

ARTICLE 16 SHORELAND OVERLAY DISTRICT

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§ 155.209 STATUTORY AUTHORIZATION.

This shoreland ordinance 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 for cities in Minnesota Statutes, Chapter 462. (Ord. 500 passed 12/12/2011)

§ 155.210 FLEXIBILITY.

The City of Lake City was granted flexibility from Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and from this Article in the following two areas:

(A) *Impervious Surface Coverage.*

- (1) The 25% limit on impervious surface coverage may be exceeded through compliance with the Shoreland Project Point System (SPPS). This system allows incremental increases in impervious surface coverage with the installation and implementation of landscaping and design which offset the impact on the shoreland area.
- (2) The Shoreland Project Point System is required on all projects exceeding, or proposing to exceed 25% impervious surface coverage.

- (3) For areas within zoning districts which fall within the shoreland overlay, the amount of impervious surface coverage allowed through the SPPS may be up to the maximum amount allowed in base zoning.

(B) *Density*. Density shall be determined by underlying zoning district requirements.

§ 155.211 APPLYING FLEXIBILITY.

The following two options are available to applicants when requesting to exceed the MN state-wide standard of 25% maximum lot impervious surface coverage in shoreland areas.

(A) *Shoreland Project Point System (SPPS)*. The Shoreland Project Point System is adopted as a reference to this Ordinance.

(B) *Conditional Use Permit and Shoreland Impact Plan*.

- (1) Landowners or developers desiring to develop land or construct any dwelling or any other artificial obstruction on land located within any Shoreland District within the City of Lake City shall first submit a conditional use permit application and a plan of development hereinafter referred to as “Shoreland Impact Plan,” which shall set forth proposed provisions for sediment control, stormwater management, maintenance of landscaped features, and any additional matters intended to set forth proposed changes requested by the applicant. This plan will also affirmatively disclose what, if any, change will be made in the natural condition of the earth, including loss or change of earth ground cover, destruction of trees, grade courses and marshes. The plan shall minimize tree removal, ground cover change, loss or change of earth ground cover, destruction of trees, grade courses and marshes. The plan shall minimize tree removal, ground cover change, loss of natural vegetation and grading changes as much as possible, and shall affirmatively provide for the relocation or replanting of as many suitable trees as possible that are proposed to be removed. The purpose of the shoreland impact plan shall be to eliminate and minimize as much as possible potential pollution, erosion and siltation.
- (2) Conditions. All conditional use permits for consideration under this Section shall be subject to the following:
 - (a) The projects shall be analyzed to determine the impact of impervious surfaces, stormwater runoff, floodplain, and water quality implications. Projects will only be allowed where adverse impacts have been reasonably mitigated through approved means.

- (b) Storm treatment measures including, but not limited to, sediments basins, (debris basins), de-silting basins or silt traps, installation of debris guards, and micro-silt basins in storm water inlets, oil skimming devices, etc. shall be required subject to the review of the City Engineer and the Watershed district on projects where applicable.
- (c) Projects shall be analyzed in terms of provisions for maintenance and enhancement of landscape features, and change in the natural condition of the soil, trees, grade courses and marshes. The vegetative planting plan shall contain trees, either existing or newly planted, that will exceed the building height when fully mature. The plan shall also minimize tree removal, ground cover change, loss of natural vegetation, and grading changes as much as possible. It shall further provide for the relocation or suitable species of trees that are proposed to be removed.
- (d) Projects shall be analyzed in terms of the appearance of the structure when viewed from the lake's surface. Building materials and colors shall be selected to visually blend the structure and site into the shoreland and vegetation.
- (e) Residential densities on a project basis shall not be allowed to exceed the maximum allowed density of the underlying zoning district for which the project is proposed.
- (f) Lot coverage on a project basis shall be restricted to the provisions for maximum impervious surface coverage as provided in this ordinance.
- (g) All projects shall be subject to the review of the DNR.

§ 155.212 POLICY.

It is in the best interest of the public health, safety and welfare to provide for the wise development of 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 utilization of waters and related land resources. The Legislature of Minnesota has delegated this responsibility to local governments. The responsibility is hereby recognized by Lake City.

§ 155.213 PURPOSE.

