreational Development	150
General Development	120
Agricultural, urban, and tributary river	100
Forested and transition river	150
Remote river	200
Sensitive Area District	200

Subd. 4. Conservation subdivision and planned unit development density calculation. The density calculation for development is as follows:

The suitable area within each tier is divided by the single residential lot size standard for the shoreland class. This calculation determines the maximum number of dwelling units or sites authorized for each tier. Allowable densities may be transferred from any tier to any other tier further from the shoreland water body or watercourse, but must not be transferred to any other tier closer. Structures that straddle tiers shall be rated as part of the tier closer to the ordinary high water level.

Subd. 5. Development criteria. Developments shall conform to all of the following criteria:

A. The design of all developments within the shoreland shall incorporate all of the following:

1. All developments must contain at least 3 contiguous acres of buildable area with a lot width of 400 feet.

2. Developments shall contain open space meeting all of the following criteria:

(a) At least 50 percent of the total project area must be permanently preserved as common open space. Common open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries, and at least 75 percent of the common open space must be upland area. At least 33 percent of the common open space shall be retained in a contiguous area.

(b) The land area of all dwelling units/sites and accessory structures, the space between buildings in a cluster, an area of 25 feet around each structure, all road rights-of-way, and all land covered by impervious surfaces, road surfaces, parking areas, or structures, shall not be included in the computation of common open space.

(c) A shoreland vegetation buffer plan designed and implemented meeting the standards of Section 16.30 Subd. 1.

(d) Open space may include outdoor recreational facilities for use by owners of the dwelling units/sites, or the public.

(e) The shore and bluff impact zones, based on structure setbacks in Section 16.61, subd. 3, shall be included as common open space. New developments, and redevelopments of existing developments shall meet vegetation standards in Section 16.30, Subd 1. No impervious surfaces shall be allowed within the shore impact zone, except for boat launches, stairways, lifts or landings. For conservation subdivisions, there must be at least one access corridor to the shore

impact zone common open space for use by all members of the owners association. The minimum width of an access corridor shall be 50 feet, and access corridors shall be in upland areas.

(f) Common open space shall not include commercial facilities.

(g) The appearance of common open space areas, including topography, vegetation, and allowable uses, shall be preserved by use of permanent easements, public dedication and acceptance, or other equally effective and permanent means. For permanent easements, a willing party for receiving easements must be declared, otherwise a party may be assigned pursuant to Minnesota Statutes, 375.18 Subd.12.

(h) Common open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.

3. Centralization and design of facilities and structures must be done according to the following standards:

(a) Planned unit development shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and the Minnesota Pollution Control Agency. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient area free of limiting factors must be provided for a replacement standard soil treatment system for each sewage treatment system.

(b) Conservation subdivisions shall be connected to publicly owned water supply and sewer systems, if available. Where publicly owned water supply and sewer systems are not available, conservation subdivisions shall either establish dedicated areas for individual sewage treatment systems or establish centralized water supply and sewage treatment systems to serve the entire subdivision.

(c) Dwelling units/sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or be more restrictive than the following dimensional standards for the relevant shoreland classification: elevation above the surface water features, and maximum height. The site design must incorporate the use of narrower rights-of-way than conventional subdivisions, some single-loading streets, looped roadways versus cul-de-sacs, use of pervious surfaces, maximum road setbacks for house-fronts, and preservation of trees, unique resources, and scenic vistas.

(d) For conservation subdivisions, riparian lot standards shall meet the minimums in Section 16.21 Subd. 1, and lots shall not extend into the shore impact zone. For conservation subdivisions, the nonriparian lot standards that apply are the lot size

and lot width standards in Section 16.21 Subd. 1, however these are maximum lot size and lot width standards for these developments, not minimum lot size and lot width standards.

(e) Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps must be clustered or grouped in suitable areas. Evaluation of suitability must include consideration of land slope, water depth, aquatic and shoreland vegetation, soils, depth to groundwater and bedrock, or other relevant factors. Boating facilities shall be located adjacent to the deepest water available. The number of spaces provided for continuous mooring, or docking of watercraft shall not exceed one for each authorized dwelling unit or site in the first tier. Individual docks shall not be allowed. If the waterbody does not have a public access boat launching facility, launching ramp facilities including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units/sites located in other tiers, and their watercraft shall be stored outside the shore impact zone such that they are not visible from the public water.

