

SECTION 1001.08 - SHORELAND ZONING

Subd. 1 Statutory Authorization

- (1) This Shoreland Zoning Section 1001.08 is adopted pursuant to the authorization 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 Purpose and Intent

- (1) The uncontrolled use of shorelands 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 development of shorelands of public water. 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 water 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.

Subd. 3 Jurisdiction

- (1) The provisions of this Section 1001.08 shall apply to the shorelands of the public water bodies as classified in Subdivision 10. Shoreland is land located within 1,000 feet from the ordinary high water mark of a lake, pond, or flowage; or 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.
- (2) The Mississippi River and adjacent River Corridor lands are designated and classified as “Wild & Scenic River” and “Critical Area” and are regulated by provisions of the Mississippi River Corridor Overlay District Section and any other applicable ordinance provisions, whichever is more restrictive.
- (3) 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 ordinance and other applicable regulations.

Subd. 4 Enforcement

- (1) The Zoning Administrator shall be responsible for the administration and enforcement of this Section.
- (2) Any violation of the provisions of this Section 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.
- (3) Violations of this Section can occur regardless of whether or not a permit is required for a regulated activity pursuant to Subdivision 9(1) of this Section.
- (4) Each day that a violation of the provisions of this Section exist, shall constitute a separate misdemeanor.

Subd. 5 Interpretation

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

Subd. 6 Severability

- (1) If any Subdivisions, clause, provision, or portion of this ordinance is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

Subd. 7 Abrogation and Greater Restrictions

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

Subd. 8 Definitions

- (1) The Definitions in Section 1001.03 – Definitions, of the Dayton Zoning Code shall define the terms used in this chapter of the ordinance.

Subd. 9 Administration

- (1) Permits Required

- a. A permit is required for the construction of buildings or building additions (and including such related activities as construction of fences, decks, and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Subdivision 12 of this Section. Application for a permit shall be made to the City on the forms provided. The application shall include the necessary information so that the City can determine the site's suitability for the intended use and that a conforming sewage treatment system or sanitary sewer connection will be provided should any building permits or conditional use permits be issued.
- b. Any construction for which a permit is issued as described in Subdivision 9(1)a. shall be reconstructed or replaced in accordance with the provisions of this ordinance.

- (2) Zoning Compliance

- a. Zoning compliance shall be required for each activity requiring a permit as specified in Subdivision 9(1) of this Section. This will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction that varies from what has been authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided by Subdivision 4 of this Section.
- b. This provision shall be satisfied by planning approval of permits as they are processed by the City.

- (3) Variances

- a. Variances may be granted only in accordance with Minnesota Statutes, Chapter 462 and City Code. A variance may not circumvent the general purposes and intent of this ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the board of adjustment shall also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

- b. The City shall hear and decide requests for variances, including variances for sewage treatment systems in shoreland districts, in accordance with the rules that the City has adopted for considerations of variances in Section 1001.13 Subdivision 4 of the City Zoning Ordinance. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Subdivision 9(4) shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
 - c. For existing developments, the application for variance shall clearly demonstrate whether a conforming sewage treatment system or sanitary sewer connection is present for the intended use of the property. All variances granted shall require reconstruction of a nonconforming sewage treatment system or connection.
- (4) Notifications to the Department of Natural Resources
- a. Copies of all notices of any public hearings to consider variances, amendments, Planned Developments, or conditional uses under shoreland management controls shall be sent to the DNR or the DNR's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed preliminary plats shall include copies thereof.
 - b. A copy of approved amendments and subdivisions/plats, and final decisions granting variances, Planned Developments, or conditional uses under shoreland management controls shall be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action.

Subd. 10. Shoreland Classification and Land Use Districts

- (1) Shoreland Management Classifications:
- a. The public waters of the City have been classified in this ordinance consistent with criteria found in Minnesota Rules, Part 6120.3300, and the Public Waters Inventory Map for Hennepin County, Minnesota.
 - b. The shoreland area for the water bodies, creeks and rivers listed below shall be defined as shown on the official Zoning Map of the City.