The purpose of this ordinance is to establish an approach to development within the shoreland areas that recognizes the context of a built urban environment and meets the requirements of Minnesota Statutes, Chapter 103F, and Minnesota Regulations, Parts 6120.2500 - 6120.3900. The approach emphasizes development impacts and performance rather than strict dimensional measurements. The approach establishes minimum standards for development with incentives or

alternatives for development that exceeds minimum standards. The primary purposes of this ordinance are:

- (A) Accommodate development and redevelopment within the historical context;
- (B) Protect and improve water quality through management of stormwater and erosion control;
- (C) Safeguard sensitive natural areas and provide incentives to protect natural areas;
- (D) Require open space to enhance natural and community values; and
- (E) Implement goals and policies of the Lake City Comprehensive Plan.

§155.214 JURISDICTION.

The provisions of this chapter shall apply to the shorelands identified on the Official Zoning Shoreland Overlay Map of public waters listed and classified in §155.216.

§ 155.215 HISTORY OF SHORELAND MANAGEMENT IN LAKE CITY.

Lake City first adopted a shoreland management ordinance in 1992. The ordinance provided regulations guiding development in shoreland areas surrounding public water bodies within the City: Lake Pepin; and the following streams - Gilbert and Miller Creeks and Handshaw Coulee. Because the historically dense downtown commercial and residential area was built prior to the adoption of state shoreland regulations, many of the existing uses, lot dimensional standards, and impervious surface percentages were inconsistent with provisions in the shoreland management ordinance.

In 1993 Lake City revised its shoreland management ordinance to adopt the recommendations in a report titled, Shoreland Report and Flexibility Request, July 1993. The 1993 revisions established a management program and system that carried out the intent of Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500 - 6120.3900 while recognizing and accommodating the unique urban development characteristics of Lake City and its desire for continued development and redevelopment. Specific flexibility was granted in four areas (density, impervious surface coverage, building height, development review beyond tier 1). With regard to density, the 1993 revisions allowed additional residential development within the Lake Pepin shoreland area where, under the previous ordinance, additional residential development would have been extremely limited. A cap was established for the number of new residential units that could be approved within the Lake Pepin shoreland area. A cap was not established for commercial development, including resort accommodations. The result is a bias toward commercial development and a dampening of redevelopment opportunities. In addition, this ordinance proved difficult to understand, particularly with respect to density.

The revisions adopted under this ordinance are intended to implement an approach to development in the shoreland area that achieves the purposes listed below through reliance on

performance standards rather than counting housing units.

§ 155.216 SHORELAND CLASSIFICATION SYSTEM.

(A) The public waters of Lake City have been classified below consistent with the criteria found in Minn. Regs. part 6120.3300 and the Protected Waters Inventory Map for Wabasha and Goodhue Counties, Minnesota.

(B) The shoreland area for the water bodies listed in this section shall be defined in § 155.23 General Definitions and as shown on the Official Shoreland Overlay Map.

- (1) General Development Lake: Lake Pepin (Protected Waters Inventory I.D. # 25001).
- (2) Tributary streams:
 - (a) Gilbert Creek (T111N, R12W, Sec. 6; T112N, R12W, Sec. 29, 31, and 32) a designated trout stream upstream of the TH 61 bridge;
 - (b) Miller Creek (T111 N, R12W, Sec. 9) designated trout stream;
 - (c) Handshaw Coulee (Second Creek) (T111 N, R12W, Sec. 10, and 15).

§ 155.217 LAND USE DISTRICT DESCRIPTIONS.

The shoreland area land use districts for the given classifications of water bodies are shown on the Official Shoreland Overlay Map and the Official Zoning Map. These land use districts are in conformance with the criteria specified in Minnesota Regulations Part 6120.3200, subp. 3.

§ 155.218 CONSISTENCY WITH OTHER CONTROLS.

(A) *Relationship to Base Zoning Districts.* The shoreland management ordinance establishes an “overlay district”. The overlay places additional requirements on areas regulated by base zoning districts. Regulations for the base zoning districts are defined in the Lake City Zoning Ordinance and their boundaries are delineated on the official map. The regulations of the base zoning districts shall be applied unless the provisions of the overlay establish more restrictive regulation. If the provisions of the overlay are more restrictive than the base district, the provisions of the overlay shall apply. If the provisions of the base district are in conflict with the overlay provisions, the more restrictive provision shall apply. The base zoning district establishes the permitted and conditional land uses allowed in the district.

