

## **209 Environmental Standards**

(A) Purposes. Environmental resources are a valuable asset to the community and contribute to quality of life. The City recognizes that development has an impact on these resources and should be managed in a manner that promotes environmental stewardship. This ordinance establishes environmental protection measures for the following reasons:

- (1) To provide for the regulation of development in sensitive areas so as to minimize the risk of environmental damage.
- (2) To protect private homeowners and governmental units from incurring high maintenance and repair costs resulting from development on poorly suited soils.
- (3) To ensure that the natural drainage system and flood storage areas are maintained at a scale adequate to serve development conditions.
- (4) To protect wetlands from being altered unnecessarily.
- (5) To protect steep sloped areas from being exposed to erosion and associated problems.
- (6) To protect forested areas in so far as practical as a community resource.
- (7) To protect and enhance the quality of the City's surface waters and conserve the economic and natural resource values of the shoreland of protected waters.
- (8) To mitigate the impacts of development on the natural environment.

### **209.010 General Provisions**

(A) Overview. Uses which, because of the nature of their operation, are accompanied by an excess of noise, vibration, dust, dirt, smoke, odors, noxious gases, glare or wastes shall not be permitted. These residual features shall be considered as "excessive" when they either exceed or deviate from the limitations set forth in these adopted regulations or those of the Minnesota Pollution Control Agency (MPCA).

(B) Air Quality. Solid or liquid particulates shall not be emitted at any point in concentrations or amounts exceeding limitations established and adopted by the Minnesota Pollution Control Agency.

- (C) Vibration. No development activity or operation shall at any time cause earth vibrations perceptible beyond the limits of the site on which the operation is located.
- (D) Wastes.
- (1) PCA Regulations. All regulations developed for the control of hazardous wastes by the Minnesota Pollution Control Agency shall apply to activities taking place within the City.
  - (2) Sewer. Any premises used for human occupancy shall be provided with a method of sewage disposal acceptable to and maintained in accordance with City requirements.
  - (3) Solid Waste. All solid waste material, debris, refuse or garbage shall be kept within a completely enclosed building or properly stored in a closed container designed for such purpose and properly screened.

**209.020** Noise.

- (A) Definitions. Except as provided in Section 202, words or phrases used in this section and defined in the Minnesota Pollution Control Agency Noise Pollution Control regulations shall have the meaning given in those regulations.
- (B) Prohibited Noise. No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace, safety or welfare of any person or precludes his/her enjoyment of property or affects his/her property's value. This general prohibition is not limited by the specific restrictions of the following subdivisions.
- (1) Motor Vehicles. No person shall operate a motor vehicle in the City in violation of the motor vehicle noise limits of the Minnesota Pollution Control Agency.
  - (2) Horns and Audible Signaling Devices. No person shall sound any signaling device on any vehicle except as a warning of danger.
  - (3) Engine Exhausts. No person shall discharge the exhaust or permit the discharge of exhaust of any steam engine, stationary internal combustion engine, motor boat, motor vehicle or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable State laws and regulations.

- (4) Defective Vehicles or Loads. No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling or other noise.
- (5) Sound Amplification Devices. No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for the production or reproduction of sound in a distinctly and loudly audible manner as to disturb the peace, quiet and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine or other device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building shall be prima facie evidence of a violation of this section.
- (6) Social Gatherings. No person shall participate in any party or other gathering of people giving rise to noise which disturbs the peace, quiet or repose of the occupants of adjoining or other property. When a police officer determines that a gathering is creating such a noise disturbance, the officer shall order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenants of such premises who has knowledge of the disturbance shall cooperate with police officers and shall make every reasonable effort to see that the disturbance is abated.
- (7) Loudspeakers. No person shall operate or permit the use or operation of any loudspeaker, sound amplifier or other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment.
- (8) Animals. No person shall keep any animal that disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise.
- (9) Schools, Churches and Hospitals. No person shall create any excessive noise on a street, alley or public grounds adjacent to any school, institution of learning, church or hospital when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

(C) Hourly Restriction of Certain Operations.

- (1) Recreational Vehicles. Except for emergency purposes, no person shall drive or operate any minibike, snowmobile or other recreational vehicle not licensed for travel on public highways between the hours of 10:00 p.m. and 8:00 a.m.
- (2) Domestic Power Equipment. No person shall operate a power lawnmower, power hedge clipper, chain saw, mulcher, garden tiller, edger, power device for bug eradication, drill or other similar domestic power maintenance equipment except between the hours of 8:00 a.m. and 10:00 p.m. Snow removal equipment is exempt from this provision.
- (3) Refuse Hauling. No person shall collect or remove garbage or refuse in any residential district except between the hours of 6:00 a.m. and 6:00 p.m. on Monday through Saturday.
- (4) Construction Activities. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel or gas-powered machine or other power equipment except between the hours of 7:00 a.m. and 9:00 p.m. on any weekday or between the hours of 8:00 a.m. and 9:00 p.m. on any weekend or holiday.
- (5) Consumer Fireworks. No person shall discharge any consumer firework except between the hours of 8:00 a.m. and 10:00 p.m.

(D) Receiving Land Use Standards.

- (1) Maximum Noise Levels by Receiving Land Use Districts. No person shall operate or cause or permit to be operated any source of noise in such a manner as to create a noise level exceeding the limit set in Table 1 for the receiving land use category specified when measured at or within the property line of the receiving land use. The limits of the most restrictive district shall apply at the boundaries between different land use categories. The determination of land use shall be by its zoned designation.

TABLE 1 - Sound Levels by Receiving Land Use Districts

<u>Land Use Districts</u>	<u>Day</u>		<u>Night</u>	
	<u>(7:00 a.m.-10:00 p.m.)</u>		<u>(10:00 p.m.-7:00 a.m.)</u>	
	<u>L10</u>	<u>L50</u>	<u>L10</u>	<u>L50</u>
Residential	65	60	55	50
Commercial	70	65	70	65
Industrial	80	85	80	75

- (2) Exemptions. The levels prescribed in Section 209.020(D)(1) do not apply to noise originating on public streets and alleys but such noise shall be subject to other applicable sections of this ordinance.

(E) Air Circulation Devices.

- (1) No person shall permanently install or place any air circulation device, except a window air conditioning unit, in any outdoor location until the City Manager or his/her designee determines that the device in that location will comply with the noise level standards prescribed in this section and issues a permit for the installation. Air circulation devices, except a window air conditioning unit, shall comply with the following setback and sound buffering requirements:
  - (a) Air circulation devices shall be located at least 10 feet from all property lines.
  - (b) Air circulation devices shall be located at least 30 feet from an adjoining residence, except a separation of as little as 20 feet may be permitted if a sound buffer is provided as approved by the City Manager or his/her designee.
  - (c) Sound buffers shall consist of evergreen plantings, a retaining wall, fence, and/or on-site structure such as a garage or a portion of the dwelling.
- (2) The noise produced by any window unit and by any existing air circulation device shall be attenuated by means deemed appropriate by the City Manager or his/her designee, including but not limited to, relocation of such device if the noise results in or contributes to a violation of this section.

(F) Exception for Emergency Work. Noise created exclusively in the performance of emergency work to preserve the public health, safety or welfare, or in the performance of emergency work necessary to restore a public service or eliminate a public hazard shall be exempt from the provisions of this ordinance for a period not to exceed 24 hours after the work is commenced. Persons responsible for such work shall inform the City Manager or his/her designee of the need to initiate such work or, if the work is commenced during non-business hours of the City, at the beginning of business hours of the first business day thereafter. Any person responsible for such emergency work shall take all reasonable actions to minimize the amount of noise.

(G) Enforcement.

- (1) Testing Procedures. The City Manager or his/her designee shall adopt guidelines establishing the test procedures and instrumentation to be used in enforcing the provisions of this section imposing noise standards. A

copy of such guidelines shall be kept on file in the office of the City Manager or his/her designee and shall be available to the public for reference during office hours. Noise shall be measured on any property line of the tract on which the operation is located.

- (2) Studies. The City Manager or his/her designee shall conduct such research, monitoring and other studies related to sound as are necessary or useful in enforcing this ordinance and reducing noise in the City. He/she shall make such investigations and inspections in accordance with law as required in applying the provisions of this chapter.
- (3) Noise Impact Statements. The City Manager or his/her designee may require any person applying to the City for a change in zoning classification or a permit or license for any structure, operation, process, installation, or alteration or project that may be considered a potential noise source to submit a noise impact statement in a form acceptable to the Officer. He/she shall evaluate each such statement and make appropriate recommendations to the City Council or other agency or officer authorized to take the action or approve the license or permit applied for.
- (4) Notice of Certain Violations. When the City Manager or his/her designee or the City's law enforcement agency determines that a noise exceeds the maximum sound level permitted under this section, he shall give written notice of the violation to the owner or occupant of the premises where the noise originates and shall order such person to correct or remove each specified violation.