c. Lakes

Natural Environment Lakes (NE)	DNR ID#	Acreage	Land Section (T27N-R22W)	Type Wetland	Shoreland Overlay District
1. Goose Lake	27-122	83	35	4	Recreational
2. Laura Lake	27-123	135	7	5	Recreational, Residential, Agricultural
3. Unnamed	27-124	44	8, 9, 16, 17	4	Agricultural
4. Hayden Lake	27-128	400	23, 26	5	Recreational
5. DuBay Lake	27-129	17	28, 29	4	Recreational, Residential, Agricultural
6. Powers Lake	27-130	160	26, 27, 34, 35	4	Recreational, Residential,
7. Grass Lake	27-135	214	18,19	4	Recreational, Agricultural, Residential
Recreation Development Lakes (RD)	DNR ID#	Acreage	Land Section (T120N-R22W)	Type Wetland	Shoreland Overlay District
1. Diamond Lake	27-125	454	17-19	5	Recreational, Residential, Agricultural
2. French Lake	27-127	365	19, 29, 30	5	Industrial, Agricultural, Residential, Recreational

d. Rivers and Streams

River or Stream*	Class	Land Section (T120 R22W)	Shoreland Overlay District
1. Crow River	Agricultural	Sec. 6, T120N, R22W, Sec.31, T121N, R22W Sec.36, T121N, R23W	Residential, Agricultural, Commercial
2. Diamond Lake Creek	Tributary Stream	15, 16, 17, 19, 20, 21, 22, 26 & 27	Agricultural, Residential, Recreational
3. Rush Creek	Tributary Stream	31, 32, 33, 34	Agricultural, Residential, Industrial, Commercial
4. Elm Creek	Tributary Stream	26, 34 &35	Recreational
5. Unnamed	Tributary Stream	17	Recreational, Agricultural

*The Mississippi River and adjacent River Corridor lands are designated and classified as “Wild & Scenic River” and “Critical Area” and are regulated by provisions of the Mississippi River Corridor Overlay District Section and any other applicable ordinance provisions, whichever is more restrictive.

** Portions of the Crow River Shoreland that are north of the centerline of Hennepin County Road 12 shall not be subject to this Shoreland Zoning Section, but shall be regulated by the provisions of the Mississippi River Corridor Overlay District Section and any other applicable ordinance provisions, whichever is more restrictive.

(2) Land Use Zone Districts

a. Purpose

1. The development of shorelands of public waters shall be controlled by means of land use zoning districts which are designated to be compatible with the classes of public waters to which they apply. Land use zoning districts are established to provide for:
 - (a) the management of areas unsuitable for development due to wet soils, steep slopes, flooding, inadequate drainage, severe erosion potential, presence of significant historical sites, or any other feature likely to be harmful to the health, safety, or welfare of the residents of the City;

- (b) the preservation of areas suitable for residential development from encroachment by commercial and industrial uses;
- (c) the centralization of service facilities for residential areas and enhancement of economic growth for those areas suitable for limited commercial development;
- (d) the management of areas for commercial or industrial uses which, by their nature, require location in shoreland areas;
- (e) the preservation and enhancement of the quality of water-based recreational use of public waters including provisions for public accesses.

b. Land Uses for Lakes, Rivers and Streams

Shoreland Use Table

Shoreland Overlay Use Districts	Natural Environment Lakes	Recreation Development Lakes	Agri-cultural Rivers	Tributary Stream
<i>P= Permitted</i>				
<i>C = Conditional Use</i>				
<i>N = Not Permitted</i>				
RECREATIONAL, AGRICULTURAL AND RESIDENTIAL DISTRICT USES				
Forest management	P	P	P	P
Sensitive resource management	P	P	P	P
Agricultural: crop & pasture	P	P	P	P
Agricultural: feedlots	N	N	N	N
Single family residential	P	P	P	P
Public parks and recreation	P	P	P	P
Semi-public and public	C	C	C	C
Mining	C	C	C	C
Multiple residential (sewered only)	C	C	C	C
Surface water oriented commercial	N	N	N	N
Planned developments	C	C	C	C
COMMERCIAL DISTRICT USES				
Any use permitted in Residential or Agricultural Districts	As regulated in the Residential District and Agricultural District			
Commercial	N	C	C	C
Commercial Planned	C	C	N	C

Shoreland Overlay Use Districts	Natural Environment Lakes	Recreation Development Lakes	Agri-cultural Rivers	Tributary Stream
<i>P = Permitted</i>				
<i>C = Conditional Use</i>				
<i>N = Not Permitted</i>				
Development ¹				
Residential Planned Development	C	C	C	C
INDUSTRIAL DISTRICT USES				
Any use permitted in Residential or Agricultural District	As regulated in the Residential District and Agricultural District			
Industrial	N	C	N	C
Industrial Planned Development ¹				
Residential Planned Development				