(B) *Subdivision and utilities.* Subdivisions must conform to all official controls of the community. A subdivision will not be approved where a later variance from one or more of the standards in official controls would be needed to use the lots for their intended purpose. All development in shoreland areas shall be served by publicly owned sewer and water systems.

(C) *Previously conforming lots remain conforming.* With regard to lot dimensional standards, lots created compliant with past ordinances that met or exceeded the standards in Minnesota Rule 6120.3300, Subps. 2a and 2b shall remain conforming.

§ 155.219 PLACEMENT, DESIGN AND HEIGHT OF STRUCTURES.

(A) *Structure Setbacks.*

(1) Lake Pepin

(a) 50 feet from Ordinary High Water Level (OHWL)

(2) Tributary Streams

(a) 50 feet from Ordinary High Water Level (OHWL)

(B) *Multiple Setbacks.* When more than one setback applies to a site, structures and facilities must meet all setbacks.

(C) *Shore Impact Zones.* Structures and accessory facilities, except boat launches, stairways and lifts and landings, must not be placed within shore impact zones.

(D) *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 documented and documented in a public repository.

(E) *Steep slopes.* The Director of Planning and Community Development must evaluate applications for compliance with Section 155.84, and for possible soil erosion impacts 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.

(F) *Height of structures.* The maximum height of building, excluding churches and telecommunication towers, shall follow the individual requirements of the underlying zoning district.

(G) *Design criteria for structures.*

(1) High water elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site.

(2) Stairways, lifts and landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. For the purpose of this Article,

stairways and lifts are those designed with the primary use being to transport people. Stairways and lifts must meet the following design requirements:

- (a) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space, and planned unit developments;
- (b) 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 commercial properties, public open-space, recreational properties and planned unit developments;
- (c) Canopies or roofs are not allowed on stairways, lifts or landings;
- (d) Stairways, lifts and landings may be either constructed above the ground on posts or pilings or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- (e) Stairways, lifts and landings must be located, whenever practical, in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions;
- (f) Facilities such as ramps, lifts or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of this sub-section are complied with in addition to the requirements of Minn. Regs. Ch. 1340.

§ 155.220 NEW SUBDIVISIONS (NON-PUD).

For all new subdivisions (Non-PUD’s) including minor subdivisions, the lot width (feet) and lot area (square feet) for lots in shoreland areas shall be as specified below.

(A) *Lot Standards.*

Class Sewered Areas	Riparian Lots		Non-Riparian Lots	
	Width	Area	Width	Area
Lake Pepin shorelands from the Handshaw Coulee Creek (Second Creek) to Gilbert Creek	See underlying zoning districts			
All Other Shorelands including tributary streams				
Single Family Detached Units	75	15,000	75	10,000

Class Sewered Areas	Riparian Lots		Non-Riparian Lots	
	Width	Area	Width	Area
Two Family Units	135	26,000	135	17,500
Single Family Attached or Multi Family Units	195	38,000	190	25,000

(B) *Open Space Requirements.* Open space integrated in residential and commercial areas is a required component of shoreland development and redevelopment. Developments and redevelopments shall incorporate open space to be dedicated and maintained by the City and/or private natural areas to be maintained by the community or landowners.

- (1) All subdivisions in shoreland areas shall permanently preserve at least twenty-five percent (25%) of the total project area as open space.
- (2) Open space requirements for conventional subdivisions shall be met by one or a combination of the following methods:
 - (a) Land dedication or conservation easement of riparian areas for the purpose of meeting the requirements of Section 155.222 may also be used to meet open space requirements of this section.
 - (b) Common open space may include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries. No more than twenty-five percent (25%) of the required open space may consist of wetlands.
- (3) The common open space shall be in undivided ownership and accessible to all owners in the development meeting the requirements of Section 155.222 or dedicated to the City and accessible to the public.
- (4) Exception: Payment in lieu of open space dedication using rates and procedures established by the Lake City Subdivision Ordinance may be allowed.

§ 155.221 REQUIREMENTS FOR DEVELOPMENT OR REDEVELOPMENT OF ONE (1) ACRE OR MORE IN A BASE ZONING DISTRICT.