(f) Structures, parking areas, and other facilities must meet or exceed structure setbacks in Section 16.61 Subd. 3, and must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other acceptable means, assuming summer, leaf-on conditions.

(g) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 16.21 Subd.1.B., and are centralized.

(h) Accessory structures and facilities may be allowed if they meet or exceed standards in Section 16.21, Subd. 1.B, and are centralized.

4. Erosion control and stormwater management for developments must meet the standards in Section 16.32. For planned unit developments, the impervious surface coverage shall not exceed 15 percent in either the total project area or the first tier. For conservation subdivisions, the impervious surface coverage for lots must meet the standards in Section 16.32. Erosion control and stormwater management shall be designed by certified personnel in erosion and sediment control using the best management practices found in the latest Pollution Control Agency's stormwater management practices manual and effectively implemented.

B. Administration and maintenance requirements. Before final approval of all developments, adequate provisions must be developed for preservation and maintenance in perpetuity of common open spaces and for the continued existence and functioning of the development as a community.

1. Common open space preservation. Deed restrictions, permanent conservation easements, public dedication and acceptance, or

other equally effective and permanent means must be provided to ensure perpetual preservation and maintenance of common open space. For areas greater than or equal to 10 acres, easements shall be held by a qualified unit of government, conservation organization, land trust or similar organization authorized to hold interest in real property pursuant to Minnesota Statutes, section 84C.01-05, as approved by the City. The instruments of the easement must include all of the following protections:

(a) Commercial uses shall be prohibited for noncommercial developments.

(b) Vegetation and topographic alterations other than to prevent personal injury or property damage and for restoration efforts based on an approved shoreland vegetation buffer plan shall be prohibited.

(c) Construction of additional buildings, impervious surfaces, or storage of vehicles and other materials shall be prohibited.

(d) Beaching of motorized watercraft shall be prohibited.

(e) Dumping, storage, processing, burning, burying or landfill of solid or other wastes shall be prohibited.

2. Shoreland vegetation shall be preserved, restored and maintained according to the approved shoreland vegetation buffer plan. The loss of vegetation shall be replaced in kind.

3. Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential developments shall use an owners association with the following features:

(a) Membership shall be mandatory for each dwelling unit or site purchaser and any successive purchasers.

(b) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.

(c) Assessments must be adjustable to accommodate changing conditions.

(d) The association shall be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities, and it must enforce covenants, deed restrictions and easements. The association must have a land stewardship plan for common open space areas greater or equal to 10 acres specifically focusing on the long-term management of these open space lands.

4. Amendments or revisions to covenants or deed restrictions. Before establishing or recording any common interest community, the developer shall submit documents, including all covenants, conditions, restrictions, easements, and operating rules and procedures associated with the development, for review and approval by the City pursuant to Minnesota Statutes, section 515B.1-106. Under no circumstances shall covenants or deed restrictions be modified without the City's determination that the proposed changes fully comply with the requirements of this section.

C. Conversions. Existing commercial planned unit developments, other land uses and facilities may be converted to residential development if all of the following standards are met:

1. Proposed conversions must be evaluated using the same procedures and standards presented in this part for planned unit development involving all new construction. Inconsistencies between existing features of the development and these standards shall be identified and corrected. For conversions to residential lots, all inconsistencies between existing features of the development and the standards of Section 16.21 must be identified and corrected.

2. Deficiencies involving water supply and sewage treatment, impervious coverage, common open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.

3. Shore and bluff impact zone deficiencies must be corrected as part of the conversion. These improvements must include, where applicable, the following:

(a) Removal of extraneous buildings, docks, mooring sites, boat launching areas, and ramps, or other facilities located in shore or bluff impact zones.

(b) Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water to meet shoreland vegetation buffer standards in Section 16.30.

4. Dwelling units or dwelling site densities shall meet the standards in this part for conversion to planned unit developments and the standards in Sections 16.20 and 16.21 for conversions to residential lots.

Source: Ordinance No. 359, 2nd Series
Effective Date: 4-24-2009

(Sections 16.62 through 16.69, inclusive, reserved for future expansion)

SEC. 16.70. GENERAL CAMPGROUND FACILITIES.

Subd. 1. Designation and Information Requirements. General campground facilities must be processed as a conditional use.