### **209.030 Energy Use.**

- (A) Energy Efficiency. Builders and developers have the responsibility of designing and constructing new buildings which are energy efficient. They should demonstrate their programs for incorporating active and passive solar energy systems in new buildings, installing energy-efficient appliances and lighting systems, and using exterior landscaping to reduce the energy demands of new construction.
- (B) Solar Orientation and Access.
  - (1) All new subdivisions and planned unit developments are encouraged to be designed to accommodate the present or future use of passive and active solar energy systems with special attention given to street, lot, and building orientations.
  - (2) All new buildings are encouraged to be designed and fitted to permit the addition or conversion of the hot water heating system to solar energy.

**209.040 Soils, Slopes, Grading, and Erosion and Sediment Control.**

(A) Overview. The standards specified herein are intended to be used by all property owners, contractors and developers who perform land disturbing activity. All development activity, regardless of if the disturbance is subject shall conform to the standards of this chapter to provide protection from soil erosion, pollution, impaired surface water, and degradation of the natural resources of the City. Plans for all development activity must account for soil types and slopes. While corrections may be possible to permit development of land characterized by unsuitable soils or steep slopes, care must be taken to protect vegetative cover on the site and to insure there are no adverse impacts to nearby lands.

(B) Definitions of terms used in this Chapter:

- (1) *Land disturbance activity* is any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the City, including construction, clearing and grubbing, grading, excavating, transporting and filling of land.
- (2) *Erosion control* refers to methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.
- (3) *Permanent controls* are long-term methods employed to prevent erosion and sedimentation. Examples of such protection are swales, ponds, sediment basins, turf reinforcement mats, storm sewer systems, and riprap.
- (4) *Temporary controls* are short-term methods employed to prevent erosion and sedimentation. Examples of such protection are silt fence, temporary sediment basins, check dams, straw, mulch, erosion control blankets, wood chips and erosion netting.
- (5) *Best Management Practices (BMPs)* are methods for stormwater management that minimize the amount of runoff that occurs from a site and prevents pollution from running off. These represent a combination of land use, conservation practices and management techniques that result in an acceptable level of water quality and pollution prevention consistent with the City's NPDES and Stormwater Pollution Prevention Plan (SWPPP) permits.
- (6) The Urban Small Sites Manual is the most current version of the manual, prepared for the Metropolitan Council by Barr Engineering Company.
- (7) *Final stabilization* means that all soil disturbing activities on the site or common plan of development have been completed, and that a uniform

(evenly distributed, e.g., without large bare areas) perennial vegetative cover with a density of at least 80 percent of the cover for unpaved areas and areas not covered by permanent structures has been established, or equivalent permanent stabilization measures have been employed, and that all temporary erosion control devices are removed, including silt fence, temporary sedimentation basins, and temporary standpipes. Simply sowing grass seed and/or mulch is not considered final stabilization. Final stabilization of a “common plan of development” includes completion of building or home construction along with final restoration of all yards and adjacent drainage ways.

- (8) *Rough grade* is the stage at which the grade and elevation approximately conforms to the approved plan.
- (9) *Finish grade* is the final grade of the site that conforms to the approved plan within 0.2 feet of the approved elevations.

(C) General Development Standards. The following standards apply to all development.

- (1) That all provisions necessary for management of the flood plain, surface waters and stormwater, as determined by City ordinances and those of other agencies having jurisdiction, have been met.
- (2) That the principles of Best Management Practices (BMPs), as presented in the Urban Small Sites Manual, are incorporated into the development and reflected in the Development contract to insure all soil reclamation provisions are strictly monitored and enforced by the City.
- (3) That a reasonable effort has been made to preserve the natural vegetation and that appropriate measures are taken to prevent shade tree disease transmission.
- (4) That all temporary and permanent erosion and sediment control BMPs utilized on the development site meet the objectives of the Urban Small Sites Manual and have been incorporated into the development contract, and that slope stabilization is specifically addressed within the review process.

(D) Soils and Slopes. No development shall be permitted on poorly drained soils, somewhat poorly drained soils, very shallow soils, soils with high shrink-swell or frost potential or very steep or steep sloped, as defined by the Soil Survey of Washington and Ramsey Counties, and in State Statutes and Rules, unless the applicant provides plans designed by an engineer licensed by the State of Minnesota demonstrating that the soil stabilization and construction techniques are consistent with accepted engineering practice, as determined by

the City Manager. Long term maintenance practices shall be specified in the engineered plans. These regulations shall not prohibit earth sheltered construction, as defined in State Statute.

(E) Soil Stabilization.

(1) Minimal Erosion. Development activities shall be conducted and staged to minimize soil erosion by:

- (a) Keeping disturbed areas small.
- (b) Stabilizing and protecting disturbed areas as soon as possible.
- (c) Keeping storm water rate of runoff no greater than what it was before development.
- (d) Protecting disturbed areas from storm water runoff.
- (e) Controlling, reducing or delaying storm water runoff.
- (f) Retaining sediment within the site area.

(2) Erosion and Sediment Control Plan. The developer shall prepare an Erosion and Sediment Control Plan, which shall define the temporary and permanent BMPs that will be implemented and maintained on the development site to protect surrounding property, and surface waters from the consequences of soil erosion resulting from grading and site development. The City Manager shall review the Erosion and Sediment Control Plan for compliance with the BMPs specified in the Urban Small Sites Manual.

- (a) The storm water pollution prevention plan shall consist of three components: a temporary erosion and sediment control plan, a permanent erosion and sediment control plan, and a narrative.
  - i. A temporary erosion and sediment control plan shall be provided that indicates the location of perimeter controls, construction fence, temporary sedimentation basins, inlet protection, areas to be seeded, areas to be mulched or blanketed and all other required temporary erosion and sediment control measures. This plan shall also indicate staging of temporary erosion control measures.
  - ii. A permanent erosion and sediment control plan shall be provided that indicates areas to be seeded and sodded, sediment ponds, storm sewer systems and all other required permanent erosion and sediment control measures. Permanent storm water pollution controls including, but not limited to ponds, vegetated buffers, rain gardens or other infiltration areas, and structural measures shall be designed and constructed in accordance with standards specified in the City Code and the Minnesota Stormwater Manual, as well as the requirements of other agencies having jurisdiction.

iii. A narrative shall be provided that describes at a minimum, the nature of construction activity, person(s) responsible for inspection and maintenance of site erosion and sediment control including contact information, project phasing, schedules, along with the timing, installation and maintenance of erosion and sediment control measures and specifications necessary to carry out the project.

(3) New Vegetation. For all development where land disturbance activity occurs, the permanent new landscaped vegetation must be established within fourteen (14) days after work is completed from the date of certificate of occupancy issuance, or upon completion of approved project. If development is completed during winter (November 15<sup>th</sup> to April 15<sup>th</sup>, permanent vegetation shall be established by May 15<sup>th</sup>. An extension may be granted by the City Manager because for weather-related delays. The City Council may grant an extension if the delay is for any other reason. Temporary soil stabilization techniques or temporary vegetation shall be established and maintained on the site per the approved plan until work to establish the permanent vegetation commences.

(F) Grading Standards. Land disturbance activity shall be controlled in accordance with the following criteria:

- (1) The smallest amount of bare ground shall be exposed for as short a time as feasible.
- (2) Temporary ground cover, shall be as specified in the Erosion and Sediment Control Plan and permanent vegetative cover, such as sod, shall be provided. Temporary and permanent vegetation shall be maintained in compliance with all applicable requirements of the Municipal Code.
- (3) Methods to prevent erosion and trap sediment shall be employed.
- (4) Fill shall be stabilized to accepted engineering standards.
- (5) All fill and grading activity shall comply with all other standards of the City's Development Ordinance.
- (6) All fill and grading activity shall comply with the performance standards set forth in Minnesota Statutes 307.08, Private Cemeteries Act.
- (7) *Slope*. The slope of cut surfaces shall be no steeper than is safe for the intended use and shall be no steeper than two horizontal to one vertical, for a short term interim period, unless the owner furnishes appropriate

soils engineering. Unless specifically approved, permanent slopes shall be no steeper than three horizontal to one vertical.

(G) Erosion and Sediment Control Standards.