This section provides for the development or redevelopment on a site in which (50%) or more of the existing structure(s) is altered, removed rebuilt or replaced. Planned Unit Developments shall follow the regulations of Article 15 - PUDs, unless their redevelopment involves a rezoning to a non-PUD Zoning District.

- (A) The following shall apply:
- (1) The development shall incorporate at least three of the following measures:
 - (a) land dedication to the City;
 - (b) creation of a conservation easement of open space;
 - (c) at least a 20% increase in structure setback from the ordinary high water level;
 - (d) structure screening from public waters such that a substantial proportion of the structure is not visible from public waters during summer, leaf-on conditions;
 - (e) a 10% reduction in impervious surface coverage or runoff;
 - (f) a disconnection of on-site storm pipes and drains serving the site and the establishment of rain-gardens, as defined by the MPCA;
 - (g) enhanced runoff reduction meeting or exceeding the standards in Section 155.86;
 - (h) establish a shoreline buffer meeting and exceeding the standards of Section 155.223;
 - (i) restoration of wetlands or other sensitive areas;
 - (j) re-vegetation or stabilization of steep slopes;
 - (k) other improvements recommended by the Planning Commission and approved by the City Council.
 - (2) The development shall meet the open space requirements of the base zoning.
 - (3) Density shall be determined by the base zoning district.
 - (4) Common open space protections shall meet the open space administrative requirements of Section 155.219.

§ 155.222 STORMWATER AND EROSION AND SEDIMENT CONTROL STANDARDS.

All land disturbing activity will meet the standards of Section 155.086 - Grading and Storm Water, and Section 155.087 - Site Erosion and Sediment Control of the Lake City Zoning Ordinance in addition to the following:

(A) *Impervious Surface Coverage.* The City of Lake City has been granted flexibility from the Minnesota state-wide standards for maximum lot impervious surface coverage of 25%. Applicants may elect to use the granted flexibility to increase impervious surface coverage on a lot, provided the underlying zoning district requirements on impervious surface coverage are not exceeded.

- (1) Special Provisions may be used in lieu of the SPPS or CUP. The City may recognize existing site conditions, which are able to accommodate the increase in stormwater runoff generated from the proposed development.
 - (a) Existing Property Conditions. Conditions such as sand and beach areas may exist and be found suitable to accommodate site stormwater, as determined by the Director of Planning and Community Development, who shall consult with the City Engineer to make a determination.
 - (b) Existing Improvements. Improvements on the site, including erosion and stormwater management controls may already be in place and may be found to accommodate stormwater as determined by the Director of Planning and Community Development, who shall consult with the City Engineer to make a determination.

§ 155.223 SHORELINE BUFFER ZONES.

A shoreline buffer is an area adjacent to a water body that buffers the effects of adjacent land use on the water body. This typically involves a setback of a particular land use and can involve trapping of the sediment, nutrients, and/or bacteria, as well as terrestrial and aquatic habitat protection or improvement. Buffers may be comprised of existing plants on the site and/or new plantings, and include aquatic plants in shallow water, plants along the shore, and upland plants in dry soils.

(A) Alterations of natural vegetation and topography shall be controlled to prevent erosion into public waters, fix nutrients, infiltrate rainwater runoff, preserve shoreland aesthetics, prevent bank slumping, limit direct and indirect impacts on water quality, and protect fish and wildlife habitat.

(B) A shoreline buffer, consisting of trees, shrubs, and ground cover of native plants shall be required for new developments.

- (1) Exemptions:
 - (a) Vegetation removal necessary for the construction of the building footprint of structures under an issued permit for the facility.
 - (b) Beaches, public roads, and public swimming areas.

(C) A shoreline buffer shall exist within the shore impact zone, consisting of trees, shrubs, and low ground cover of native plants and in a natural state. The vegetative buffer is required only to the extent that it can naturally sustain itself against river flood, wave, ice, or wind action. Rock riprap can be used for the correction of an established erosion problem that cannot be controlled through the use of vegetation and other methods of slope protection.

(D) Use of non-aquatic safe herbicides or fertilizers shall not be allowed within the shore impact zone. Use 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.

(E) Vegetation within the shore impact zone shall be retained to partially screen structures with trees and shrubs visible from public waters during summer, leaf-on conditions.