¹Only permitted in sewerred areas

c. Land Use in the Shoreland Overlay Districts

1. For any use that is regulated by more than one zoning district, including the base zoning district, shoreland overlay district or other overlay districts, the most restrictive regulation requirement shall apply.
2. Land Use Districts in the shoreland area shall be in conformance with the criteria specified in Minnesota Rules, Part 6120.3200, Subpart 3.
3. District Boundaries for the shoreland overlay districts shall be as shown on the official Zoning Map of the City, or alternatively as described in 1001.08 subd. 2.
4. Conditional Use Permits shall be processed by the City as provided by Section 1001.01, Subdivisions 1 & 2 of the City Zoning Ordinance.

Subd. 11 Dimensional Requirements

- (1) The following minimum requirements shall apply to all shore lands of the public waters listed in Subdivision 10. The minimum lot area in (square feet) and minimum lot width requirements (in lineal feet) for residential lots created after the date of enactment of this Section for the lake, river and stream classifications are as set forth in this Subdivision. Where the requirements of the underlying zoning district, as shown on the official zoning map, are more restrictive than those set forth herein, then more restrictive standards shall apply.

a. Unsewered Areas for Riparian and Non-riparian Lots:

Unsewered Areas	Natural Environment Waters	Recreational Development Waters	Agricultural Rivers	Tributary Stream	
Min. Lot Area (square feet)	80,000	40,000	40,000	80,000	
Min. Lot Width & Bldg. Line (ft)	200	150	150	100	
Min. Structure Setback From Ordinary High Water Mark (ft)	150	100	100	100	
Min. Structure Setback From Roads & Highway (ft.)	Determined by the provisions of the City Zoning Code				
Max. Structure Height Limitations	Determined by the provisions of the City Zoning Code, except that no height can exceed 35 feet				
Maximum Lot Area* Covered by Impervious Surface (%)	25	25	In the RO district	All other districts	25
			30	25	
Min. Sewage System Setback From Ordinary High Water Mark (ft.)	150	100	75	100	
Min. Structure Setback from top of bluff (feet)	30	30	30	30	

*See Provisions of Subdivision 12 (14) b.

b. Sewered Areas for Riparian and Non-riparian Lots (See footnote ¹ below table):

Sewered Areas		Natural Environment Waters		Recreational Development Waters		Agricultural Rivers	Urban & Tributary Stream
		Riparian	Non-Riparian	Riparian	Non-Riparian	All lots	All lots
Min. Lot Area (square feet)	Single	40,000	20,000	20,000	15,000	As per base zoning district standards	As per base zoning district standards
	Duplex	70,000	35,000	35,000	26,000		
	Multi-family	100,000 or 32,500/unit which ever is greater	52,000 or 16,250/unit which ever is greater	50,000 or 16,250/unit which ever is greater	38,000 or 12,250/unit which ever is greater		
Min. Lot Width & Bldg. Line (ft)	Single	125	125	75	75	150	75
	Duplex	225	220	135	135	225	115
	Multi-family	add 100 feet for each unit over two	add 95 feet for each unit over two	add 60 feet for each unit over two	add 55 feet for each unit over two	add 75 feet for each unit over two	add 40 feet for each unit over two
Min. Structure Setback From Ordinary High Water Mark (ft)		150		75		50	50
Min. Structure Setback From Roads & Highway (ft.)		Determined by the provisions of the City Zoning Code					
Max. Structure Height Limitations		Determined by the provisions of the City Zoning Code, except that no height can exceed 35 feet					
Maximum Lot Area Covered by Impervious Surface (%)		25		25	In the RO District	All other districts	25
					30	25	
Min. Structure Setback from top of bluff (feet)		30		30		30	30

¹ Because of the existing built condition of the RO District, flexibility in the above standards may be granted through City. Review of such requests shall be made on a case by case basis and be based on proposed measures to control and protect storm water quality. The shore impact area and bluff impact area standards shall not be modified.

- c. For any lot regulated by the base zoning district and the shoreland overlay district, the most restrictive regulation requirement for-setback height, lot coverage, density and any other applicable requirement shall apply.
- d. For commercial and industrial lots, where only part of the lot is located within a shoreland area, the maximum impervious area of the lot within the shoreland overlay shall not exceed 25%. The impervious surface area of the lot outside of the shoreland overlay must meet the base zoning district standards.

Subd. 12 General Provisions.