- (1) Generally. All sites with land disturbing activities shall be prepared and maintained to control against erosion as set forth in this chapter.
  - (a) *Erosion and sediment control.* Temporary and permanent erosion and sediment control measures shall be installed and maintained on all sites in conformance to the approved plan and as necessary to prevent erosion and sedimentation from impacting any adjacent property, rights-of-way, drainage system, lake, pond, wetland, watercourse, natural resource or other protected area.
  - (b) *Implementation of storm water pollution prevention plan.* All erosion and sediment control measures will be operational prior to the start of any land disturbing activity as specified in the erosion and sediment control plan, construction plans and specifications, or as deemed necessary by the City based on actual site conditions.
  - (c) *Inspection.* Inspection of the BMP measures shall be carried out by the developer as required in the permit approval, but at a minimum shall be inspected at least once a week and after rainfalls of more than 0.5-inches in a 24-hour period.
  - (d) *Maintenance.* All erosion and sediment control measures will be maintained throughout the duration of the project. Deficiencies found through inspection of a site shall be promptly repaired as necessary to bring the site into conformance with the approved plan and City requirements. At minimum, BMPs shall be maintained as follows:
    - (i) If a perimeter erosion control device is found to have sediment accumulation in excess of one third of the total device height, the sediment shall be cleaned and the device repaired within 24 hours of discovery.
    - (ii) If an erosion control device is found to be nonfunctional, it shall be repaired or replaced within 24 hours of discovery.
    - (iii) Temporary sediment basins shall be maintained when sediment reaches one half the outlet height or one half the storage volume within 72 hours after discovery.

- (iv) Additional erosion and sediment control measures shall be installed as directed by the City Manager as found necessary to protect life and limb, the environment, properties or the stability of a property until final stabilization has been achieved.
- (e) *Required Record Keeping.* The developer shall keep records of inspection dates, site conditions, rainfall events and maintenance work performed. Inspection reports shall include, at a minimum, date and time of inspection, name of person conducting inspection, findings of inspection including any recommended corrective actions, corrective actions taken since previous inspection, and the date and amount of rainfall events of 0.5-inches or greater. The required records and approved plans shall be open to inspection by the City during all municipal working hours.
- (f) *Dewatering and Basin Draining.* Dewatering and basin draining related to construction activity that may have turbid or sediment laden water must be discharged to a temporary or permanent sedimentation pond on the project site. All water that leaves the site must be treated with the appropriate BMPs such that the discharge water is clear and does not adversely affect the receiving water or downstream landowners. Turbid or sediment laden discharge water shall not be discharged into any stormwater conveyance system or water body.
- (g) *Construction Site Waste.* The site shall be maintained in a clean and orderly manner. Waste shall be recycled when possible and stored on the site in appropriate waste and recycling containers, collected regularly, and disposed of properly, in conformance with the regulations of the City and requirements of the MPCA.
- (i) *Solid Waste:* Collected sediment, asphalt and concrete millings, floating debris, paper, plastic, fabric, construction and demolition debris and other wastes must be stored and disposed of properly.
- (ii) *Hazardous Wastes:* Oils, gasoline, paint, and any other hazardous substances must be properly stored to prevent spills, leaks, or other discharge. Storage and disposal of hazardous wastes shall comply with MPCA requirements. *Truck and Concrete Washing:* When feasible, truck washout should occur at the concrete plant. When washout is needed on the construction site a concrete washout area shall be used and contain the following components:

1. Signage identifying where concrete washout should be performed.
  2. A rock entrance to prevent sediment tracking.
  3. A containment area utilizing appropriate BMPs for concrete washout facilities, as identified by the MPCA. BMPs include, but are not limited to, manufactured watertight washout containers or a plastic-lined containment area such as a holding pit, bermed basin, roll-off bin, or portable tank. The plastic liner shall be a minimum of 10-mil thick and leak free. The containment area shall be inspected daily to insure the sidewalls are intact, leaks are absent, and adequate capacity remains. Washout facilities must be cleaned, or new facilities constructed and ready to use, once the washout container is 75% full. If stored liquids have not evaporated when 75% capacity is reached, vacuum and dispose of the liquid in accordance with MPCA requirements. Hardened solids shall be disposed of as per the regulations of the MPCA.
- (H) Shoreland Management. In addition to the regulations stated in this Section, development activities on riparian lots having frontage on Minnesota Department of Natural Resources (DNR) classified protected waters are subject to the provisions of 209.080(G) (Shoreland Management).
- (I) Enforcement and Penalty. This ordinance shall be administered and enforced by the City Manager, as specified in Section 203.010(D). Any person, firm or corporation, who violates or refuses to comply with any of the provisions of this ordinance shall be guilty of a misdemeanor. Each day that a violation is permitted to exist shall constitute a separate offense. Violations may result in issuance of a stop work order for the entire project or any portion thereof, no inspections shall be performed by the City, and the City will withhold issuance of any and all Certificates of Occupancy until conditions on the site comply with the provisions of this Code.

#### **209.050 Vegetation & Woodlands.**

- (A) Preservation. Vegetation shall be left intact to the maximum extent possible to retard surface run-off and soil erosion, to utilize excess nutrients, and to conserve nutrients in the soil and to preserve shoreland aesthetics.
- (B) Removal. The removal of vegetation shall be controlled in accordance with the following criteria:
- (1) All Properties.

- (a) Vegetation shall be restored during and after all construction projects that require a building permit to retard surface runoff and soil erosion in accordance with Section 209.040(D), Soil Stabilization.
  - (b) Development shall be conducted so that the maximum number of trees, in particular landmark trees, are preserved by the clustering of structures in existing cleared areas and natural clearings, and the utilization of other site design techniques. Design of the site and construction activities shall be conducted in a manner to avoid likely injury to Landmark Trees.
  - (c) The developer shall remove seriously damaged, diseased or dead trees.
- (2) New Development. All private-sector development proposals that involve the construction of a public street or private road and for all new non-single dwelling developments:
- (a) The Tree Preservation Plan. A tree preservation plan shall be submitted. This plan shall identify the trees to be preserved on the site and the methods to be employed to insure that the identified trees are not damaged during construction. These methods must be acceptable to the City.
  - (b) A Tree Replanting Plan, acceptable to the City, shall be submitted. This plan shall provide for at least a one-for-one replacement, up to a maximum of 15 trees per acre, for any healthy tree(s) in excess of 4 inches in diameter, except the replacement threshold for boxelder, cottonwood, and willow trees shall be eight inches of diameter and except as required elsewhere in this Section for landmark trees. The replacement trees shall comply with the standards in Section 206.010(J). Trees preserved on the site shall count toward the 15 trees per acre maximum replacement requirement, except any trees required to be replaced to compensate for the removal of a landmark tree [Section 209.050(B)(2)(c)] shall be in addition to the requirements of this section.
  - (c) Landmark Trees.
    - (i) Landmark Trees Not Located Within a Shore or Bluff Impact Zone. Landmark trees shall not be removed unless authorized by the City. Such authorization shall not be granted unless:
      - (aa) A finding is made that the presence of the tree(s) unreasonably inhibits practical use of a property, the tree(s) is diseased, or it presents a public safety hazard.

(bb) A responsible party (property owner, developer, or city in the case of a public improvement, etc.) agrees to plant six (6) trees of a species and location acceptable to the City for each healthy landmark tree removed. The size of the new trees shall comply with the standards set forth in the Section 206.010(J) for new construction. If space is not available on the development site, the replacement trees shall be planted elsewhere in the community, as is acceptable to the City Council.

(ii) Landmark Trees Located Within a Shore or Bluff Impact Zone.  
See Section 209.050(B)(4).

(3) Single Family Residential.

(a) Single family residential development. Single family residential development is defined as any activity that requires a building permit or land use approval including but not limited to variance, conditional use permit, subdivision, or rezoning.

(i) Landmark Trees Not Located Within a Shore or Bluff Impact Zone. Landmark trees shall not be removed unless authorized by the City. Such authorization shall not be granted unless:

(aa) A finding is made that the presence of the tree(s) unreasonably inhibits practical use of a property, the tree(s) is diseased, or it presents a public safety hazard.

(bb) A responsible party (property owner, developer, or city in the case of a public improvement, etc.) agrees to replace each healthy landmark tree removed with trees of a species and location acceptable to the City at the ratio below. The size of the new trees shall comply with the standards set forth in Section 206.010(J) for new construction. If space is not available on the development site, the replacement trees shall be planted elsewhere in the community, as is acceptable to the City Council.