A. Application must address the following criteria:

1. Existing recreational use of the surface waters and likely increases in use associated with the campground;
2. Physical and aesthetic impacts of increased density;
3. Suitability of lands for campground use;
4. Level of current development in the area;
5. Amounts and types of ownership of undeveloped lands;
6. Specify public, commercial or time share.

B. Site plan shall include the following: area for buffer screen; location and dimensions of all buildings, facilities, amenities and sanitary systems. All campsites with dimensions, parking areas/lots and driveways shall be delineated. Areas proposed to be filled in or otherwise altered shall be delineated on the site plan (natural topography shall be maintained as much as possible). The site plan shall be drawn-to-scale and shall be completed in a neat legible manner. A professionally designed site plan with 10' (ten foot) topographical intervals is preferred and may be required by the Zoning Administrator in such cases but not limited to when natural drainage patterns, lakes, streams or wetlands are involved.

Subd. 2. Campsite Density. Proposed new campsites that fall within each tier of 400 feet of a line drawn parallel to a line that identifies the ordinary high water level are subject to the following: Take the suitable area (as defined in Section 16.60) within the 400 feet tier and multiply by 0.028 for RD (W-2) Districts and 0.056 for GD (W-3) and Tributary Stream District to yield the total area within the tier allowed for campsites. Divide this by 400 sq. ft. to determine the base number of campsites permitted for the new area. The project may be eligible for additional density increases if all of the following design criteria are met and at least one is exceeded:

A. Open Space.

1. At least 50 percent of the total project area must be preserved as open (non-campsite) space. Applicants shall use deed restrictions or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space.
2. Campsites, road right-of-way, or land covered by road surfaces, parking areas, or commercial facilities, except water-oriented accessory structures or facilities, are developed areas and should not be included in the computation of open space.
3. All shore impact zones within the campground must be included as open space, and at least 50 percent of these areas must be preserved in their natural or existing state.
4. Open space may include outdoor recreation facilities for use by guests staying in the campground, or the public.
5. Open space may include subsurface sewage systems if use of the space is restricted to avoid adverse impacts on the system.
6. Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.

B. Design of structures and facilities must be done according to the following standards:

1. Campground facilities as stated herein shall meet "Compliance Standards for Recreational Camping Areas" or updated applicable standards as enforced or stipulated by the St. Louis County Health Department. Said facilities shall be subject to applicable local, State and Federal regulatory authorities and all permit requirements. The conditional use permit shall not be issued until the applicant and/or owner verifies all applicable compliance requirements.
2. Sites shall be clustered on suitable areas of the development. All structures must meet or exceed all applicable minimum setback requirements for the relevant shoreland classification: setback from the ordinary high water level, elevation above surface water features and maximum height.

3. Campsites, structures, parking areas, and other facilities must be designed and located in a manner that minimizes their visibility from surface water features, assuming summer leaf-on conditions. The campsite, structure, accessory structure, or parking area 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 Council assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

4. Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas, launching ramps and water-oriented structures must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of watercraft allowed to be continuously beached, moored, or docked must not exceed one for each allowable campsite.

5. Driveways and parking lots except individual campsites for said facilities located within the Urban Service District shall be covered with dust-free all-weather surface with proper drainage. Pavement and buffer screen shall be installed as part of the initial construction.

C. Erosion control and stormwater management must:

1. Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and

2. Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistent with Section 16.30.

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

1. General campground facilities must be connected to publicly-owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Sections 16.21 and 16.41 hereof.

Source: Ordinance No. 217, 2nd Series
Effective Date: 7-1-94

SEC. 16.71. WIND ENERGY CONVERSION SYSTEM (WECS).

Subd. 1. For purposes of accommodating the alternative energy sources needs for residents and businesses while minimizing the adverse visual impacts, and other locational effects such as but not necessarily limited to noise and safety concerns regarding Wind Energy Conversion System (WECS) as defined in Section 16.02. 44. of this Chapter, the City finds the following provisions for such uses are reasonable and are in the best interests for protecting the health, safety and general welfare of the community.

Subd. 2. Conditional Use. Unless otherwise specifically listed as exempt in this Section, a WECS shall be listed as a conditional use only in those districts shown in the land use table in Section 16.12, Subd. 2. A. Land Use Districts (i.e. W-1, W-2, and W-3 Districts) of this Chapter, and therefore, as such, shall require a petition for Conditional Use Permit (CUP) approval in accordance with the applicable provisions and procedures for a WECS as stipulated in this Section, in Section 11.73 of Chapter 11 and in Section 16.40 of Chapter 16 of the Hibbing City Code. Nothing shall prevent the City of Hibbing from attaching additional conditions to any CUP as a contingency for approval.