(F) Removal or alterations of natural vegetation near the shoreline shall be allowed provided the following conditions are met when removal or alterations are occurring within shore impact zones and steep slope areas:

- (1) Shore Impact Zones and Steep Slopes. Vegetation clearing shall not be allowed in these areas except to accommodate the placement of stairways and landings, access paths, view corridors, recreation use areas, as regulated below, and DNR permitted water-oriented accessory structures or facilities.
 - (a) *Access Paths.* Shall not exceed a cleared width of 6 feet and must be oriented generally perpendicular to the shoreline.
 - (b) *Conventional Subdivisions.* Only one cleared area shall be allowed on each residential lot and it shall not exceed 25 feet in width and 15 feet in length for conventional subdivisions.
 - (c) *Conservation and planned unit developments.* 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.
- (2) Exemptions:
 - (a) The removal of trees or branches that pose a safety hazard shall be allowed.
 - (b) The removal of invasive species, as defined by the DNR, shall be allowed.
 - (c) Existing public swimming and recreation areas may be exempt from these conditions.

§ 155.224 SHORE IMPACT ZONE.

The shore impact zone shall be protected during construction and development. When trees and vegetation are damaged, destroyed, or removed during construction, they must be replaced.

(A) 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. For the purpose of this Article, stairways and lifts are those designed with the primary use being to transport people.

§ 155.225 VARIANCES.

Variations may only be granted in accordance with Minnesota Statutes, Chapter 462, and the Lake City Zoning Ordinance Section 155.39 as it may be amended from time to time. A variance may not circumvent the general purposes and intent of this chapter. No variance may be granted that would allow any use that is prohibited in the base zoning district in which the subject property is located. In considering a variance request, the Board of Adjustment must also consider: 1) whether the property owner has reasonable use of the land year-round, 2) whether the variance is being requested solely on the basis of economic considerations and 3) the characteristics of development on adjacent properties. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjoining and adjacent properties and the public interest.

(A) To protect water quality and safeguard sensitive areas, a condition to maintain the natural shoreline vegetation, restore areas within the shore impact zone to a natural state, or restore the shore impact zone to meet the standards in Section 155.223 shall be required.

(B) Other conditions imposed may include the removal of structures that do not meet structure setbacks standards from ordinary high water level, reestablishment of a shoreline berm, removal of water-oriented accessory structures, removal of impervious surfaces within the shore impact zone, reduced impervious surface coverage on the lot, restoration of wetlands, or other conservation designed actions. This article allows the continued presence of a legal non-conforming use.

(C) For existing developments, the application for variance must clearly demonstrate whether conforming sewage treatment is present for the intended use of the property. The variance, if issued, must require sewage treatment systems be brought into compliance.

§ 155.226 NON-CONFORMITIES.

All legally established non-conformities as of the date of this chapter may continue, but they will be managed according to applicable state statutes and the regulations outlined in Article 4 of this Chapter, Nonconformities.

§ 155.227 PERMITS REQUIRED.

A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems and those grading and filling activities not exempted by § 155.092. Application for a permit shall be made to the Director of Planning and Community Development on the forms provided. The application shall include the necessary information so that the Director of Planning and Community Development can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

(A) A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by § 155.092, shall be reconstructed or replaced in accordance with the provisions of this chapter.

(B) The Director of Planning and Community Development shall issue a certificate of zoning compliance when required, which will specify that the use of land conforms to the requirements of this chapter. Any use or construction not authorized by permit shall be deemed a violation of this chapter and shall be punishable as provided in this chapter, Article 3.

§ 155.228 NOTIFICATION TO THE DEPARTMENT OF NATURAL RESOURCES.

Copies of all notices of any public hearings to consider variances, ordinance amendments or conditional uses under local shoreland management controls must be sent by the City to the Commissioner of the DNR or the Commissioner's designated representative and postmarked at least ten days before the hearings. Notice of hearings to consider proposed subdivisions/plats must include copies of the subdivision or plat.

A copy of approved amendments and subdivision/plats and final decisions granting variances or conditional uses under local shoreland management controls must be sent by the City to the Commissioner or the Commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification must also include the Board of Adjustment's record of the hearing and the findings and conclusions that supported the approval. (Ord. No. 500 passed 12/12/2011)