Lot Area	Replacement Trees <u>(replacement/landmark)</u>
Less than 20,000 sf	1:1
20,001 to 40,000 sf	2:1
40,001 and more	3:1

- (ii) **Landmark Trees Located Within a Shore or Bluff Impact Zone.** See Section 209.050(B)(4).
- (aa) **Existing Single Family Residential.** Lots on which a single family residential home was constructed prior to the effective date of this ordinance are not subject to the replacement requirements for landmark trees unless development as defined in Section 209.050(B)(3)(a) is occurring.
- (4) **Shoreland Management.** In addition to the regulations stated in this Section, development activities on riparian lots having frontage on Minnesota Department of Natural Resources (DNR) classified protected waters are subject to the provisions of 209.080(h) (Shoreland Management).
- (5) **Public Improvement Projects.** For public street reconstruction and other public improvement projects, the following tree replacement standards shall apply:
- (a) A minimum of one-for-one replacement for any tree in excess of 4 inches of diameter that is to be removed as a result of the construction activity.
- (b) The replacement tree species, size, and location shall be negotiated between the City and the property owner.
- (6) **Aquatic Vegetation.**
- (a) Vegetation located at or below the OHW elevation of a protected water shall not be removed unless a permit is obtained from the Department of Natural Resources.
- (b) Vegetation located at or below the Regional Flood elevation for a wetland shall not be removed unless permission is granted by the City Manager or his/her designee.
- (7) **Public Drainage Easements.** No person shall remove, cut, trim, or otherwise disturb terrestrial vegetation located within a drainage easement which adjoins a wetland unless authorized by the City Manager or his/her designee.
- (8) Any disagreement regarding the enforcement of the rules set forth in Section 209.050(B) shall be presented to the Planning Commission for recommendation and to the City Council for a final decision.

- (9) In addition to or in lieu of remedies permitted by state law for the violation of a Development Ordinance, the City may require a violator of any requirement in Section 209.050(B) to plant up to eight trees within the community or pay a fine equivalent to the cost of purchasing up to eight replacement trees for each violation.

(C) Shade Tree Management.

(1) Declaration of Policy and Intent.

- (a) Policy. The City Council has determined that the health of shade trees within the City is threatened by fatal tree diseases and Plant Pests such as Dutch Elm and Oak Wilt diseases, the Emerald Ash Borer, and other invasive species or forest pests. It has further determined that the loss of shade trees growing upon public and private property would substantially depreciate the value of property within the City and impair the safety, good order, general welfare and convenience of the public. It is declared to be the intention of the City Council to control and prevent the spread of these diseases and other epidemic diseases or Plant Pests of shade trees, and this ordinance is enacted for that purpose.
- (b) Intent. It is the intent of the City Council to implement a local pest control program, a shade tree disease control program, and to cooperate with the Commissioners of the Department of Natural Resources and Agriculture in accordance with Minn. Stat. §§ 18G, 89.001, 89.01 and 89.51-.64 as amended. The City Manager shall act as coordinator between the Commissioner of Agriculture and Natural Resources and the City Council in the conduct of these programs.

(2) Inspection and Investigation.

- (a) Inspection. The City Manager shall inspect public and private yards which might harbor Plant Pests, as defined in Minnesota Statutes Section 18G.02, Subd. 24, as hereafter amended, to determine whether a public nuisance exists thereon. He/she shall investigate all reported incidents of infection or infestation by the Dutch Elm fungus, elm bark beetles, Oak Wilt fungus, Emerald Ash Borer, or any other epidemic plant diseases or Plant Pests of shade trees.
- (b) Entry on Public and Private Yards. The City Manager may enter upon all public and private yards at any reasonable time for the purpose of carrying out any of the duties assigned herein. The term "private yard" means yards, as defined herein, and does not include the interior of any structure.

- (c) Diagnosis. The City Manager shall identify diseased trees in a manner consistent with Minnesota Department of Agriculture and Natural Resources guidelines, including but not limited to visual inspection, branch removal, bark shaving, and any other acceptable diagnosis methods. Laboratory confirmation by the Minnesota Department of Agriculture or other relevant state agency will be used when it is deemed necessary by the City Manager.
- (3) Shade Tree Nuisance Declared. All trees, firewood, or stumps with or without bark intact that are infected or infested by a shade tree disease or Plant Pest on public or private yards.
- (4) Transporting Diseased Wood. Loads must be properly secured so that twigs, branches and other debris are not lost while in route.
- (a) The transportation of diseased trees and firewood as defined under this chapter shall be confined in accordance with the rules, regulations, or quarantine area(s) defined or identified by the Minnesota Department of Agriculture and Natural Resources.
- (b) Disposal of all ash wood shall be carried out in accordance with the City's adopted Emerald Ash Borer Management Plan.
- (5) Interference Prohibited. No person shall prevent, delay or interfere with the City Manager or his/her designee while they are engaged in the performance of duties set forth in this chapter.
- (D) Nutrient Management.
- (1) Purpose. The City has conducted studies and has reviewed existing data to determine the current and projected water quality of various lakes within its community. The data indicates that lake water quality may be maintained and improved if the City is able to regulate the amount of lawn fertilizer and other nutrients entering the lakes as a result of storm water runoff or other causes. The purpose of this ordinance is to define regulations which will aid the City in maintaining and improving lake resources which are enjoyed by its residents and other users.
- (2) License Required. No person, firm, corporation or franchisee shall engage in the business of commercial lawn fertilizer application within the City unless a license has been obtained from the City Manager as provided in Section 705.
- (3) Regulations for Property Owners.

- (a) Random Sampling. Upon the City's request, the property owner shall provide the City with samples of lawn fertilizer to be applied by property owners. The quantity of the sample shall be large enough to permit laboratory testing.
  - (b) Use of Impervious Surfaces. Property owners shall not deposit leaves or other vegetative materials on impervious surfaces or within storm water drainage systems or natural drainage ways.
  - (c) Unimproved Land Areas. Except for driveways, sidewalks, patios, areas occupied by structures, or areas which have been improved by landscaping, all land areas shall be covered by plants or vegetative growth.
- (4) General Regulations.
- (a) Time of Application. Lawn fertilizer applications shall not be applied when the ground is frozen or between November 15 and April 15 of the succeeding year.
  - (b) Sample Analysis Cost. The cost of analyzing fertilizer samples taken from commercial applicators or property owners shall be paid by the commercial applicators or property owners if the sample analysis indicates that the phosphorus content exceeds the levels authorized herein.
  - (c) Fertilizer Content. No person, firm, corporation or franchise, shall apply fertilizer within the City of Shoreview which contains phosphorus.
  - (d) Impervious Surfaces and Drainage Ways. No person shall apply fertilizer to impervious surfaces, or to the areas within drainage ditches or waterways.
  - (e) Buffer Zone. Fertilizer applications shall not be made within ten feet of any wetland or water resource.
  - (f) Waterfowl. No person shall place feed for waterfowl on, in or within 50 feet of a wetland, pond, lake or water resource.
- (5) Exemptions.
- (a) Newly established turf areas shall not be limited by this ordinance on the quantity of phosphorus for the first growing season.

- (b) The use of phosphorus on golf courses is permitted under the direction of an applicator certified by an organization approved by the Commissioner of Agriculture.
  - (c) These exemptions are subject to the recommended rates established by the University of Minnesota and the Commissioner of Agriculture.
- (E) Warning Signs for Pesticide Application. All commercial or noncommercial applicators who apply pesticides to turf areas must post or affix warning signs to the property where the pesticides are applied. The warning signs shall comply with the following criteria and contain the following information:
- (1) The warning signs must project at least 18 inches above the top of the grass line. The warning signs must be of a material that is rain resistant for at least a 48-hour period and must remain in place up to 48 hours from the time of initial application.
  - (2) The following information must be printed on the warning signs in contrasting colors and capitalized letters measuring at least 1/2 inch, or in another format approved by the Minnesota Commissioner of Agriculture. The signs must provide the following information:
    - (a) The name of the business, entity, or person applying the pesticide; and
    - (b) The following language: "This area chemically treated. Keep children and pets off until (date of safe entry)" or a universally accepted symbol and text approved by the Minnesota Commissioner of Agriculture as recognized as having the same meaning or intent. The warning signs may include the name of the pesticide used.
  - (3) The warning signs must be posted on a lawn or yard between two feet and five feet from the sidewalk or street. For parks, golf courses, athletic fields, playgrounds or other similar recreational property, the warning signs must be posted immediately adjacent to areas within the property where pesticides have been applied or at or near the entrances to the property.

**209.060** **Storm Water Management.** All development within the City shall comply with the policies set forth in the City's Surface Water Management Plan.