Subd. 3. Prohibited Uses. A WECS shall be considered as a prohibited use as follows:

A. A WECS not in conformance with any applicable provisions of the Hibbing City Code.

B. A WECS not in conformance with any applicable Federal or State of Minnesota law or applicable regulation of any Federal or Minnesota State agency or department.

C. A WECS proposed or found to be located on any site that is found to be wetland under the laws, regulations and standards of the United States Army Corps of Engineers (U.S.A.C.O.E.) or the Minnesota Wetland Conservation Act (WCA).

Subd. 4. Building Permit or Zoning Permit Required For WECS, Meteorological Towers and Decorative Windmills. In addition to building or zoning permit applications, a Federal Aviation Administration (FAA)

application shall be required where such tower or device is 10,000 feet or less from the end of an airport runway. A permit from MnDOT Aeronautics and Aviation for tall towers and structures may be required - see Executive Director of Airport Authority for such applications. Attach copies of MnDOT and/or FAA approvals of such applications and Airport Authority authorization to building/ zoning permit applications which shall be required as follows:

A. A building permit application shall be required for a WECS requiring a CUP including any replacement thereafter. Information including, but not limited, to ownership of the property, legal description, a site plan, construction plans, specifications of the WECS support system, any building, or any alterations of vegetation or topography associated with, or incidental to the WECS shall be included with any such permit application. Said permit application shall be attached to any applicable CUP petition.

B. A zoning permit application shall be required for a temporary meteorological tower. In this Section meteorological tower shall mean one used exclusively for the purpose of conducting wind resource assessments relevant to siting WECS (with the exception of such devices used by airports, Minnesota Department of Transportation, or other applications to monitor weather conditions). [NOTE: A CUP is not required for such meteorological towers.] Such meteorological towers shall only be permitted in districts where a WECS is a Conditional Use and shall conform to the applicable provisions of this Section for such WECS. Said meteorological tower shall be temporary and shall be removed within one (1) year of installation unless an agreed upon time limit extension is granted by the Zoning Administrator.

C. A zoning permit application shall be required for any decorative windmill. In this Section decorative windmills shall mean any such device which is exclusively intended and used for decorative purposes only. A CUP is not required for such decorative windmills. Such decorative windmills shall not exceed 15 feet in height and shall maintain a minimum setback from the ordinary high water level of any lake, river or stream shoreline as provided in this Chapter. All other minimum property setback provisions of the district for the property shall apply including all other applicable provisions of this Section.

Subd. 5. Non-Commercial WECS. For purposes of this Section a Non-Commercial WECS shall be any WECS less than 100kw in total name plate generating capacity. Though such Non-Commercial WECS shall be for personal use by the occupants of a dwelling or business located on the property such WECS may also be connected to the electrical grid with proper executed interconnect agreements with the electrical utility serving the property.

Subd. 6. Overall Height Of WECS (OHOW). In this Section the overall height of a WECS (OHOW) shall be determined by vertically measuring the WECS from the finished grade elevation of the site location to the top of said WECS or to the fullest vertical extension of the rotor blades or airfoils whichever height is greater. Where applicable to any

siting of a WECS which appears to be aligned within the extended Airport Safety Zones A and B, the sea level elevation of the finished grade elevation of said site shall be the determining factor in limiting the OHOW of said WECS. Federal Aviation Administration (FAA) height limit and locational regulations shall apply to a WECS in any district wherever such regulations are stricter than those stipulated in this Section. The abbreviation 'OHOW' shall also be the terminology used to describe the height limitation provision of any given WECS.

Subd. 7. WECS Requiring A Conditional Use Permit (CUP). In addition to conforming to the applicable provisions of this Section a WECS shall require a Conditional Use Permit as follows:

A. One (1) Non-Commercial WECS per parcel with an OHOW not to exceed 35 feet on such lots with shoreline on a lake, river or stream as otherwise provided in this Chapter which parcel shall be required to have a dwelling or principal building. The minimum ordinary high water level setback from such shoreline shall be 100 feet. Minimum setbacks from all other property lines shall not be less than 1.25 times the OHOW. Said shoreline setback may be less but only when said WECS is directly attached to the original portion of the existing dwelling or principal building on the property in question. The lowest bottom clearance of such rotor blades or airfoils shall not be less than 12 feet above ground level.