The following General Provisions shall be required in the Shoreland Overlay District:

- (1) Lots for Controlled Accesses
 - a. Lots used for controlled accesses to public waters or as recreation areas by owners of non-riparian lots within subdivisions shall meet or exceed the following standards:
 - 1. Lots shall meet the minimum width and area 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 (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) shall be increased by twenty-five (25%) percent in lot frontage for each watercraft beyond six;
 - 3. Lots shall be jointly or commonly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot in a manner acceptable to the City and the DNR; and
 - 4. Covenants or other equally effective legal instruments shall be developed that specifically state 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 shall also include other outdoor recreational activities that do not significantly conflict with general public use of public water or the enjoyment of normal property rights of adjacent property owners examples of the non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants shall limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and shall require centralization of all common facilities and activities in the

most suitable locations on the lot to minimize topographic and vegetation alterations. The shall 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

(2) Placement and Design Of Structures and Decks

a. Placement of structure on lots:

1. When more than one setback applies to a site, structures and facilities shall be located to meet all setbacks.
2. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks required for a new proposed building or an addition to an existing building may be altered without a variance to conform to the average setbacks on the adjoining lots from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or bluff impact zone.
3. Decks must meet structure setback standards. Decks that do not meet setback requirements from public waters may be allowed without a variance to be added to structures existing on the date the shoreland structure setbacks were established by ordinance, if all of the following criteria and standards are met:
 - (a) 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;
 - (b) the deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing shoreline setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
 - (c) the deck is constructed primarily of wood and is not roofed or screened.

(3) Floodplain Regulations

- a. Structures shall be located in accordance with the City Floodplain Regulations applicable to the site.
- b. Water-oriented accessory structures, where allowed, may have the lowest floor placed lower than the elevation determined by the procedures in this section if the structure is constructed of flood-resistant materials to the flood elevation, electrical and mechanical equipment is placed above the flood elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

(4) Water-oriented Accessory Structures.

- a. On Recreation Development Lakes, each residence may have one water-oriented accessory structure not meeting the normal structure setback in Subdivision 11 of this Section if this water-oriented accessory structure complies with the following provisions:
1. The accessory use shall not be a boat house, fish cleaning house, or pump house which are prohibited uses in all Shoreland Zoning Districts;
 2. The structure or facility shall not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 150 square feet. Detached decks shall not exceed three (3) feet above grade at any point;
 3. The setback of the structure or facility from the ordinary high water level shall be at least ten feet, except for a boat lift;
 4. The structure or facility shall be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
 5. The structure of facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities

(5) Stairways, Lifts, Landings and Docks.

- a. 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 shall meet the following design requirements:
1. stairways and lifts shall not exceed four feet in width. Wider stairways may be used for public open-space recreational properties;
 2. landings for stairways, landings at the bottom of stairways and lifts on residential lots shall 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, or landings;
 4. stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
 5. stairways, lifts, and landings shall be located in the most visually inconspicuous portions of lots, as viewed from the surface of the

public water assuming summer, leaf-on conditions, whenever practical;

6. facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub-items a. to e. above are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340; and
7. docks that exceed five (5) feet in width require a shoreland building permit.

(6) Significant Historic Sites

- a. No structure shall be placed on a significant historic site in a manner that affects the historical value of the site unless adequate information about the site as determined by the Minnesota Historical Society has been removed and documented in a public repository.

(7) Steep Slopes.

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

(8) Height of Structures

- a. All structures in all Shoreland Districts shall not exceed thirty-five (35) feet in height.

(9) Shoreland Alterations

- a. Alterations of vegetation and topography will be regulated to prevent soil erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

(10) Vegetation Alterations

- a. Vegetation alteration necessary for the construction of structures, utilities, and sewage treatment systems and the construction of roads and parking areas regulated by Subdivision 12 (17)b. of this Section 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 Subdivision 12(15) of this Section, respectively, is allowed subject to the following standards:
 - 1. Clear-cutting and intensive vegetation clearing within the shore impact zones, bluff impact zones and on steep slopes are not permitted. Intensive vegetation clearing for forestland conversion to another use outside of these areas is allowable as a conditional use if a soil erosion and control and sedimentation plan is developed and approved by the Soil and Water Conservation District in which the property is located.
 - 2. In shore impact zones, bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways, landings, picnic areas, access paths, trails, beach and watercraft areas, and permitted water-oriented accessory structures of facilities, provided that:
 - (a) the screening or structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - (b) along rivers, existing shading of water surfaces is preserved; and
 - (c) in the shore impact zone and bluff impact zone, vegetation should remain mostly undisturbed, except to provide for a water viewing corridor not to exceed twenty (20%) percent of the lot width or 30 feet, whichever is less.
- c. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or posed safety hazards.