(A) Illicit Discharge Detection and Elimination

- (1) Purpose. The purpose of this Section is to provide for the health, safety, and general welfare of the citizens of the City through the regulation of non-stormwater discharges to the storm drainage system, as required by federal and state law. This Section establishes

regulations for controlling the introduction of pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with requirements of the MS4 permit issued to the City of Shoreview by the Minnesota Pollution Control Agency (MPCA) under the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Section are:

- (a) To regulate the contribution of pollutants to the MS4 by stormwater discharges by any user.
  - (b) To prohibit illicit connections and discharges to the MS4.
  - (c) To establish legal authority to carry out all inspection, and enforcement procedures necessary to ensure compliance with this Section.
- (2) Compatibility with Other Regulations. This section is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this section are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this Section imposes restrictions different from those imposed by any other ordinance, rule, regulation, or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human health or the environment shall control.
- (3) Ultimate Responsibility. The standards set forth herein and promulgated pursuant to this section are minimum standards; therefore this section does not intend to imply that compliance by any person will ensure that there will be no contamination, pollution, or unauthorized discharge of pollutants.
- (4) Discharge Prohibitions.
- (a) Prohibition of illegal discharges. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 or storm drainage system any pollutants or waters containing any pollutants, other than stormwater. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

The following discharges are exempt from discharge prohibitions established by this section:

- (i) Water line flushing, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, individual residential car washing, and street wash water, provided such exempt discharges flow over a vegetated area to allow filtering of pollutants, evaporation of chemicals, and infiltration of water consistent with the stormwater requirements of the City.
  - (ii) Discharge of swimming pools subject to Section 205.080(6)(f), crawl spaces, sump pumps, footing drains, and other sources that may be determined to contain sediment or other forms of pollutants may not be discharged directly to a gutter or storm sewer.
  - (iii) Discharges or flow from firefighting and other discharges specified by the City of Shoreview as being necessary to protect public health and safety.
  - (iv) Discharges associated with dye testing, however dye testing requires a notification to the City prior to the test.
  - (v) The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Minnesota Pollution Control Agency (MPCA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations. Written approval of the City is required for any discharge to the storm drain system or MS4.
- (b) Prohibition of Illicit Connections.
- (i) The construction, use, maintenance or continued existence of illicit connections to the storm drain system or MS4 is prohibited.
    - (aa) This prohibition includes all illicit connections made prior to the adoption of this ordinance regardless of whether said connection was permissible under law or practices applicable or prevailing at the time of connection.

- (bb) A person is in violation of Section 209.060 if the person connects a line conveying sewage to the storm drain system or the MS4, or allows such a connection to continue.
  - (ii) Existing illicit connections must be disconnected and redirected to an approved onsite wastewater management system or the sanitary sewer system, subject to permitting and approval by the City of Shoreview.
  - (iii) Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon written notice from the City. Such notice shall specify a reasonable time period for locating to be completed. As-built locations shall be provided to the City.
- (5) Right of Entry. The City shall be permitted to enter and inspect private systems that connect to the MS4 or storm drainage system as may be necessary to determine compliance with this section.
- (6) Violations. In addition to the penalties established pursuant to Section 101.040 of the Municipal Code, illicit discharge may result in other penalties, including:
  - (a) Emergency cease and desist orders. When the City finds that any person has violated, or continues to violate, any provision of this Section, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the storm drain system, the MS4, or waters of the state which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the City may issue an order to immediately cease and desist all such violations.
  - (b) Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this Section may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. Such suspension may also be imposed if it is necessary to stop an actual or threatened discharge which presents imminent and substantial danger.

- (7) Remedies Not Exclusive. The remedies listed in this Section are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City to seek cumulative remedies. The City may recover all attorneys' fees, court costs and other expenses associated with enforcement of this Section, including sampling and monitoring expenses.

(B) Private Stormwater Management

- (1) All stormwater best management practices shall be designed in a manner to minimize the need for maintenance and reduce the chances of failure.
- (2) Stormwater easements and covenants shall be provided by the property owner for access for facility inspections and maintenance. Easements and covenants shall be recorded with Ramsey County prior to the issuance of a permit.
- (3) Maintenance.
- (a) All stormwater best management practices shall be maintained according to the measures outlined in accordance with the City's Surface Water Management Plan.
- (b) The person(s) or organization(s) responsible for maintenance shall be designated in the Development Agreement. The property owner(s) shall be responsible for maintenance if the Development Agreement does not designate a party.
- (c) The financial responsibilities for such maintenance shall be specified in the Development Agreements and be included in deed restrictions or other contractual agreements as approved by the City.
- (d) Non-routine Maintenance. Non-routine maintenance includes maintenance activities are those infrequent activities needed to maintain the ponding areas and/or stormwater infrastructure so that it functions in accordance with the approved plans and specifications. Examples of such activities include pond dredging or major repairs to stormwater structures.
- (i) Nonroutine maintenance shall be performed on an as-needed basis based on information gathered during regular inspections.
- (ii) If nonroutine maintenance activities are not completed in a timely manner or as specified in the approved plan, then the City may complete the necessary maintenance at the owner's/operator's expense.

(4) **Inspections.** The person(s) or organization(s) responsible for maintenance shall inspect stormwater best management practices on a regular basis, as outlined in the Development Agreement or as required by the Minnesota Pollution Control Agency.

(a) Authorized representatives of the City may enter at reasonable times to conduct on-site inspections or routine maintenance.

(b) For best management practices maintained by the property owner or homeowner's association, inspection and maintenance reports shall be filed with the City as provided for in the Development Agreement.

(c) Authorized representatives of the City may conduct inspections to confirm the information in the maintenance reports.

**209.065 Surface Water Management.** Development shall generally conform to the guidelines adopted in the current Surface Water Management Plan (SWMP).

(1) Strict compliance with the minimum building elevations (MBE) as specified in the SWMP for property that is not located in the FF, FW or GF Districts.

(2) Wetland buffers may be required by the City to meet the intent of the SWMP. A 16.5 foot buffer width is the minimum necessary to protect surface water wetlands from adverse development impacts. Deviation from this requirement may be approved during the applicable land use approval, including but not limited to Site and Building Plan Review, Subdivision, or Planned Unit Development.

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**209.070 Wetlands.** Utilization of protected wetland areas within the City shall be governed by Department of Natural Resources regulations. During construction, wetlands and other water bodies shall not be used as sediment traps.

**209.080 Shoreland Management.**

(A) **Classification.** In order to guide the development and utilization of the shorelands of protected waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and welfare, certain protected waters in the City have been given a shoreland management classification. These protected waters in the City have been classified by the Commissioner of the Minnesota Department of Natural Resources (DNR) and shown on the Ramsey County Protected Waters Inventory map as follows:

(1) **Natural Environmental Waters:**

(a) 62-44 Poplar Lake

(b) 62-74 Grass Lake

(2) General Development Waters:

- (a) 62-21 Turtle Lake
- (b) 62-82 Wabasso Lake
- (c) 62-64 Martha Lake
- (d) 62-56 Owasso Lake
- (e) 62-75 Island Lake
- (f) 62-73 Snail Lake
- (g) 62-81 Judy Lake
- (h) N/A Rice Creek
- (i) 62-80 Emily Lake
- (j) Unnamed Stream from Turtle Lake (62-61) to Marsden Lake (62-59)

(B) Purpose. The Shoreland Management Area is a component of the Environmental Overlay Zoning District as illustrated on the City of Shoreview's Zoning Map. Shoreland management regulations pertaining to such items as minimum lot size, structure placement, and alteration of shoreland area have been adopted to manage the effects of shoreland and water surface crowding, to prevent pollution of surface and ground waters, to provide ample space on lots for sewage treatment facilities, to minimize flood damage, to maintain property value, to maintain the historic value of significant historic sites, to minimize impairment of views of protected waters and their shorelines, and to the extent possible maintain the natural character of shorelands and their adjoining public waters.

(C) Permitted Uses. The uses permitted in the Shoreland Management Areas are those uses allowed and regulated by the applicable zoning district underlying the Environmental Overlay District.

(D) General Provisions. Except as hereinafter provided, the following standards shall apply to all shorelands of the protected waters designated in Section 209.080(A). Where the requirements of the underlying zoning district as shown on the official Zoning Map are more restrictive than those set forth herein, the more restrictive standards shall apply:

SHORELAND STANDARDS	NATURAL ENVIRONMENT WATERS	GENERAL DEVELOPMENT WATERS
Minimum Lot Area		
Riparian lot	40,000 sq. ft.	15,000 sq. ft.
Other	40,000 sq. ft.	10,000 sq. ft.

Minimum Lot Width		
Riparian Lots (at OHW, Building Setback From OHW, and front lot line:	200 feet	100 feet
Nonriparian Lots:	125 feet	75 feet
Structure Setback		
from OHW:	150 feet	50 feet
Structure Setback from top of Bluff:	30 feet	30 feet

(E) Calculation of Minimum Area and Width for Riparian Lots. Only that land located above the Ordinary High Water (OHW) Level shall be used in the calculations to determine compliance with minimum lot area requirements.

(F) Exceptions to Structure Setback Requirements.

(1) Principal structure setback from the OHW

(a) New Construction. In those case where there are existing dwelling units, including attached structures, on adjacent lots which have a lakeside setback of more than fifty (50) feet, the lakeside setback for a new dwelling unit, including attached structures, shall be equal to the average of the lakeside setbacks for the existing dwelling units, plus or minus 10 feet. In those cases where there is only one existing dwelling unit, including attached structures, on an adjacent lot, which has a lakeside setback of more than fifty (50) feet, the lakeside setback for the new dwelling unit, including attached structures, shall be equal to the average of 50 feet and the lakeside setback of the existing dwelling unit, including attached structures, plus or minus 10 feet. In any event, 50 feet shall be the minimum setback.