B. One (1) Non-Commercial WECS per parcel with an OHOW over 35 feet but not more than 60 feet on such lots with shoreline on a lake, river or stream, as otherwise provided in this Chapter which parcel shall be required to have a dwelling or principal building. The minimum ordinary high water level setback from such shoreline shall be 200 feet. Minimum setbacks from all other property lines shall not be less than 1.25 times the OHOW. The bottom clearance of such rotor blades or airfoils shall not be less than 12 feet above ground level.

C. One (1) Non-Commercial WECS per parcel with an OHOW not to exceed 60 feet for lots without shoreline on any lake, river or stream as otherwise provided in this Chapter which parcel shall be required to have a dwelling or principal building. The WECS for the property shall have a minimum setback of 100 feet from any abutting shoreline property. Minimum setbacks from all other property lines shall not be less than 1.25 times the OHOW. The bottom clearance of such rotor blades or airfoils shall not be less than 12 feet above ground level.

Subd. 8. Alterations of Vegetation or Topography for WECS. The shoreland alterations provisions of Section 16.30 of this Chapter shall apply to locating or maintaining a WECS.

Subd. 9. Performance Standards Applicable to WECS. Provisions regarding replacement, maintenance, restoration and operational safety of a WECS are as follows:

A. The replacement of an existing WECS or any part thereof, for any reason, shall be in conformance with the applicable provisions of this Section.

B. Replacement of any part switched out for maintenance purposes for a WECS may not require a new CUP where such replacement is comparable with the original WECS; however, replacement to up-grade any WECS shall invalidate the approved CUP and said WECS may not be replaced unless in conformance with the applicable provisions of this Section.

C. Guyed support structures/towers for WECS. All guyed WECS shall be required to have visible and reflective objects, such as plastic sleeves, reflectors or tape installed on the guy wire anchor points up to a height of 8 feet above ground level. Visible fencing shall be installed around anchor points of guy wire and such anchoring and fencing shall not encroach upon abutting property or public rights-of-way.

D. The color of a WECS shall be non-obtrusive shades of white, grey, blue, black, tan or brown with a matt or non-reflective finish. Non-obtrusive shades shall be colors which do not brightly contrast with the natural background color of the sky and earth during daylight hours.

E. Visibility and Lighting of a WECS for safety purposes shall be in conformance with the requirements established by Federal Aviation Administration permits and regulations and, if applicable, may override the provisions in item D above.

F. A WECS shall conform to Minnesota Rules 7030 governing noise, the National Electrical Safety Code (and other applicable standards), FAA standards and the International Building Code as adopted by the State of Minnesota.

G. Dangerous, hazardous and non-conforming WECS. The City Building Official or Zoning Administrator may determine a WECS to be dangerous or hazardous and order that the WECS be repaired or restored to a safe and fully operational condition or restored to conformance where such WECS has become non-conforming to the applicable provisions of this Section and/or to the approved CUP as the case may be. After expiration of a reasonable time if such repair or restoration has not taken place, said Official or Administrator may order the removal of said WECS so determined to be dangerous, hazardous or non-conforming. The City of Hibbing may act to revoke the CUP for any such WECS.

Subd. 10. Discontinuation Of WECS. Any WECS shall be considered a discontinued use after one (1) year without energy production. Upon a planned permanent discontinuation, the owner of any such WECS is encouraged to request the City of Hibbing to revoke any applicable CUP; however, nothing shall prevent the City of Hibbing from acting on its own to revoke the CUP.

Source: Ordinance No. 370, 2nd Series
Effective Date: 03-28-2010

(Sections 16.72 through 16.98, inclusive, reserved for future expansion)

(Pages 809 through 810 reserved)

SEC. 16.99. VIOLATION A MISDEMEANOR. Every person violates a section, subdivision, paragraph or provision of this Chapter when he/she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, or performs an act prohibited or declared unlawful or fails to act when such failure is prohibited or declared unlawful by a Code adopted by reference by this Chapter, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

Source: Ordinance No. 217, 2nd Series
Effective Date: 7-1-94