(11) Topographic Alterations/Grading and Filling

- a. Grading and filling and excavations necessary for the construction of structures, utilities, 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 shall 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 Subdivision 12(13).
- c. Notwithstanding Items 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 shall be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
1. alterations shall be designed and conducted in a manner that ensures that only the smallest amount of bare ground is exposed for the shortest time possible;
 2. mulches or similar materials shall be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover shall be established as soon as weather conditions allow;
 3. methods to minimize soil erosion and to trap sediments before they reach any surface water feature shall be used;
 4. altered areas shall be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local Soil and Water Conservation Districts and the United States Soil Conservation Service;
 5. fill or excavated material shall not be placed in a manner that creates an unstable slope;
 6. plans to place fill or excavated material on steep slopes shall be reviewed by the City Engineer for continued slope stability and shall not create finished slopes of 30 percent or greater;
 7. fill or excavated material shall not be placed in bluff impact zones;
 8. any alterations below the ordinary high water level of public waters shall first be authorized by the DNR under Minnesota Statutes, Section 103G.245;
 9. alteration of topography shall be allowed only if they are accessory to construction of public utilities, permitted or conditional uses and do not adversely affect adjacent or near by properties;
 10. placement of natural rock riprap, and placement of filter blanket is permitted if the finished slope does not exceed three feet horizontal to one foot vertical (may be increased by DNR permit), the landward extent of the riprap is within six (6) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet; and
 11. excavation and fills shall also be subject to all other provisions of the City Code related thereto.
- e. Connection to Public Waters
1. Excavation where the intended purpose is a new connection to a public water, such as boat slips, canals, lagoons, and harbors, requires a Conditional Use Permit.

(12) Wetland Protection Regulations

- a. Grading and filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland shall be evaluated by the City to determine how extensively the proposed activity would effect the following functional qualities of the wetland:
 1. sediment and pollutant trapping and retention;
 2. storage of surface runoff to prevent or reduce flood damage;
 3. fish and wildlife habitat;
 4. recreational use;
 5. shoreline or bank stabilization; and
 6. noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
- b. An evaluation shall also be made to determine 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 person(s) proposed the wetland alteration shall be responsible for this evaluation and compliance with these agency regulations and requirements.
- c. Development, grading and filling shall comply with the provisions of the Minnesota Wetland Conservation Act Laws of Minnesota 1991, Chapter 354, and as amended.

(13) Placement and Design of Roads, Driveways and Parking Areas:

- a. Public and private roads and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation shall be provided to the City Engineer 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.
- b. Roads, driveways and parking areas shall meet structure setbacks and shall not be placed within bluff and the shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they shall be placed within these areas and shall be designed to minimized adverse impacts.
- c. 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 Subdivision 12(13) of this Section are met. For private facilities, the grading and filling provisions of Subdivision 12(11) of this Section shall be met.

(14) Stormwater Management

a. The following general and specific standards shall apply:

1. General Standards:

- (a) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- (b) Development shall be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas shall be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- (c) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds shall be required. Preference shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities. Settling basins to intercept urban runoff shall be sized to a minimum of a ten-year storm design.

2. Specific Standards:

- (a) Impervious surface coverage of lots shall not exceed twenty-five (25%) percent of the lot area, except in the RO District where impervious surface shall not exceed 30%. This may be increased provided the City has approved and implemented a storm water management plan affecting the subject site and a Conditional Use Permit permitting an increase has been granted.
- (b) When constructed facilities are used for stormwater management, documentation shall be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local Soil and Water Conservation Districts.
- (c) New constructed stormwater outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(15) Special Provisions for Public/Semipublic, Agriculture, Forestry and Extractive Uses

- a. Surface water-oriented uses and public, or semipublic uses, where permitted by this Ordinance, that have need for access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs shall meet the following standards:
 1. in addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses shall be designed to incorporate topographic and vegetative screening of parking areas and structures;
 2. 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 the City.
 3. 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 the use of navigational lights;
 4. commercial uses such as boat rides, on-board vendors or similar uses are strictly prohibited;
 5. uses that require short-term watercraft mooring for patrons shall centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.
- b. Uses without water-oriented needs shall be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, shall either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
- c. Agriculture Use Standards
 1. In all lake and river shoreland areas, general cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted used if steep slopes and shore and bluff impact zones are maintained in a permanent vegetation or managed under an approved conservation plan (Resource Management Systems) consistent with field office technical guides of the local Soil and Water Conservation Districts of the United States Soil Conservation Service, as provided by a qualified individual or agency.
 2. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

3. Livestock are prohibited from the shore impact zone and are also prohibited from any lakes, rivers, tributaries or water bodies listed in Subdivision 10.
4. Animal feedlots shall be prohibited in the shoreland district.
- d. Forest Management Standards.
 1. The harvesting of timber and associated reforestation shall be conducted consistent with the provision of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."
- e. Mining Standards.
 1. Site Development and Restoration Plan. An extractive use site development and restoration plan shall be developed, approved, and followed over the course of operation of the site. The plan shall address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It shall also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and shall clearly explain how the site will be rehabilitated after extractive activities end.
 2. Setbacks for Processing Machinery. Processing machinery shall be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.
- f. Mining of Metallic Minerals and Peat.
 1. Mining of metallic minerals and peat, as defined in Minnesota Statutes, sections 93.44 to 93.51, shall be a conditional use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

(16) Conditional Uses

- a. 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 by the City in Section 1001.09 of the City Zoning Ordinance. The following additional evaluation criteria and conditions shall apply within shoreland areas:
 1. Evaluation Criteria. A thorough evaluation of the waterbody and topographic, vegetation, and soils conditions on the site shall be made to ensure:
 - (a) the prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 - (b) the visibility of structures and other facilities as viewed from public waters is limited;

- (c) the site is adequate for water supply and on-site sewage treatment and public utilities shall be utilized where they are available; 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.
- b. Conditions Attached to Conditional Use Permits.
 - 1. The Planning Commission and City Council, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance.
 - 2. 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.
- c. All conditional use permits and attached conditions require approval of the City Council as required in Section 1001.09 of the City Zoning Ordinance.

(17) Water Supply and Sewage Treatment.

- a. Water Supply.
 - 1. Any public or private supply of water for domestic purposes shall meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
- b. Sewage Treatment
 - 1. All private sewage treatment systems shall meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment System Standards, Chapter 7080," a copy of which is hereby adopted by the City by reference and declared to be a part of this Ordinance.
 - 2. Connections shall be made to public sanitary sewer and water systems where available.
 - 3. On-site sewage treatment systems shall be set back from the ordinary high water level in accordance with the setbacks contained in Subdivision 11 of this Section.
 - 4. Evaluation Criteria:

- (a) All proposed sites for individual treatment systems shall be evaluated in accordance with the criteria in the following sub-items:
 - i. depth to the highest known or calculated ground water table or bedrock;
 - ii. soil conditions, properties and permeability;
 - iii. slope; and
 - iv. the existence of lowlands, local surface depressions, and rock outcrops
 - (b) If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation test from on-site field investigations.
5. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with this Subdivision and the following:
- (a) A sewage treatment system not meeting the requirements of Subdivision 12(17)b.(1) shall be upgraded, at a minimum, at any time a permit or variance of any type is required for improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment systems improper setback from the ordinary high water level.
 - (b) The City will require upgrading or replacement of any nonconforming system identified by this program within five (5) years. Sewage systems installed according to applicable local shoreland standards adopted under Minnesota Statutes, Section 103F.211 and 103F.221, in effect at the time of installation may be considered as conforming unless they are determined to be failing. Systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above ground water than required by the Minnesota Pollution Control agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.
 - (c) Additional regulations governing on-site sewage treatment systems are contained in the City's On-Site Treatment Systems Ordinance.

- (18) Subdivision Provisions
 - a. Land Suitability.

1. Each lot created through subdivision, including planned unit developments shall be suitable in its natural state for the proposed use with minimal alteration.
 2. Suitability analysis by the City shall consider the following:
 - (a) susceptibility to flooding,
 - (b) existence of wetlands,
 - (c) soil and rock formations with severe limitations for development,
 - (d) sever erosion potential,
 - (e) steep topography,
 - (f) inadequate water supply or sewage treatment capabilities,
 - (g) near-shore aquatic conditions, unsuitable for water-based recreation,
 - (h) important fish and wildlife habitat,
 - (i) presence of significant historic sites, and/or
 - (j) another 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.
- b. Consistency with Other Controls.
1. Subdivisions shall conform to all official controls of the City.
 2. 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.
 3. 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 City Code can be provided for every lot.
 - (a) In areas where sanitary sewer is not available each lot shall include at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction if two standard soil treatment systems where private sewage systems are permitted.
 - (b) Lots that would require use of holding tanks shall not be approved.
 4. Each lot shall meet the minimum lot size and dimensional requirements of Subdivision 11.
- c. Public Utilities. All uses shall be connected to public utilities including municipal sanitary sewer and water when available.

Subd. 13 Planned Developments (Cluster Developments) in a Shoreland

- (1) Types of Planned Developments Permitted in a Shoreland
 - a. Planned developments in a shoreland may be allowed under a conditional use permit for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land.
 - b. Planned developments, including General Planned Unit Developments (GPUD) and Rural Planned Unit Developments (RPUD) shall be generally referred to as Planned Unit Developments or PUDs throughout this subsection.

- (2) Planned Development Zoning
 - a. Planned Developments in a shoreland zone shall require a Planned Development (PUD, GPUD or RPUD) zoning of the property, a conditional use permit and shall be processed in accordance with the provision of Section 1001.10 of the City Zoning Ordinance.

- (3) Application for Planned Development in a Shoreland
 - a. Planned Developments shall only be permitted when they meet the provisions of Section 1001.10 of the City Zoning Ordinance for a Planned Development District.
 - b. Planned Developments shall be processed in accordance with the provisions in the Administrative Subdivision of this Section, Subdivision 9 and Section 1001.10, the Planned Development provision of the City Zoning Ordinance.
 - c. The City may require additional information and documentation to aid in the processing of Planned Developments in a Shoreland Zone.
 1. This may include but is not limited to:
 - (a) surface water features,
 - (b) existing and proposed vegetative detail,
 - (c) deed restrictions,
 - (d) covenants,
 - (e) owners association by-laws,
 - (f) details of water oriented uses,
 - (g) long term plans for preservation and maintenance of open space
 - (h) two (2) foot interval contours and similar information.

- (4) Public Utilities

- a. Public utilities including municipal sanitary sewer and water shall be available and be required for any Planned Development (PUD) in the City except those involving detached single-family homes as a Rural Planned Unit Development (RPUD) or recreational uses.

(5) Site Suitable Area Evaluation

- a. Proposed new or expansions to existing planned developments in a shoreland shall be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Planned Development areas.
 - 1. Shoreland Tier Dimensions
 - (a) The project parcel shall be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions (width of each tier)

Public Waters Classes	Sewered (feet)
Recreational Development Lakes	267
Natural Environment Lakes	320
Agricultural, River or Tributary Stream	300

2. Suitable Area Calculation

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

(6) Density Evaluation for PUDs in a Shoreland

- a. The procedures for determining the “base” density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but shall not be transferred to any other tier closer. Overall project or subdivision Density shall not exceed the limitations of the Planned Development, Section 1001.10 for General or Rural Planned Unit Developments.

1. Residential PUD “Base” Density Evaluation:

- (a) The suitable area within each tier is divided by the minimum single-family residential lot size standard for lakes or for rivers, to determine the maximum permitted density. Proposed location and number of dwelling units or sites for residential planned developments are then compared with the tier, density, and suitability analysis herein and the design criteria in paragraph (7) of this Subdivision, Subd. 13.

2. Residential Density Increase Multipliers:

- (a) Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Subdivision 11 of this Section are met or exceeded and the design criteria in Paragraph (7) below are satisfied. The allowable density increases in 2.(b) below will only be allowed if at least 50% of the project area within the shoreland overlay zone is preserved

as open space and structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the City and the setback is at least 25 percent greater than the minimum setback.

- (b) Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Mixed Use Planned Developments in a Shoreland:

<i>Density Evaluation Tiers</i>	Maximum density increase within each tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

- 3. Commercial, Industrial and Mixed Use GPUD or PUD “Base” Density Evaluation:
 - (a) The base density or floor area ratios for commercial, industrial and mixed use planned developments in shorelands shall be based on the density limitation of the underlying zoning district and shall be limited by the maximum impervious surface area allowed within the shoreland area and the open space requirement.
- 4. Commercial, Industrial and Mixed Use GPUD or PUD Density Increase Multipliers in a Shoreland:
 - (a) Increases to the base floor area or density of a commercial, industrial or mixed use planned development within a shoreland area shall not exceed the limitations of the Planned Development, Section 1001.10 provisions and are allowable if the dimensional standards in Subdivision 11 of this Section are met or exceeded and the design criteria in Paragraph (7) below are satisfied.
 - (b) The allowable density increases in Subd 13, (6)a.2.(b) above will only be allowed if at least 50 percent of the project area within the shoreland overlay zone is preserved as open space and structure setbacks from the ordinary high

water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the City and the setback is at least 25 percent greater than the minimum setback.

(7) Maintenance and Design Criteria

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

(8) Open Space Requirements.

- a. Planned developments in a shoreland shall contain open space meeting all of the following criteria:
- b. at least 50 percent of the total project area within the shoreland overlay area shall be preserved as open space;
- c. dwelling units or sites, commercial and industrial uses, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;
- d. open space shall include, but is not limited to areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
- e. open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
- f. open space shall not have commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
- g. the appearance of open space areas, including topography, vegetation, and allowable uses, shall be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
- h. the shore impact zone, based on normal structure setbacks, shall be preserved as open space. For residential PUD's, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments shall be preserved in its natural or existing state.

(9) Erosion Control and Stormwater Management in Shorelands

- a. Erosion control and stormwater management plans shall be developed and the PUD shall:
 1. be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction.
 - (a) Erosion minimization shall be accomplished by limiting the amount and length of time of bare ground exposure.
 - (b) Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques shall be used to minimize erosion impacts on surface water features.
 - (c) Erosion control plans approved by the Soil and Water Conservation District may be required if project size and site physical characteristics warrant; and

2. be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier shall not exceed 25 percent of the tier area.

(10) Centralization and Design of Facilities.

- a. Centralization and design of facilities and structures shall be done according to the following standards:
 1. planned developments shall be connected to publicly owned water supply and sewer systems, if available;
 2. dwelling units or sites shall be clustered into one or more groups and located on suitable areas of the development. They shall be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level shall be increased in accordance with Subdivision 13 (6) of this Section for developments with density increases;
 3. shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, shall be centralized and located in suitable areas. Evaluation of suitability shall include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft shall not exceed one for each allowable dwelling unit or site in the first tier. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;
 4. structures, parking areas, and other facilities shall be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the City, assuming summer, leaf-on conditions. Vegetative and topographic screening shall be preserved, if existing, or may be required to be provided;
 5. accessory structures and facilities, except water oriented accessory structures, shall meet the required principal structure setback and shall be centralized; and
 6. water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Subdivision 12(2) of this Section and are centralized.

(11) Conversions of existing land uses and facilities to a PUD.

- a. The City shall not permit existing land uses and facilities to be converted to residential planned developments except where incorporated into a new planned development wherein existing uses comprise less than fifty (50%) percent of the development
 1. Existing dwelling unit or dwelling site densities that exceed standards in Subdivision 13 (5) of this Section may be allowed to continue but shall not be allowed to be increased.

Subd. 14 Non-conformities

- (1) All legally established nonconformities as of the date of this ordinance may continue, but shall be administered according to applicable Minnesota State Statutes and other regulations of the City for future alterations and additions, repair or replacement after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:
 - a. Construction on Nonconforming Lots of Record.
 1. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Subdivision 11 of this Section of this Ordinance may be allowed as building sites without variances from lot size requirements provided:
 - (a) the use is permitted in the zoning district,
 - (b) the lot has been in separate ownership from abutting lands at all times since it became substandard,
 - (c) was created compliant with official controls in effect at the time, and
 - (d) sewage treatment and setback requirements of this ordinance are met.
 2. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot.
 - (a) 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.
 3. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Subdivision 11 of this Section of this Ordinance, 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 Subdivision 11 of this Section of this Ordinance as much as possible.

- b. Additions/Expansions to Nonconforming Structures.
 - 1. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Subdivision 11 of this Section of this Ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Subdivision 9(3) of this Section.
 - 2. 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:
 - (a) the structure existed on the date the structure setbacks were established;
 - (b) a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
 - (c) 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
 - (d) the deck is constructed primarily of wood, and is not roofed or screened.
- c. Nonconforming Sewage Treatment Systems shall conform to the provisions of Subdivision 12(17) b.
- d. Public Utility Connections
 - 1. No new commercial and /or residential development shall be permitted in any Shoreland District where public utilities are available unless the new development is connected to the public utilities.

(Ord 2004-03 repeals and replaces all previous Shoreland ordinances including Ord 2003-10)