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(b) Additions to the Existing Principal Structures. Where two or more existing adjacent dwellings, including attached structures, have lakeside setbacks which exceed the minimum lakeside setback by ten (10) or more feet, the lakeside setback for an addition to a dwelling shall not be less than the average of the lakeside setbacks for such existing adjacent dwellings, including attached structures, minus 10 feet. In any event, 50 feet shall be the minimum setback.

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(2) Setback requirements set forth in this section from side property lines and the OHW level shall not apply to docks, piers, boat lifts, retaining walls, walks, required safety railings along steps and retaining walls, or vegetation (trees, shrubs, flowers, etc.). Fences may be permitted anywhere lakeward of the required structure setback, except within the

shore impact zone, provided they are not taller than 3.5 feet above grade. The City Manager or his/her designee may authorize fences up to 6 feet in height that extent into the Shore Impact Zone when a property abuts a walkway, park, or similar facility.

- (3) On residential property, only one water-oriented accessory structure may be located between the OHW level and the required structure setback, subject to compliance with the standards listed below in subsections (a) - (c). Accessory structures that existed prior to June 21, 1993 and which do not comply with the provisions stated herein may be maintained, repaired, or rebuilt but cannot be expanded in floor area or height.
- (a) The amount of impervious surface area on the lot will not exceed 30 percent of the lot area,
  - (b) The principal structure and any garage/storage structure comply with the required structure setback from the OHW level (principal structure means the dwelling, including any attached deck, porch, patio, etc.).
  - (c) The water-oriented accessory structure shall comply with the following requirements:
    - (i) It does not exceed 250 square feet in area, unless a boathouse which shall not exceed 288 square feet of area,
    - (ii) It is not wider than 12 feet as viewed from the water,
    - (iii) It does not exceed 10 feet of height above grade,
    - (iv) It is setback at least 20 feet from side property lines except where not possible due to lot width, in such case, the structure shall be located in the center of the lot or as otherwise deemed acceptable by the Planning Commission,
    - (v) It does not contain any sanitation facilities and is not used for habitation,
    - (vi) It is screened from view from the lake and from adjoining property as much as practical through landscaping, use of natural color(s), topography, and/or location.
    - (vii) No water-oriented structure (other than a lawful boathouse) or off-season storage of an ice fishing house is permitted within the Shore Impact Zone. This setback requirement may be waived, but shall not be reduced to less than 10 feet from the OHW, if the Planning Commission determines that a practical difficulty exists which renders strict compliance to be unreasonable. Practical difficulty shall be defined as due to topography or other circumstance acceptable to the City.
    - (viii) A boathouse may be located within the Shore Impact Zone, provided it is at least 10 feet landward of the OHW and it complies with the other requirements stated herein.

- (4) Detached accessory structures may be located in the front yard (between dwelling and street) of a lakeshore property only upon approval of a riparian lot detached accessory structure permit, Section 203.039, Permits.
- (5) Structures, except stairways and landings, shall not be placed within a Bluff Impact Zone.
- (6) Stairways, lifts, and landings shall be used when accessing public waters across Bluff or Shore Impact Zones. Such facilities shall also comply with the following standards:
  - (a) Stairways shall not exceed four feet in width except for public recreation uses, including trails.
  - (b) Landings for stairways must not exceed 32 square feet in area, unless associated with a public recreation use.
  - (c) Shall be screened from view of the public water.
- (G) Soils, Slopes and Grading. Natural grades shall be maintained to the extent feasible in order to protect water quality and preserve views from the public water. Furthermore, measures shall be taken to prevent erosion and negate the impacts on adjacent properties.
  - (1) Shore Impact Zones, Bluff Impact Zones and Steep Slopes. Land within steep slopes, shore and bluff impact zones on riparian lots shall maintain natural grades and shall not be altered, filled or excavated with the following exceptions:
    - (a) To accommodate the placement of stairways, landings, public recreation facilities, roads, trails, and water oriented accessory structures.
    - (b) To remedy slope failure utilizing acceptable methods for slope stabilization and protection. Retaining walls may be permitted provided the wall does not exceed four (4) feet in height. A greater height may be permitted if it is necessary to remedy the slope failure.
    - (c) To maintain, repair or reconstruct existing retaining walls provided the walls maintain the same height and length.
    - (d) In accordance with an approved mitigation plan.

A Grading Permit is required for (b) and (c).

- (2) Structure. The existing topographical grade and elevation for new, expanded or reconstructed single family residences shall be maintained to the extent feasible. The finished topographical grade and elevation shall not be less than five feet below the existing topographical grade and elevation. Reconstruction is defined in Section 209.080(M)(2)(b).

(H) Vegetation and Woodlands.

(1) Shore Impact Zones, Bluff Impact Zones and Steep Slopes:

- (a) Removal and trimming of landmark trees is prohibited, except as necessary to remove branches that are dead, diseased, or which pose a safety hazard.
- (b) Non-landmark trees may be removed only where necessary, in the judgment of the City, to accommodate the placement of stairways, landings, public recreation facilities, roads, trails, and water oriented accessory structures, or to provide a view of the public water from the principal structure, provided that sufficient vegetation cover remains or is planted to screen motor vehicles, dwellings and other structures when viewed from the water. Such trees may also be trimmed or removed as necessary where branches are dead, diseased, or pose a safety hazard.

(I) Roads, Trailways, Driveways, and Parking Areas. Public and private roads, trailways, driveways, and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. They must also be designed and constructed to minimize and control erosion and to retard the runoff of nutrients in accordance with the following criteria:

- (1) All roads, driveways, and parking areas shall meet the setback requirements established for structures and must not be placed within a bluff or shore impact zone when other reasonable and feasible placement alternatives exist as determined by the City. If the City Council finds that no other reasonable option exists, these facilities may be placed within these areas if designed to minimize adverse impacts.
- (2) Parking areas for public watercraft access ramps and approach ramps shall be located at least 50 feet from the OHW unless no other practical alternative exists as determined by the City Council.
- (3) Natural vegetation shall be used to screen parking areas when viewed from the water.

- (4) Any grading, filling or excavation in the Shoreland Management Area which will change or diminish the course, current or cross-section of protected waters or wetlands shall be approved by the Commissioner of the Minnesota Department of Natural Resources.

(J) Maximum Impervious Surface Area Within Shoreland Areas.

- (1) Detached Residential – Standard Riparian and Non-Riparian Lots. Impervious surface area shall not exceed 25 percent unless the following conditions are satisfied and, in no case, shall impervious surface area exceed 40 percent:
- (a) No water-oriented accessory structures (except docks, boatlifts, and retaining walls) will be located within the shore impact zone.
  - (b) No more than 50 percent of the impervious area on the property drains directly to an adjoining protected water.
- (2) Detached Residential – Substandard Riparian Lots. See Section 209.080(J)(2)(c)(i).
- (3) Detached Residential – Substandard Non-Riparian Lots. See Section 207.050(D).
- (4) All Other Uses. For uses other than Detached Residential, impervious surface area may be permitted to cover up to 60 percent of a site. Each of the following conditions must, however, be satisfied to cover more than 40 percent of these sites with impervious surface area:
- (a) All required setbacks from the OHW level are proportionately increased up to double (100 percent increase) the standard requirements based upon percent of impervious surface area above 40 percent (e.g., a 75 percent increase in the standard lakeshore setbacks if 55 percent impervious area coverage is desired).
  - (b) A drainage easement is granted to the City for the purpose of maintaining natural (predevelopment) vegetative cover within the shore impact zone.
  - (c) Storm water drainage from all impervious surfaces shall be directed to a storm water detention pond before discharge to a protected water.
- (5) Except for those structures located at or below the OHW, such as docks, boat lift, and piers, all structures, including water-oriented accessory structures, shall be included in the calculation to determine compliance with the maximum impervious area requirements.

(K) Nonconforming Uses and Substandard Structures. Any use of shoreland property or a structure in existence on August 1, 1983 (effective date of Ordinance 458 and adoption of the initial Shoreland Management Code), but which does not meet the requirements of the Shoreview Development Code shall be allowed to continue in accordance with the provisions of Section 207.050.

(L) Substandard Lots.

(1) All Substandard Lots.

(a) Adjacent lots of record in the Office of the County Recorder prior to August 1, 1983 in common ownership which do not meet the requirements of Section 209.080(D) must be combined and cannot be used as separate building sites unless all lots meet or exceed 60% of the minimum required lot width, area, and depth standards.

(b) Lots of record in the Office of the County Recorder prior to August 1, 1983, that are not adjacent lots of record in common ownership which do not meet the requirements of Section 209.080(D), may be allowed as separate building sites, provided:

(i) The lot meets or exceeds 60% of the minimum required lot width and area standards as defined in Section 209.080(D) and has a depth of at least 110 feet as defined in Section 202, or

(ii) The lot was occupied by a primary structure on or before March 20, 2000.

(c) No lot of record shall be used or reused as a separate homesite unless it abuts an improved public right-of-way or, if the lot was legally accessed via a private way prior to December 10, 1992, said access may continue to be utilized provided:

(i) There is no practical way to extend a public street to the property;

(ii) The private access is protected by a permanent easement recorded to run with the title of the property; and

(iii) The private way complies with the fire apparatus requirements set forth in the Uniform Fire Code.

(2) Substandard Riparian Lots.

- (a) No structures shall be expanded, constructed or reconstructed on a substandard lot of record unless design review approval is first obtained from the City in accordance with Section 203.034.
- (b) Reconstruction of a structure is defined to mean replacement of three or more of the structure's six structural components (roof, floor, and four walls). Determination as to the extent of structural component replacement shall be made by the Building Official.
- (c) Design Standards for Substandard Riparian Lots. Any structures expanded, constructed, or reconstructed on a substandard riparian lot shall comply with the following standards:
- (i) Impervious Surface Coverage. The impervious surface coverage of the parcel shall not exceed 25 percent. A maximum impervious surface coverage of 30 percent may be permitted if there are no structures (except for docks, stairways, lifts, landings, retaining walls, and fences) in the required setbacks from the Ordinary High Water level and/or bluff.  
If the existing impervious surface coverage on a parcel exceeds the allowable impervious surface coverage, existing impervious surface coverage may remain but shall not be increased. Existing impervious surface coverage is the impervious surface coverage legally present on or before March 20, 2000 or approved thereafter by the City.
- (ii) Building Height. The maximum building height shall not exceed 35 feet as measured from the highest roof peak to the lowest point at finished grade.
- (iii) Foundation Area. The foundation area of all structures, including dwellings and attached accessory structures, cantilevered areas, detached accessory structures greater than 150 square feet, and covered porches, covered decks, and covered patios shall be limited to 18 percent of the lot area of 1,600 square feet, whichever is greater. If the existing foundation area exceeds the allowed foundation area, the foundation area percentage may be maintained but not increased. Existing foundation area is the foundation area legally present on the property on or before March 20, 2000 or approved thereafter by the City.
- (iv) Building Setbacks.
- (aa) Minimum Setback from the Property Front Line: Twenty-five (25) feet. However, in those cases where the existing setbacks for the two adjacent dwellings exceed this requirement, the

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setback of the new dwelling or any new addition shall be equal to the average setback of the two adjacent dwellings, plus or minus 10 feet. In those cases where there is only one existing adjacent structure which has a setback greater than twenty-five (25) feet, then the setback for the new dwelling or addition shall be equal to the average of twenty-five (25) feet and the setback of the existing adjacent structure, plus or minus 10 feet, but never less than a minimum of 25 feet.

(bb) Minimum Setback from the Ordinary High Water Level. See Sections 209.080(D) and (F).

(cc) Minimum Setback from an Interior Side Property Line: 10 feet. However, in those cases where an existing principal structure is set back less than 10 feet but at least 5 feet from the side property line, then the existing setback may be maintained provided the expansion, addition or reconstruction is no more than one story as defined by the Uniform Building Code. A minimum setback of 10 feet is required for any part of the structure that exceeds one story in height.

(v) Architectural Mass.

(aa) The use of landscaping is encouraged to reduce the visual appearance of structures from the lakeshore.

(bb) The use of natural color(s) and/or materials on the exterior of the structure is also encouraged to reduce the visual impact. Natural colors are shades of brown, gray, and green. Natural materials include wood or stone that complement the setting of the structure.

(cc) If a variance is granted to any of these design standards or setback requirements, provisions (a) and/or (b) may be required as conditions of approval.

(3) Substandard Non-Riparian Lots. See Section 207.050(D).

(M)Shoreland Mitigation. A shoreland mitigation plan must be submitted for residential development that requires land use approval including but not limited to residential design review, variance, conditional use permit, subdivision or rezoning. The plan shall be designed to mitigate the adverse effects land development has on water quality and the lake environment. The mitigation plan shall be signed by the property owner, approved by the City Manager and a Mitigation Affidavit recorded with the Register of Deeds prior to the commencement of development activity. Furthermore, mitigation plans

shall be completed within one year of the plan's approval unless otherwise approved by the City.

(1) Mitigation Practices. The mitigation plan shall include at a minimum two of the following practices:

(a) Vegetation Protection Area. A vegetation protection area may be established which at a minimum shall include land area within the shore impact zone, bluff impact zone or steep slope. Within these areas, the removal of trees, shrubs and groundcover, grading, filling and other land disturbing activities are prohibited with the following exceptions:

(i) Removal of vegetation is in accordance with Section 209.080(H).

(ii) Establishment of one viewing corridor by selective pruning and selective removal of trees and shrubbery. Sufficient trees and shrubbery shall be retained to screen development from view of the water but provide a filtered view of the water. The viewing corridor should be more or less perpendicular to the shore and not be more than 30 feet wide at any point, including at the lakeshore. Water-oriented structures, walkways, stairways and lifts shall be located within the view protection corridor. Clearing, filling, grading and other land disturbing activities are not permitted in this corridor with the exception of the following:

(aa) Construction of a water-oriented structure, walkways, stairways and lifts.

(bb) Shoreline protection activities as permitted by the DNR.

(cc) Erosion control measures approved by the City, which are designed to remedy existing erosion problems.

(dd) Beaches as permitted by the DNR.

(b) Vegetation Restoration. Vegetation restoration areas may be established which at a minimum shall include land within the shore and the bluff impact zones or steep slopes. Land area shall be restored from law, beach or other disturbances using native or natural landscaping.

(i) Steep Slope/Bluff Restoration. Steep slopes and bluffs that are vegetated with turf may be restored with deciduous and ornamental trees, evergreens and shrubs that are native to the area.

- (ii) Shoreline Buffer Restoration. A buffer zone of at least 25 feet from and parallel to the ordinary high water mark shall be planted or restored and maintained with vegetation native to the area to fullest practicable extent possible with effective erosion and sediment control. Existing natural beaches or beaches which have been permitted by the DNR shall be allowed to continue and be maintained. A minimum of 30% of the lot's shoreline area shall be restored. This restoration area shall be contiguous unless otherwise approved as part of the mitigation plan.
  - (c) Architectural Mass. The use of natural color(s) and/or materials on the exterior of the structure shall be used to reduce the visual impact. Natural colors are shades of brown, gray, and green. Natural materials include wood or stone that complement the setting of the structure.
  - (d) Removal of Nonconforming Structures. The mitigation plan may include the removal of structures that do not comply with the required structure setbacks from the ordinary high water line or are located within a shore impact zone or bluff impact zone.
  - (e) Reduction of Impervious Surface Coverage. The mitigation plan may include a minimum 5% reduction of the existing impervious surface coverage. The preferable location of this reduction is within that portion of the lot that drains to the lake.
- (2) Other practices. At the discretion of the City Manager, other restoration or protection activities may be approved as part of a mitigation plan provided they meet the objectives of this ordinance. Examples include the removal of artificial sand beaches, stormwater management and replacement of seawalls with bioengineering structures.
- (N) Administration. The City shall notify and supply the Department of Natural Resources (DNR) with plans and information on the following:
- (1) Copies of all variance requests or public hearings for a Conditional Use Permit in a shoreland area shall be submitted to the Commissioner of the DNR at least ten (10) days prior to such hearing.
  - (2) A copy of the final decision granting variances or Conditional Use Permits shall be submitted to the Commissioner of the DNR within ten (10) days after the meeting.
  - (3) All preliminary plats within the shoreland area shall be submitted to the Commissioner of the DNR at least ten (10) days prior to the meeting.

- (4) All approved final plats shall be submitted to the Commissioner of the DNR ten (10) days after the meeting.
- (5) All Concept Planned Unit Developments shall be forwarded to and approved by the Commissioner of the DNR prior to approval by the City Council.
- (6) All amendments to Section 209.080 must be approved by the Commissioner of the DNR to be effective.

**209.090 Subsurface Sewage Treatment Systems.**

- (A) Connection to Public Sanitary Sewer Required. Existing structures with subsurface sewage treatment systems (SSTSs) must, upon the availability of the public sanitary sewer to the property, hook up to the public sanitary sewer system within one year. However, if a completely new SSTS was installed within the five-year period prior to the availability of public sanitary sewer, connection will not be required for up to 5 years, provided the system is maintained in accordance with the provisions of this Section and unless at any time the SSTS is determined to be an imminent threat to public health.
- (B) Standards adopted by reference. The City hereby adopts, by this reference, Minnesota Rules, Chapters 7080 and 7081 as now constituted and from time to time amended, relating to the construction, maintenance, permitting, inspection and abandonment of SSTS.
- (C) Variances
  - (1) Variances to the building setbacks established in this Section 209.090 shall be reviewed in accordance with Section 203.070 (Variances) except that variances to well and water line setbacks are governed by the Minnesota Department of Health.
  - (2) Variance requests must include the following additional information:
    - (a) Specific information on the Minnesota Rule or Rules from which the variance is requested.
    - (b) Reasons why the rule is difficult or inappropriate.
    - (c) A description of the practical difficulty (See Section 203.070(C) for definition of practical difficulty) that prevents compliance with the setback.
    - (d) How the variance will ensure a comparable degree of protection to public health or the environment if the variance is granted.

- (e) The length of time for which the variance is requested.
- (f) Cost considerations.
- (g) Proximity of the system to other systems.

(D) Definitions. See Minnesota Rules Part 7080 for definitions of terms used in this section.

(E) New and Replacement Systems.

- (1) New or replacement SSTSs may be permitted for detached single-family residential dwellings where it is clearly shown that there are practical difficulties in the extension of public sanitary sewer service to the structure as determined by the City Manager or his/her designee, provided the property is at least one acre in size. Installation of new or replacement ISTS on a property less than one acre in size requires approval of a variance in accordance with Section 209.090(C) above.
- (2) All new or replacement SSTSs must be sited, designed, installed, permitted, inspected and operated in accordance with Section 209.090(B).
- (3) New or replacement SSTSs shall be setback at least 150 feet from Ordinary High Water Line of Natural Environmental Waters and at least 50 feet from the Ordinary High Water Line of General Development Waters.
- (4) New or replacement SSTSs shall not be located in a floodway, and placement in a floodplain shall be avoided. If no alternative exists, a system is allowed to be placed within the flood fringe, provided the requirements of Minnesota Rule 7080.2270 are met. Any sewage treatment system designed in accordance with Section 209.090(B) shall be determined to be in compliance with this section.
- (5) On lots created after January 23, 1996, the system design shall include at least one designated additional soil treatment area that can support a standard soil treatment system.
- (6) Holding Tanks. Holding tanks may be allowed for the following applications:
  - (a) As a replacement to a failing system; or
  - (b) As a replacement for an SSTS that poses an imminent threat to public health and safety.

- (c) The owner of a holding tank shall provide the City Manager with a copy of a contract with a licensed sewage maintenance business for monitoring and removal of holding tank contents. A valid maintenance contract shall remain in effect for the life of the holding tank.
- (7) Privies Not Allowed. Privies and other toilet waste treatment devices used for primitive dwellings are not permitted.
- (8) Operating Permit. An Operating Permit shall be required of all owners of new holding tanks, Type IV Systems, Type V Systems, MSTs, or any other system deemed by the City to require operational oversight. Sewage shall not be discharged to these systems until the City certifies that the system was installed in substantial conformance with the approved plans, receives the final record drawings of the system, and a valid Operating Permit is issued to the owner.
- (a) The City shall receive the record drawings, operation and maintenance manual, management plan and servicing contract, and any other pertinent documents as appropriate for accuracy and completeness prior to issuance of an Operating Permit.
- (b) The Operating System shall include the following:
- (1) System performance requirements
  - (2) System operating requirements
  - (3) Monitoring locations, procedures and recording requirements
  - (4) Maintenance requirements and schedules
  - (5) Compliance limits and boundaries
  - (6) Reporting requirements
  - (7) Department notification requirements for non-compliant conditions
  - (8) Valid contract between the owner and a licensed maintenance business
  - (9) Disclosure, location and condition of acceptable soil treatment and dispersal system site

(10)Description of acceptable and prohibited discharges

- (c) Operating Permits shall be valid for a specific term, as determined by the City, and shall be renewed prior to its expiration. If not renewed, the City may require the system to be removed from service or operated as a holding tank until the Permit is renewed. If not renewed within ninety (90) days of the expiration date, the City may require that the system be abandoned in accordance with Section 209.090(K).

(F)Existing Systems.

- (1) Any modification, repair, alteration or expansion of an existing SSTS must be designed, installed, constructed, permitted, inspected, and operated in accordance with Section 209.090(B).
- (2) All existing individual sewage treatment systems are required to be maintained in accordance with Section 209.090(B).
- (3) A Certificate of Compliance must be provided before a building permit can be approved for a bedroom replacement on properties served by individual sewage treatment systems if the application is received between May 1<sup>st</sup> and October 31<sup>st</sup>. For applications received between November 1<sup>st</sup> and April 30<sup>th</sup>, a compliance inspection must be completed by the following June 1<sup>st</sup> and a Certificate of Compliance received by the City by September 30<sup>th</sup>. If the existing individual sewage treatment system was installed between May 27, 1989 and January 23, 1996, and an inspection triggered by this requirement determines the system is noncompliant but not an imminent threat, the property owner has 5 years to bring the existing system into compliance.

(G)Maintenance.

- (1) Existing SSTSs must be inspected at least every three years in accordance with Section 209.090(B). Such inspections shall be conducted by an inspector licensed by the Minnesota Pollution Control Agency at the expense of the property owner. Inspection reports must be submitted to the City within 15 days of the inspection date.
- (2) Septage must be removed from existing SSTSs at least every three years in accordance with Minnesota Rules, part 7080.2450, Subpart 3. Such material removal shall be conducted by a business licensed by the Minnesota Pollution Control Agency at the expense of the property owner. Evidence of material removal must be submitted to the City within 30 days of the removal date.

- (a) Septage or any waste mixed with septage must be disposed of in accordance with state, federal or local requirements for septage.
  - (3) Noncompliance with these maintenance provisions shall be treated as a misdemeanor and each day in violation shall be treated as a separate offense.
- (H) Failing Systems. A Notice of Noncompliance shall be issued and copies provided to the property owner and the City within 15 days from the time the system is determined to be noncompliant.
- (1) Failing subsurface sewage treatment systems shall be upgraded, replaced, or their use discontinued and the system properly abandoned within one year from the date of the Notice of Noncompliance unless the system is determined to be an imminent threat to public health, safety, or welfare.
  - (2) Any subsurface sewage treatment system posing an imminent threat shall be upgraded, replaced, repaired, or its use discontinued and the system properly abandoned within 10 months after receiving written notice from the Building Official. The Building Official may grant an extension because of weather considerations not to exceed 6 months.
  - (3) An SSTS discharging raw or partially treated wastewater to ground surface or surface water is prohibited unless permitted under the National Pollution Discharge Elimination System.
- (I) Permits. Permits are required for all SSTSs in accordance with Minnesota Rules. Permit fees shall be established by Council Resolution. Such permit shall be valid for a period of 180 days from the date of issuance.
- (1) All work performed on an SSTS shall be done by an appropriately licensed business, qualified employees, or persons exempt from licensing. Permit applications shall be submitted by the person doing the individual SSTS construction, accompanied by the required site and design data.
  - (2) Permits shall only be issued to the licensed person doing the SSTS construction.
  - (3) Permit applications for new and replacement SSTS shall include a management plan for the owner. The management plan shall include a schedule for septic tank maintenance.
  - (4) A permit is not required for minor repairs or replacement of damaged or deteriorated components that do not alter the original function, change the treatment capacity, change the location of system components, or otherwise change the original system's design, layout, or function.

- (5) Any activity involving an existing system that requires a permit shall require that the entire system be brought into compliance with the requirements of this Section 209.090.
- (J) Inspections. Inspections are required for all SSTs and no part of an SST shall be covered until and unless it has been inspected and approved by the City.
- (K) Abandonment. An existing SST or any component thereof that will no longer be used must be abandoned in accordance with the adopted standards of this Code, and a record of the abandonment submitted to the City within 90 days, as required.
- (L) Licensing. All design, installation, alteration, repair, maintenance, pumping and inspection activities for SSTs must be performed by a business licensed or exempted under Minnesota Rules or an appropriately certified qualified City employee.
- (M) Periodically Saturated Soil Disagreements. Disputes involving documented discrepancies on the depth of the periodically saturated soil for SST design or compliance purposes shall be resolved according to Minnesota Rules, Chapter 7082.0700, subp. 5.

**209.100 Private Wells**

- (A) Existing structures with private wells shall be allowed continued use. No person, firm or corporation shall alter, repair or extend any private well without first obtaining a permit from the Building Inspector. If municipal water facilities are available to the property at the time of the needed alteration, repair or extension, connection to the municipal water system is required.
- (B) In the event that an existing structure with a private well connects to the municipal water facilities, the private well may continue to be used for outdoor watering and maintenance.
- (C) All public or private supplies of water for domestic purposes shall conform to the Minnesota Department of Health standards for water quality.
- (D) All private wells which are abandoned must be properly capped and closed according to the Minnesota Department of Health requirements.
- (E) On-site water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems.