



City of Sunfish Lake

Planning Commission Agenda Report



TO: Sunfish Lake Planning Commission
FROM: Kori Land, City Attorney
DATE: October 16, 2025
RE: Zoning Ordinance Detailed Summary

BACKGROUND

At the public hearing on September 23, 2025, the Planning Commission continued its review of the Zoning Ordinance amendments and requested a more detailed summary explanation. This outline is intended to serve that purpose and while it is impossible to cover every aspect that was changed, I have tried to address the ones mentioned at the public hearing, as well as others that may be of more interest to the residents, as well as offer suggestions for additional consideration.

DISCUSSION

1. Reorganized the Zoning Ordinance
 - a. Old Ordinance was organized as one category per chapter without grouping categories together, resulting in 34 chapters
 - b. New Ordinance has groups of categories combined together in appropriate sections, resulting in only 9 chapters
2. Ensured consistent use of terminology, punctuation, numbering and formatting
3. Moved provisions that do not belong in Zoning to the City Code:
 - a. Nuisances (Noise, odors, trash, etc.)
 - b. Animals
 - c. Building Code (inspections, certificates of occupancy)

These City Code ordinances will be considered at the same time as adoption of the Zoning Ordinance by the Council so that the ordinances will be seamlessly enacted.

4. Deleted provisions no longer needed
 - a. Interim Use Permits, Administrative Permits
 - b. Requirements for Aircraft Noise building standards (covered in Uniform Building Code), building in the Right of Way or on public property (encroachment agreement can be used, not zoning application)
5. Confirm, update and comply with statutory requirements

Section 1201 Title & Application

- Most of old 1201 was preserved but restructured
- Deleted: Maintenance of Monuments, definition of conditional uses, Fees (moved to the City Code)
- Moved here: Private Agreements, Nonconforming Structures and Uses

Nonconforming uses garnered a significant discussion that mostly surrounded interpretation and implementation of the new proposed words.

- Old (Section 1215) Nonconforming Buildings, Structure, Uses and Lots starts:

“Except as provided below, any nonconforming structure or use lawfully existing upon the effective date of this Ordinance shall not be enlarged or reconstructed, but may be continued at the size and manner of operation existing upon such date except as hereinafter specified or subsequently amended.” (emphasis added)

The section then lists three exceptions for nonconforming structures and exceptions for nonconforming lots and has an unenforceable amortization requirement for hazardous nonconforming buildings. In addition, we don’t know *when* the effective date of this ordinance is; it’s a moving target. The language needed to be updated and was re-written, however...it received quite a few comments prior to and during the public hearing.

- We listened to the feedback, and we have modified the proposed non-conforming language as follows:

“Any nonconformity, including the occupation or use of land existing at the time of adoption of a control under this Ordinance, may be continued, including through repair, replacement, restoration, maintenance or improvements, but not expansion, as provided below:

A. Nonconforming structures.

1. Expansion. Except as provided for architectural control in Section 1201.07.A.5, a nonconforming building or structure shall not be added to or enlarged ~~in any manner~~ unless such additions or enlargements are made so as to bring said building or structure into conformity with the regulations of this Ordinance. The enlargement of a structure is not considered an expansion of the nonconformity as long as it does not expand, increase, enlarge or make the extent of the nonconformity more severe.”

We believe this new modified language clarifies the intent of how nonconformities will be interpreted. The other changes to the section mirror

the state law on legal non-conformities, without adding additional verbiage.

- *Please note that we inadvertently omitted the section on the prohibition of cannabis uses so this language will be added to 1201.08 verbatim. In addition, the prohibition of mining and aircraft landing areas will be added to this section.*

Section 1202 Rules & Definitions

- Removed obsolete definitions or unused definitions: Aircraft Related, Animals, Church, Clear Cutting, Curb Level, Earth Sheltered Building, Floor Area Ratio, Ground Source Heat Pump, Junk Yard, Double Frontage Lot, Noxious Matter, Obstruction, Open Storage, Shoreland Related, Sign Related, Wetlands Related
- Added new definitions: Accessory Dwelling Units, Accessory Uses, Places of Worship, Public Street
- Improved definitions: Lot Area, Lot Line, Side Lot, Rear Lot, Front Lot, Lot Width, Abutting, Building Height, Setback (Side, Rear, Front), Fence Height, Private Access Road, Roofline
- We added graphics where it will help visualize the words

Section 1203 Administration and Enforcement

- Consolidated the Rules that will apply to all land use applications into one section instead of repeating the rules throughout the Code under each application
 - 60-day Rule
 - Public Hearing process (PH notice to neighboring properties reduced from 1,000' to 500')
 - Land use applications
 - Site plan (for INS district only)
 - Variances
 - Text and Map Amendments
 - Conditional Use Permits
 - Denial Process
 - Lapse of approval
 - Appeal from a decision
 - Revocation of a decision
 - Amendments to an existing approval
 - Fees and Escrow Deposits
 - Penalties and Enforcement
- Removed Major and Minor Site Plan process for R-1. Currently any construction in the R-1 requires some form of planning application and permission from the City Council. Major site plan requires application fees, escrow fees, a public hearing before the Planning Commission and approval by the City Council before the landowner can apply for a building permit. The process causes expense and up to 4 months of delay for the project. Even a Minor site plan process requires application fees, escrow fees, administrative review by the Staff and then the City Council is given an opportunity to review and object. If there are no objections,

then is the project administratively approved. If there are objections, the application must go back through the Major site plan process, thereby causing even more delay than if they had gone through Major site plan in the first place.

R-1 construction is most efficiently and effectively managed through building permit review and strong performance standards. If new construction meets all of the provisions of performance standards, including setbacks, impervious surface requirements, architectural treatments, fences, lighting, tree preservation, stormwater, etc. then there is no reason for public comment or review. There has been discussion that some form of *notice* be provided to the immediate adjacent neighbors that a project is occurring. If the purpose of such notice is simply so the neighbors are aware, then we can discuss where that notice language is placed, but it should not be in the Zoning Ordinance. If the idea has support, such notice could be included in the City Code side of the book when we discuss the building permit process.

By removing the Major Site Plan in the R-1, the building permit process will control. All parts of the building permit application are reviewed by the appropriate member of the professional consultant team, but this eliminates the extra costs and delays for the property owner. And if their project does not comply with the Zoning Ordinances, then the public will be able to review during the variance or conditional use permit process.

Section 1204 General District Provisions

- This section identifies the zoning districts, how the zoning map works, and provides for specific exemptions from the code for essential services (public utilities, gas, electric, communication systems, etc.)

Section 1205 R-1 Single Family

- Permitted Uses (primary use)
 - Single-Family dwellings with attached garages
 - State-licensed residential care facilities (verbiage changed from Residential care facilities) – statutory requirement:
 - Assisted living = 6 or fewer
 - Day care = 12 or fewer
 - Group family day care = 14 or fewer children (home day care)
 - *New:* Attached Accessory Dwelling Units
Definition: A secondary dwelling unit located on the same lot as a single-family dwelling unit, either physically attached to, within, or detached from the single-family dwelling unit.
- Accessory Uses (allowed without approval)
 - Private Recreational facilities (tennis court, swimming pool, sport court) – must comply with performance standards for lighting and accessory structures.
 - *New:* Allow above or below ground pools.

- Home Occupations (that comply with performance standards)
- Up to 2 accessory structures
- 1 Antenna/satellite dish
- Roof-mounted solar
- Conditional Uses
 - Home occupations (that don't comply with performance standards)
 - More than 2 but less than 4 accessory structures
 - More than 1 antenna/satellite dish
 - Ground-mounted solar
- *Removed* Interim Use Permits for nonconforming lots, living quarters for employees as an accessory use, ground source heat pumps, government buildings as conditional uses (essential services are exempt) as
- Setbacks – no change but for garages under 200 sq. ft. (see *)

<i>Building Setback (Principal)</i>		<i>Building Setback (Garages/Accessory Structures)*</i>
Front	100 feet	100 feet
Rear	50 feet	25 feet
Side	50 feet adjacent to side lot line 100 feet for corner lot adjacent to public right-of-way or private shared access drive	25 feet adjacent to side lot line and 100 feet for corner lot adjacent to public right-of-way or private shared access driveway

**Garages less than 200 sq. ft are exempt from rear/side yard setbacks (these do not require a building permit)*

- Lot Area - no significant change

	Old	New
Minimum Lot Area	2 ½ Acres of net area	2 ½ Acres of Net Area
Minimum Lot Width	200 feet (but 50 feet if on a cul de sac as long as 200 feet at the front yard setback)	200 feet as measured at the front yard setback line

- Building Height: no change (2 ½ stories or 30', whichever is less) but building height has a new measurement point (see underlined words)

Old section/definition:

B. Building Height: No building structure shall exceed two and one-half (2½) stories

or thirty (30) feet in existing grade height, whichever is the lesser in height, except as provided by Section 1219.02 of this Ordinance. The existing grade height of a building, as defined by Section 1202.02.B, must not exceed thirty (30) feet *[language of 1202.02.B is mostly recited here, with slight word differences, creating confusion]* measured from the average existing ground level prior to construction of any point on the perimeter of the building line to the top of the cornice of a flat or mansard roof and to the highest gable of a pitched or hipped roof. Finished grade building height, as defined by Section 1202.02.B, has the potential to create an adverse impact on adjacent properties. Therefore, depending on the finished grade building height, the City, as part of a site and building plan approval, may impose additional conditions relating to structure siting and landscaping screening in order to reduce the potential adverse impact. If the City Council determines that the conditions relating to structure siting and landscape screening are not sufficient to substantially reduce the adverse impact to adjacent properties, the City Council may deny site and building plan approval.

New definition:

Building Height. The vertical height of the building measured from the average elevation of the adjoining ground level after construction at any point from the perimeter of the building line (which is the edge of the building at the foundation) to the top of the cornice of a flat or mansard roof and to the highest point on a gable or hipped roof. *[depiction omitted]*.

- Added: Floor area – minimum finished 1,500 without basement; 1,000 with basement
- Added: Garage size minimum of 400 sq. ft.
- Deleted: maximum lot coverage (10%), Administrative permits (for emergency security gates, temporary dwellings quarters (mobile homes), and temporary electric fences for gardens)
- Setback for driveways *moved to off-street parking* (decreased from 25 to 15 feet)

Section 1206 INS, Institutional District

- Permitted Uses
 - Places of Worship
- Accessory Uses
 - Off-street parking
 - 1 Antenna/satellite dish
 - 1 detached accessory structure
- Conditional Uses
 - Free-standing communication tower
 - Day care, social services located inside the principal structure
 - More than 1 antenna/satellite dish
 - Ground-mounted solar
- Setbacks – no change but added a parking setback (both principal building and accessory buildings must comply with setback)

<i>Building Setback</i>		<i>Parking Setback</i>
Front	100 feet	50 feet
Rear	50 feet	25 feet
Side	50 feet adjacent to side lot line and 100 feet for corner lot adjacent to public right-of-way or private shared access drive	25 feet adjacent to side lot line and 50 feet for corner lot adjacent to public right-of-way or private shared access drive

- Added: Screening required if adjacent to residential, underground irrigation for landscaping, trash enclosures in side or rear yards only, traffic control requirement, review of access drives, screening of mechanical equipment or painted to match the building or incorporated into the design of the building
- Deleted: maximum lot coverage (15%), Administrative permits (for emergency security gates, temporary dwellings quarters (mobile homes), temporary electric fences for gardens)

Section 1207 Performance Standards

- Moved all requirements that apply to all properties to one section so there is uniform and fair application of the City's standards. They cover:
 - 1207.02 Lighting: Must be downcast and cannot spill to adjacent properties; Light poles cannot exceed 20'; lights cannot be brighter than .4 foot-candles; lights on recreational facilities must be off between 9:00 p.m. and 8 a.m. (except inground pools with in-pool lights)
 - 1207.03 Land reclamation/ Earth removal (excavations in excess of 100 cubic yards)
 - 1207.04 Lot Provisions (no more than 1 principal structure/lot; nonconforming lots of record can have a single-family home; setbacks are measured from the property line; cannot build in the clear view triangle to obstruct the view of streets)
 - 1207.05 Landscaping requirements (required for all new construction/additions).
 - There was considerable discussion at the public hearing about landscaped screening from neighboring properties. *If the PC wants to consider adding screening requirements in the setback area when construction is occurring within so many feet of a neighboring principal residence, this would be the appropriate section for such requirements.*

Existing Code Language:

Landscaping. Prior to approval of a building permit, all uses shall be subject to mandatory landscape plan and specification requirements. Said landscape plan shall be developed with an emphasis upon the boundary or perimeter of the proposed site at points adjoining other property to screen the structure from adjacent existing and future uses

and to buffer garage areas, lighting, fencing, mechanical equipment, and other utilitarian type elements.

- City Forester has reviewed and approved all quantities and sizes of plantings.
- 1207.06 Fences, Retaining Walls, Screening and Security Gates
 - The fence ordinance was completely rewritten. Existing ordinance requires fences to be located at the setback line of the building; the new ordinance redefines this distance.
 - Fences must be 3' from the property line and cannot extend into the ROW; finished side of the fence must face abutting property; cannot exceed 6' along rear or side and 4' in front yard
 - Retaining walls over 4' must be designed by an engineer
 - Security gates (no change)
- 1207.07 Tree Preservation Plan
 - Tree preservation has been embedded in this section and has been blessed by Jim Naves. To sum up the proposed requirements, all significant trees removed will need to be replaced with development activities, which is the same standard applied now. The new ordinance also allows payment to what could be a newly established reforestation fund if the property owner is unable to meet the replacement requirements. For tree removal not associated with development activities, property owners can only remove two trees per year unless a reforestation plan has been submitted to the City Forester. Removal of diseased, dead or dangerous trees are not counted toward the two trees per year. In essence, if the City Forester would like to allow the removal of additional trees for justifiable reasons, there is a process to allow for this.
- 1207.08 Home Occupations changes:
 - 1 wall sign is allowed
 - 1 vehicle up to 16,000 pounds GVW may be stored outside
 - Up to no more than 4 customers daily
 - Delivery trucks no larger than 20,000 pounds GVW are allowedIf meet all requirements then it is a permitted use (no permit) but if cannot meet the requirements, then a conditional use permit is required
- 1207.09 Permitted Encroachments – Yards (no significant changes)
- 1207.010 Parking
 - For INS: Simplified table for stall size
 - For R-1: Parking on paved surface only; recreational vehicles must be in rear yard only (except collector vehicles); temporary parking for events up to 12 hours are exempt
- 1207.011 Radio, TV, Communications and Internet Antennas, Free-Standing Towers
 - Not in the front yard
 - Antennas cannot be more than 120 sq. ft.
 - Set back from side or rear lot lines at least a distance equal to their

- height
 - Free standing towers require a CUP, monopole design, no lights (unless required by FCC), other height and distance requirements
- 1207.012 Accessory Dwelling Units (ADUs)
 - Permitted use in the R-1 but must be accessory to single family home (not detached garage)
 - No more than one door on the front of the home
 - Max. size of the ADU is the lesser of 50% of the finished square footage of the primary residence or 1,200 sq. ft.

There were questions raised about whether these ADUs could be rented out as short or long-term rentals and the answer is yes. In reality, any dwelling in the City can be rental property. The use cannot be prohibited. It can be regulated by a licensing ordinance, but the City cannot prohibit an owner from renting their own property.
- 1207.013 Soar Energy Systems (same as current but allow for ballast-mounting on roof-mounted systems if approved by the Building Official)
- 1207.014 Accessory Structures (no significant changes)

Section 1208 Environmental Standards - New

- 1208.01 Soil Erosion and Sediment Control (replacement of Stormwater Management Ord)
- 1208.02 Preservation of Natural Drainage Ways

Section 1209 Shoreland Management Overlay District

- Modeled after the DNR model ordinance but removed irrelevant provisions or duplicative provisions (definitions already in general section), changed terminology from “zoning authority” to “City Council
- We are required to submit the ordinance to the DNR for approval and they have provided their suggested changes, none of which were substantive. Those changes have been incorporated into the redline draft.
- Changed setbacks from Ordinary High Water Level:

	Existing Setback	Proposed Setback
Buildings	200'	100'
Septic	150'	75'

The PC supported reducing the building and septic setbacks from the OHWL because of the number of existing nonconforming structures that exist within the OHWL. This change would create *legal and conforming* structures. Typically, communities support the reduction of legal nonconformities because then the uses can be expanded without the need for variances. The Planner has identified many lots that would benefit from this change.

There was discussion about requiring notice to adjacent property owners of the installation of any septic system. The appropriate forum for that discussion is in the

City Code, which regulates the installation of septic systems. It would not belong in the Zoning Ordinance.

RECOMMENDATION

Discuss and provide direction. If comfortable with the current draft, we request you recommend approval of the Zoning Ordinance to the Council.

ATTACHMENT

- Redlined Zoning Ordinance showing the changes since the public hearing
- Table of Sections old vs. new

Old		New	
Section	Title	Section	Title
1200	Index of ZO Updates	<i>Deleted</i>	
1201	Title, Purpose, Scope	1201	Title & Application
1201.10	Fees	1203.13 & City Code	Zoning Fees and Escrows
1202	Rules & Def	1202	Rules & Def
1203	Amendments	1203.06	Text & Map Amendments
1204	Conditional Use Permits	1203.07	Conditional Use Permits
1205	Interim Use Permits	<i>Deleted</i>	Do not have any Interim Use Permits
1206	Variances	1203.05	Variances
1207	Appeals	1203.01	Appeals
1208	Site & Building Plan	1203.04	Site Plan Review
1209	Inspection and Cert. of Occ	<i>Moved to City Code</i>	
1210	Enforcement & Penalties	1203.014	Penalties & Enforcement
1211	Administrative Permits	<i>Deleted</i>	No Admin. Permits
1215	Non-conforming Buildings, Structure, Uses, Lots	1201.07	Non-Conforming Structures, Uses
1216	Building & Perf. Requirements	<i>(see below)</i>	
1216.02	Dwelling Unit (no tents)	<i>Moved to City Code</i>	
1216.03	Platted & Unplatted Property	<i>(see below)</i>	
1216.03A	Survey required	<i>Required in each type of application</i>	
1216.03B	Cannot obstruct streets	<i>deleted</i>	
1216.03C	Substandards lots of record	1207.04A & 1201.07	same
1216.03D	1 principal building/lot	1207.04B	Same
1216.03E	Thru lots (between parallel streets)	1205.01D.1.(b)	Same
1216.04	Stormwater Management	1208.01	Soil Erosion & Sedimentation Control
1216.05	Traffic Sight Triangle	1202.02	Clear View Triangle Definition
1216.06	Lighting	1207.02	Lighting
1216.07	Smoke/Open Burning	<i>Moved to City Code</i>	
1216.08	Dust	<i>Moved to City Code</i>	
1216.09	Odors	<i>Moved to City Code</i>	
1216.010	Noise	<i>Moved to City Code</i>	
1216.011	Refuse	<i>Moved to City Code</i>	
1216.012	Exterior Storage	<i>Moved to City Code</i>	
1216.013	Sewage Disposal	<i>Moved to City Code</i>	
1216.014	Bulk Storage	<i>Moved to City Code</i>	
1216.015	Radiation Emission	<i>Moved to City Code</i>	
1216.016	Electrical Emission	<i>Moved to City Code</i>	
1217	Accessory Buildings, Uses, Equipment	1207.014	Accessory Structures
1218	Fencing/Screening	1207.06	Fences, Retaining Walls, Screening
1218.02	Landscaping	1207.05	Landscaping
1219	Yard, Lot Area, Building Regs	1207.04	Lot Provisions

Old		New	
Section	Title	Section	Title
1220	Building Relocation	<i>Moved to City Code</i>	
1221	Home Occupations	1207.08	Home Occupations
1222	Signs	<i>Moved to City Code</i>	
1223	Off-Street Parking	1207.01	Parking
1224	Essential Services	1204.03	Exemptions for Essential Services
1225	Animals	<i>Moved to City Code</i>	
1226	Communication, Reception, Transmission Devices	1207.011	Radio, TV, Antennas and Antenna Towers
1227	Public Property/ ROW	<i>Deleted</i>	Not going to require a CUP for structures in the ROW (Will require encroachment Agreement)
1228	Aircraft Landing Strips	1201.08.B.2	same
1229	Mining	1201.08.B.3	same
1230	Alternative Energy Systems	1207.013	Solar (deleted Ground source heat
1240	Zoning District Provisions	1204	General District Provisions
1241	R-1, Single Family Residential	1205	R-1, Single Family Residential
1242	INS, Institutional	1206	INS, Institutional
1243	Shoreland Overlay	1209	Shoreland Overlay
1244	Wetlands Overlay	<i>Deleted</i>	Regulated by Watershed Districts
1245	AN, Aircraft Noise Overlay	<i>Deleted</i>	Do not need - regulated by Building Code
New		1203.01	Administration
		1203.01	60-day Rule
		1203.03	Public Hearing Requirements
		1203.08	Denial of Application
		1203.09	Lapse of Approval
		1203.011	Revocation of Approval
		1203.012	Amendment of Approved App
		1207.03	Land Reclamation/Earth Removal
1307.15	Subd. Regs - Tree Preservation	1207.07	Tree Preservation
New		1207.09	Permitted Encroachments - Yard
		1207.012	Accessory Dwelling Units
		1208.02	Preservation of Drainage Ways

Table of Contents

Zoning Ordinance

Chapter 1200

1201: Title and Application

- 1201.01 Title
- 1201.02 Purpose
- 1201.03 Relation to Comprehensive Plan
- 1201.04 Applications of this Ordinance
- 1201.05 Private Agreements
- 1201.06 Building Occupancy
- 1201.07 Nonconforming Structures, Uses
- 1201.08 Uses not Provided within Zoning District
- 1201.09 Separability
- 1201.010 Authority

1202: Rules and Definitions

- 1202.01 Rules of construction
- 1202.02 Definitions

1203: Administration and Enforcement

- 1203.01 Administration
- 1203.02 Minnesota Statutes, Section 15.99
- 1203.03 Public Hearings
- 1203.04 Site Plan Review
- 1203.05 Variances
- 1203.06 Text and Map Amendments
- 1203.07 Conditional Use Permits
- 1203.08 Denial
- 1203.09 Lapse
- 1203.010 Appeals
- 1203.011 Revocation
- 1203.012 Amendment to Approve Application
- 1203.013 Zoning Application Fees; Deposits
- 1203.0131203.014 Penalties and Enforcement

1204: General District Provisions

- 1204.01 Establishment of districts
- 1204.02 Zoning Map
- 1204.03 Exemptions

1205: Single Family Residential District (R-1)

- 1205.01 Intent
- 1205.02 Uses

1206: Institutional District (INS)

- 1206.01 Intent
- 1206.02 Uses

1207: Performance Standards

- 1207.01 Intent
- 1207.02 Lighting
- 1207.03 Land Reclamation/Earth Removal
- 1207.04 Lot Provisions
- 1207.05 Landscaping
- 1207.06 Fences, Retaining Walls, Screening and Security Gates
- 1207.07 Tree Preservation
- 1207.08 Home Occupations
- 1207.09 Permitted Encroachments – Yards
- 1207.010 Parking
- 1207.011 Radio, Television, Communications and Internet Antennas and Free-Standing Towers
- 1207.012 Accessory Dwelling Units (ADUs)
- 1207.013 Solar Energy Systems
- 1207.014 Accessory Structures

1208: Environmental Standards

- 1208.01 Soil Erosion and Sedimentation Control
- 1208.02 Preservation of Natural Drainage Ways

1209: Shoreland Management Overlay District

- 1209.01 Statutory Authorization and Policy
- 1209.02 General Provisions and Definitions
- 1209.03 Administration
- 1209.04 Shoreland Classification System and Land Uses

- 1209.05 Dimensional and General Performance Standards
- 1209.06 Performance Standards for Public and Private Facilities
- 1209.07 Vegetation and Land Alterations
- 1209.08 Subdivision/Platting Provisions

CITY OF SUNFISH LAKE ZONING CODE

1201. TITLE AND APPLICATION

1201.01 TITLE:

This Ordinance shall be known as the “Sunfish Lake Zoning Ordinance” except as referred to herein, where it shall be known as “this Ordinance.”

1201.02 PURPOSE:

This Ordinance is adopted for the following purposes:

- A. To promote and protect the health, safety, and general welfare of the inhabitants of the City of Sunfish Lake by regulating the location and size of buildings and other structures, the percentage of lots which may be occupied, the size of yards and other open spaces, and the density and distribution of population.
- B. To minimize congestion in the public rights-of-way, securing safety from fire, panic and other dangers, and provide for adequate light and air.
- C. To facilitate the adequate provisions for transportation, water, sewage, schools, parks, and other public requirements.
- D. To promote a more efficient and desirable utilization of land by recognizing special land features, such as slopes, topography, soils, vegetation, wetland areas, and wildlife.
- E. To conserve and develop natural resources and maintaining a high standard of environmental quality.
- F. To conserve the natural, scenic beauty, and attractiveness of Sunfish Lake.
- G. To preserve the capacity of floodplains to carry and discharge flood waters.
- H. To divide the City into zones or districts as to the compatible use of land and structures for residences and institutional purposes.
- I. To prohibit the use of buildings, structures, and lands that are incompatible with the intended use or development of lands within the specified zones.

- J. To provide for the compatible and appropriate use of land throughout the City of Sunfish Lake.
- K. To promote orderly development of residential and institutional areas.
- L. To minimize pollution of all types.
- M. To encourage energy conservation and the use of renewable energy resources.
- N. To provide for the administration of this Ordinance and amendments thereto.
- O. To define the powers and duties of the administrative officers and bodies.
- P. To describe penalties for the violation of provisions of this Ordinance or any amendment thereto.

1201.03 RELATION TO THE COMPREHENSIVE PLAN:

It is the policy of the City of Sunfish Lake that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the recommendations contained in the Comprehensive Plan as developed and amended from time to time by the City Council. The Council recognizes the Comprehensive Plan as the policy responsible for regulation of land use and development in accordance with the regulations of this Ordinance.

1201.04 APPLICATIONS OF THIS ORDINANCE:

- A. In their interpretation and application, the provisions of this Ordinance shall be minimum requirements for the promotion of public health, safety, morals, and welfare.
- B. Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements shall prevail.

1201.05 PRIVATE AGREEMENTS:

This Ordinance does not abrogate any easement, covenant, or any other private agreement which are legally enforceable, provided that where the regulations of this Ordinance are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this Ordinance shall govern.

1201.06 BUILDING OCCUPANCY:

Except as herein provided, no building, structure, or premises shall hereafter be used or occupied, and no building permit shall be granted that does not conform to the requirements of this Ordinance.

1201.07 NONCONFORMING STRUCTURES, USES:

Any nonconformity, including the occupation or use of land existing at the time of adoption of a control under this Ordinance, may be continued, including through repair, replacement, restoration, maintenance or improvements, but not expansion, as provided below:

A. Nonconforming structures.

1. Expansion. Except as provided for architectural control in Section 1201.07.A.5, a nonconforming building or structure shall not be added to or enlarged ~~in any manner~~ unless such additions or enlargements are made so as to bring said building or structure into conformity with the regulations of this Ordinance. The enlargement of a structure is not considered an expansion of the nonconformity as long as it does not expand, increase, enlarge or make the extent of the nonconformity more severe.
2. Restoration. A nonconforming building or structure which is damaged by fire or other causes to the extent of more than fifty percent (50%) of its market value, unless a building permit has been applied for within one hundred eighty (180) days of when the property was damaged, shall not be restored except in conformity with the regulations of this Ordinance. If a building permit is applied for within the time frame required, the building or structure may be restored to its nonconforming condition prior to the damage or destruction.
3. Abandonment. A nonconforming building which has been abandoned for a period of more than one (1) year shall not be reoccupied. Any future occupancy shall require the building to be made in conformity with the regulations of this Ordinance.
4. Maintenance and Repair. Normal maintenance and repair of a building or other structure containing or related to a lawful nonconforming use is permitted.
5. Existing buildings not in conformance with architectural control standards in the applicable zoning district shall construct additions in conformance with the architectural control standards. Any addition greater than 50% of the square footage of the building shall require the entire building to meet architectural control standards.

B. Nonconforming use of building or land.

1. Extension. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was allowed at the time the use was established.
2. No such nonconforming use shall be moved to any other portion of the lot or parcel.
3. If any such nonconforming use of land or building ceases for any reason for a period of more than one (1) year, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located.

1201.08 USES NOT PROVIDED WITHIN ZONING DISTRICT; PROHIBITED USES:

A. Whenever in any zoning district a use is neither specifically allowed nor denied, the use shall be considered prohibited.

B. Prohibited Uses.

1. Cannabis and Lower-Potency Hemp Edible Uses Prohibited.

- a. Authority to regulate Cannabis and Lower-Potency Hemp Edible Uses. The City of Sunfish Lake has the authority in Minn. Stat. § 462.357 to regulate by ordinance the zoning of the City to promote the public health, safety, morals, and general welfare of the City. In addition, Minn. Stat. Chapter 342 authorizes cities to protect the public health, safety, and welfare of residents by regulating cannabis and lower-potency hemp edible uses within its jurisdiction.
- b. Purpose and Intent of Sunfish Lake's Zoning Ordinance. The City has stated that the purpose and intent of the Sunfish Lake Zoning Ordinance is to preserve property values by providing for orderly and compatible development of the various land uses and to protect residential uses. The City has two Zoning Districts: Single-Family Residential and Institutional. The allowed uses in the Single-Family Residential Zoning District are single-family dwellings, public parks and playgrounds, residential care facilities serving six or fewer persons, and government and essential service buildings. The Institutional Zoning District allows religious institutions, government and essential service buildings, and publicly owned civic or cultural buildings. The City's Land Use Plan

guides the City as single-family residential dwellings and institutional uses.

c. Incompatibility of Cannabis and Lower-Potency Hemp Edible Businesses with Existing Land Use Designations. Cannabis and lower-potency hemp edible businesses include cultivation, manufacturing, retail and on-site consumption, all of which are either farming or commercial uses and none of which are allowed in the City's Zoning Districts or Land Use Plan. There is no Zoning District available for these uses to operate.

d. Findings. The City Council finds that due to the limited zoning districts of Residential and Institutional that do not provide for commercial uses, agricultural cultivation or business uses, due to the Comprehensive Plan which anticipates no plan or guide for commercial uses, agricultural cultivation or business uses, the fully developed community with uses that are comprised of nearly all single-family residential dwellings or religious institutions, therefore all cannabis uses and lower-potency hemp edible uses are hereby prohibited within the City of Sunfish Lake. The City Council further finds that these regulations are in the best interest of the City in order to protect the public health, safety, and general welfare, to provide for the orderly, economic and safe development of land.

2. Aircraft Landing Areas Prohibited. Aircraft Landing Areas are prohibited in all zoning districts. Except in cases of emergency, the taking off and landing of aircraft in the City of Sunfish Lake is prohibited.

3. Mining Prohibited. Mining activities are prohibited in all zoning districts.

1201.09 SEPARABILITY:

It is hereby declared to be the intention that the provisions of this Ordinance are separable in accordance with the following:

- A. If any court of competent jurisdiction shall adjudge any provisions of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said statement.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect other property, buildings, or structures.

1201.010 AUTHORITY:

This Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Sections 462.351 to 462.365.

1202. RULES AND DEFINITIONS

1202.01 RULES OF CONSTRUCTION:

- A. The language set forth in this Ordinance shall be interpreted in accordance with the following rules of construction:
 - 1. The present tense includes the future tense, the singular includes the plural, and the plural includes the singular.
 - 2. The word “shall” is mandatory and not discretionary; the word “may” is permissive.
 - 3. The phrase “used for” includes “arranged for,” “designed for,” “intended for,” “maintained for,” or “occupied for.”
- B. For terminology not defined in this Ordinance, the most current State Uniform Building Code or Merriam-Webster's dictionary shall be used to define such terms.

1202.02 DEFINITIONS:

The following words, terms and phrases wherever they occur in this Ordinance, shall be interpreted as herein defined, except where the context clearly indicates a different meaning:

Abutting. Having a common border with or being separated from such a common border by a right-of-way, alley or easement.

Accessory Building. An uninhabited subordinate building or structure that is detached from the principal structure located on the same lot, the use of which is subordinate to the principal building on the property.

Accessory Dwelling Unit. A secondary dwelling unit located on the same lot as a single-family dwelling unit, either physically attached to, within, or detached from the single-family dwelling unit.

Accessory Use. A use incidental and subordinate to the principal use or building and located on the same lot.

Aircraft. Any contrivance now known or hereafter invented, used or designed for navigation of or manned flight in the air, including without limitation, airplanes, helicopters, and ultra lights.

Aircraft Landing Area. Any area of land, water, or both, which is used or made

available for the landing of and taking off of aircraft whether for public, private or personal purposes.

Alternative Energy System. A ground source heat pump or solar energy system.

Antenna. Any structure or device used for the purpose of collecting or radiating electromagnetic waves.

Antenna, Radio and Television. A wire, set of wires, metal or carbon fiber element(s), other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the supporting structure thereof.

Antenna, Free Standing Communication. Any pole, telescoping mast, tower, tripod, or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.

Applicant. The owner, their agent or person having legal control, ownership and/or interest in land which the provisions of this Ordinance are being considered for or reviewed.

Attached Accessory Dwelling Unit. An accessory dwelling unit that is attached to the single-family dwelling.

Buildable Area. The space remaining on a lot after the minimum setback and open space requirements of this Ordinance have been met. See Figure 02-05.

Building. Any structure having a roof that may provide shelter or enclosure of persons, animals, or chattels.

Building Height. The vertical height of the building measured from the average elevation of the adjoining ground level after construction at any point from the perimeter of the building line (which is the edge of the building at the foundation) to the top of the cornice of a flat or mansard roof and to the highest point on a gable or hipped roof. See Figure 02-01.

Figure 02-01

8

Building Setback. The minimum horizontal distance between the building and the lot line.

Cantilever. A rigid element fixed at one end and free at the other, extending horizontally and spanning over an unsupported space. Examples include balconies or decks that extend out without vertical support. See Figure 02-02.

Figure 02-02



City Administrator/City Clerk. The person designated by the City Council to be the City Administrator/City Clerk for the City.

City Building Official. The person designated by the City Council to be the City Building Official for the City of Sunfish Lake.

City Council. The City Council of the City of Sunfish Lake, Minnesota.

City Engineer. The person designated by the City Council to be the City Engineer for the City.

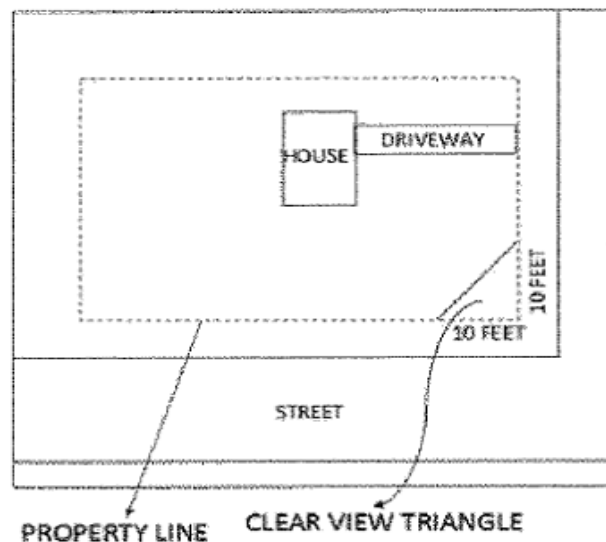
City Forester. The person designated by the City Council to be the City Forester for the City.

City Planner. The person designated by the City Council to be the City Planner for the City.

City Reforestation Fund. The fund established by the City Council for tree preservation fees.

Clear View Triangle. On corner lots, a clear view triangle is the area that begins at the intersection of the front property line and corner side property line and is measured back ten feet (10') along both property lines. Those points are then connected with a straight line. See Figure 02-03.

Figure 02-03



Comprehensive Plan. A comprehensive long-range plan prepared and approved by the City, including a compilation of policy statements, goals, standards, fiscal guidelines, and maps indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the City, including any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

Conditional Use. A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions.

Conditional Use Permit. A permit issued by the City Council in accordance with procedures specified in this Ordinance.

Dwelling. A building or portion thereof, designated exclusively for residential occupancy, but not including hotels, motels, boarding houses, tents, cabins, or motor homes/travel trailers.

Dwelling Unit. A residential building or portion thereof intended for occupancy by one (1) family but not including hotels, motels, nursing homes, seasonal cabins, boarding or rooming houses, motor homes or travel trailers.

Easement. The right of a person, entity, government agency, or public utility company to use public or private land owned by another for a specific purpose.

Encroachment. An unauthorized intrusion onto a neighboring property through the creation or extension of a physical structure (including flora) above or below the surface of land.

Enforcement Official. The City Administrator/City Clerk or their designee.

Erosion. The wearing away of land surface by the action of natural elements.

Essential Services. Telephone, gas, electrical, communication, water or sewer transmission, distribution, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants and other similar equipment and accessories in connection therewith for the furnishing of adequate service by such private or public utilities or municipal departments. Transmission/reception support structures and antennas shall not be considered an essential service.

Essential Service Structures. Structures and buildings necessary for the operation of essential services, including but not limited to telephone buildings, gas regulator stations, substations, electrical stations, water tanks, lift stations.

Family. An individual, two (2) or more persons each related, or a group of not more than four (4) unrelated persons not maintaining a common household.

Fence. Any partition, structure, wall or gate erected as a dividing marker, barrier or enclosure and located along the boundary, or within the required yard.

Fence Height. The distance from the bottom of the fence panel (body of the fence) to the top of the fence panel. The gap to grade shall not exceed four inches (4"). Support posts shall not exceed four inches (4") above the top of the fence panel. Neither the gap nor the support posts shall be included in the overall height of the fence. See Figure 02-04.

Figure 02-04



Foot-Candle. A unit of illumination that is the equivalent of one (1) lumen per square foot.

Floor Area. The sum of the gross horizontal areas of all floors of the building or portion thereof devoted to a particular use. However, the floor area shall not include basement or cellar floor area.

Free Standing Communication Antennae. Any free-standing antenna, the entire weight of which is supported by monopole affixed directly on or in the ground by a foundation without support cables.

Garage. A detached building or portion of the principal building which is intended for and used to store the passenger vehicles and trucks not exceeding twelve thousand (12,000) pounds gross weight or other items owned or used by the occupants of the principal building.

Greenhouse. A building used for the cultivation or protection of plants, flowers, or vegetables for seasonable enjoyment.

Home Occupation. Any occupation or profession engaged in by the occupant of a private dwelling unit, which is clearly incidental and secondary to the residential use of the premises and does not change the character of the premises. This does not include a use for portion of the dwelling unit for an occupation that is general office use, and it does not include regular entry by customers or clients at the home.

Invasive Species. Invasive species shall include all plants listed in the Minnesota Department of Agriculture's "Noxious Plants of Minnesota" publication, as amended.

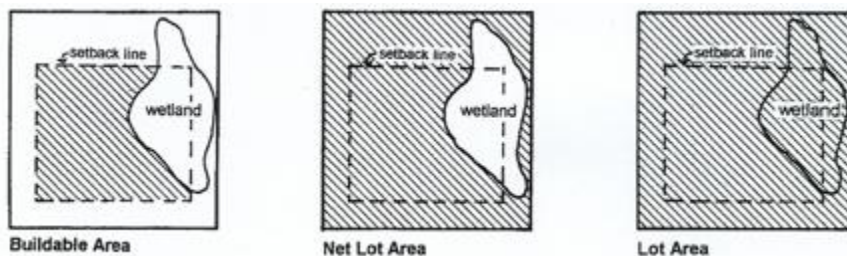
Lot. A parcel or portion of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street or on an approved private road and may consist of:

- A. A single lot of record.
- B. A portion of a lot of record.
- C. A combination of complete lots of record, complete lots of record and portions of lots of record, or of portions of lots of record.
- D. A parcel of land described by metes and bounds; provided, that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.

Lot Area. The total land area of a horizontal plane within the lot lines. See Figure 02-05.

Lot Area, Net. The area of a lot not including wetlands, land seasonally flooded on an annual basis, land containing drainage ways and/or surface water or land containing aquatic vegetation, or land in excess of twelve percent (12%) slope. See Figure 02-05.

Figure 02-05



Lot, Corner. A lot situated at the intersection of two (2) public or private streets, the interior angle of such intersection not exceeding one hundred thirty-five (135) degrees.

Lot Line. A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way.

Lot Line, Front. The front of a lot shall be considered to be that boundary abutting a public right-of-way or private access road, whichever lot line is shorter.

Lot Line, Rear. That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot Line, Side. Any lot line other than a front or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Lot of Record. Any lot which is one unit of a plat previously approved and filed or one unit of an auditor's outlot or a registered land survey, or a parcel of land not so platted, subdivided or registered but for which a deed, auditor's subdivision or registered land survey has been recorded in the Office of the Register of Deeds or the Registrar of Titles for Dakota County, Minnesota.

Lot, Through. A lot fronting on two parallel public or private streets.

Lot, Width. The minimum required horizontal distance between the side lot lines measured at right angles to the lot depth, at the minimum building setback line.

Metes and Bounds Description. A description of real property which is not described by reference to a lot or block shown on a map but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

Nonconforming Lot. A lot of record which was permitted and existing prior to the effective date of this Ordinance, which does not conform to the applicable regulations under the current provisions of this Ordinance.

Nonconforming Structure. Any structure which was permitted and existing prior to the effective date of this Ordinance, which does not conform to the applicable regulations under the current provisions of this Ordinance.

Nonconforming Use. Use of land, buildings or structures which was permitted and existing prior to the effective date of this Ordinance, which does not conform to the applicable regulations under the current provisions of this Ordinance governing the zoning district in which such use is located.

Non-Significant Trees. Trees that are not included in the definition of Significant Trees.

Occupancy. The purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

Open Space. Any open area not covered by structures, including but not limited to the following uses: required or established yard areas, parking areas, sidewalks, trails, recreation areas, water bodies, shorelands, watercourses, wetlands, groundwater recharge areas, floodplain, floodway, flood fringe, erodible slopes, woodland, and soils with severe limitation for development.

Outlot. A lot remnant or parcel of land left over after platting that can be used for various purposes, including open space, common facilities or future development. It may be retained by the developer, conveyed to a homeowners' association or dedicated to the public.

Owner. An individual, association, syndicate, partnership, corporation, trust or any other legal entity holding an equitable or legal ownership interest in land, buildings, structures, dwelling unit(s) or other property.

Parcel. An individual lot or tract of land.

Permitted Use. A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.

Person. Any individual, partnership, corporation, or legal entity, which includes any trustee, receiver, assignee, or personal representative.

Places of Worship. A place of assembly where a non-profit religious body organized to sustain public worship owns or leases a building or portion thereof where people regularly assemble for religious worship. The service of food, meals and alcoholic beverages on such premises may be provided if secondary and incidental to the promotion of some other common objective of the organization and adequate dining room space and kitchen facilities for the purpose of serving food and meals are available.

Planning Commission. The Sunfish Lake Planning Commission.

Principal Building. A building in which is conducted the principal use of the lot on which it is located.

Principal Use. The main or primary use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted, conditional, or interim.

Private Access Road or Private Street. A road, street or path that extends from a public street or right-of-way to a private lot that provides access to private property and is owned and maintained by the property owner or owners abutting the private access road. It is not open to the general public and is for the exclusive use of the property owner or owners and their guests, or invitees. Private access roads may be marked with signs located on private property indicating they are private.

Private Recreational Facilities. A private recreational facility for use solely by the occupants of a lot, such as but not limited to tennis courts, pickleball courts, swimming pools, and sport activity areas.

Recreational Vehicle. Manufactured homes less than thirty feet (30') in overall length, including those with telescope or fold down, chassis, mounter campers, house cars, motor homes, tent trailers, slip-in-campers (those mounted in a pickup truck or similar vehicle), converted buses, and converted vans used primarily for recreational purposes. Cars utilized for racing shall not be included in this definition.

Roofline. The top of the coping; or, when the building has a pitched roof, at the intersection of the outside wall with the roof.

Satellite Dish. A combination of: (1) an antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources; (2) a low-noise amplifier (LNA) which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals; and (3) a coaxial cable whose purpose is to carry the signals into the interior of the building.

Setback. The minimum horizontal distance between a structure and the property line nearest thereto. For purposes of earth shelter buildings only, above grade portions shall be used in determining setback requirements. Distances are to be measured from the most outwardly extended portion of the structure at ground level, except as provided herein after.

Setback, Front. The area extending along the full length of a front lot line between side lot lines and to the depth required in the yard regulations for the district in which it is located.

Setback, Rear. The area extending along the full length of a rear lot line between side lot lines and to the depth required in the yard regulations for the district in which it is located.

Setback, Side. The area between the principal building and the side line of the lot extending from the front yard to the rear yard.

Shrub. A woody plant that remains low and produces several erect, spreading, or prostrate stems from the base, and is not usually tree-like or single-stemmed.

Significant Tree. Any tree measuring six inches (6") or more diameter at breast height, measured at a point five feet (5') above the ground, and which is not diseased, dead, or dying.

Single-Family Detached Dwelling. A building consisting of no more than one (1) dwelling unit.

Site Plan. A map drawn to scale depicting the development of a tract of land, including, but not limited to, the location and relationship of structures, streets, driveways, recreation areas, parking areas, easements, utilities, landscaping, and walkways, as related to a proposed development.

Solar Energy System, Ground-Mounted. A structure designed to collect solar energy that is mounted into the ground.

Solar Energy System, Roof-Mounted. A structure designed to collect solar energy that is mounted to the roof of a building.

Street, Public. A public right-of-way for vehicular traffic, whether designated as a highway, thoroughfare, arterial, parkway, collector, through-way, road, avenue, boulevard, lane, place, drive, court or otherwise designated which affords principal means of access to abutting property.

Structure. Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character. Among other things, structures including but not limited to buildings, gazebos, decks, retaining walls, walls, fences, and swimming pools.

Surveyor. A land surveyor registered under Minnesota State laws.

Swimming Pool. A structure designed to be used for swimming which has a capacity of three thousand (3,000) gallons or more or which has a depth of over thirty-six inches (36").

Zoning Map. The map or maps incorporated into this Ordinance as part thereof, designating the zoning districts.

1203. ADMINISTRATION AND ENFORCEMENT

1203.01 ENFORCEMENT:

Enforcement Official. This title shall be administered and enforced by the City Administrator/City Clerk or their designee.

1203.02 MINNESOTA STATUTES, SECTION 15.99:

Minnesota Statutes, Section 15.99 applies to all land use applications in this Chapter, unless a different timeline for approval is provided by state law or City ordinance.

- A. Within sixty (60) days after the date of receipt of the completed application, the City must approve or deny the application. Failure of the City to deny a request within sixty (60) days or any extension thereof as provided in this Section is deemed approval of the request.
- B. The time limit begins upon the receipt of a completed application. A completed application shall mean a written request containing all information required by law, or by a previously adopted rule, ordinance or policy of the City. If the City Administrator/City Clerk or their designee receives an application that does not contain all the required information, they shall send notice within fifteen (15) business days of the receipt of the request telling the applicant that the application is not accepted and indicating what information is missing. The sixty (60)-day time limit begins again after receipt of a completed application, as provided in this Section.
- C. The City may extend the time limit before the end of the initial sixty (60) day period by providing written notice of the extension to the applicant. The notice must contain the reasons for the extension and its anticipated length, which may not exceed sixty (60) days unless approved by the applicant.
- D. The applicant may waive the sixty (60) day or 120-day period by providing a written waiver.

1203.03 PUBLIC HEARINGS:

The City shall hold a public hearing on all variances, conditional use permits, site plan applications, text amendments, and map amendments. Notice of the public hearing shall be given not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing by publication in the designated legal newspaper of the City. The notice shall contain the date, time and place of the hearing and a description of the land and the proposed application. At least ten (10) days before the hearing, the City Clerk shall mail a notice to the owner and to each of the property owners within five hundred feet (500') of the property for which the approval is sought. Failure of the City Clerk to mail the notice or failure of the

property owners to receive the notice shall not invalidate the proceedings.

1203.04 SITE PLAN REVIEW:

The purpose of this Section is to establish a formal site plan review procedure and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of this Section. The site plan review enables the City Council to ensure that the applicant has made adequate provisions for utilities, traffic, safety precautions, and amenities. A site and building plan review shall be required for all proposed new construction and substantive changes, as determined by the Enforcement Official, to approved site plans or existing developed sites in the Institutional (INS) zoning district.

A. Formal Application Site Plan Review Procedures. The procedure for site plan review is as follows:

1. The property owner or the owner's agent shall meet with the Enforcement Official to be advised of the procedures and obtain an application form.
2. The applicant shall file the completed application form together with the required exhibits and fees pursuant to Section 1203.013 with the Enforcement Official.
3. The Enforcement Official shall submit the application to the Planning Commission for its review, comment, and recommendation to the City Council.
4. The City shall hold a public hearing on the application pursuant to Section 1203.03.
5. The City Council shall, after receipt of the report of the Planning Commission, either approve or deny the application, within the timeframe established by Section 1203.02. Denial must comply with the requirements of Section 1203.08.
6. The City Council may impose such restrictions or conditions as may be necessary to comply with the standards established by this Section, or to reduce or minimize the impacts upon other properties in the neighborhood and to better carry out the intent of the Comprehensive Plan and the Zoning Code. Any condition must be directly related to and must bear a rough proportionality to the impact created by the application.

B. Exempt from site plan review. Except in those cases specifically cited within this Section, the following shall be exempted from the requirements of this Section and shall be processed through the building permit review process:

1. Single-family dwellings and accessory structures;
2. Recreational structures and buildings in public parks.

C. Required site plan application information and materials. The following information and materials shall be required for the application:

1. A complete application form signed by all property owners.
2. All required fees and escrows.
3. A statement identifying all property owners of all land included within the proposal and a list of property owners' names and addresses within five hundred feet (500') of the outer boundaries of the property obtained from Dakota County or a title or abstract company.
4. Accurate and to-scale development plans for the project area, the number of which to be provided as indicated on the application form, including the following minimum information:
 - a. North point and graphic engineering scale.
 - b. Location map showing relationship to street system and surrounding development.
 - c. Date of preparation and revision date(s).
 - d. Boundary line survey, including measured distances and angles which shall be tied to the nearest one-quarter ($\frac{1}{4}$) corner or section corner by traverse.
 - e. Existing and proposed right-of-way widths and names of proposed streets.
 - f. Site statistics including:
 - i. Gross site acreage/minimum lot size in the zoning district.
 - ii. Total stormwater management acreage.
 - iii. Any wetland impact area and wetland replacement area.
 - iv. Existing, proposed and required parking.
 - g. Locations of rights-of-way, driveways, parks and public lands, permanent buildings and structures, easements, section and corporate lines, water courses, marshes, wooded areas, rock outcrops, power transmission poles and lines and other significant features within the site and to a distance of two hundred feet (200') beyond the property boundary(ies).

- h. Locations and dimensions for existing and/or proposed buildings or other structure(s); setbacks; walkways and bikeways; off-street parking and driveways; refuse and service areas including screening materials; loading areas and docks; any fencing including material type; and any signs.
- i. Architectural renderings and specifications for exterior wall finishes and percentages proposed for all principal and accessory structures that comply with Section 1207.014.
- j. Colored site plan and elevations.
- k. A utility plan showing all existing and proposed water, sanitary sewer and stormwater management utilities needed up to two hundred feet (200') beyond the project area boundary.
- l. A grading plan with topographic data for two hundred feet (200') around the subject property or around major features with intervals not exceeding two feet (2') except where the horizontal contour interval is one hundred feet (100') or more in which case a one-foot vertical interval shall be shown. All proposed stormwater management facilities, roadway gradients and spot elevations on parking lots and curb lines must also be shown on the grading plan.
- m. Ingress and egress to property and proposed structures thereon and with particular reference to vehicular and pedestrian safety and convenience, traffic flow and control and access.
- n. Screening and buffering with reference to type, dimensions and purpose that complies with Section 1207.06.
- o. Exterior lighting plans showing proposed exterior lighting and signs with reference to fixture types, height including base, glare, traffic safety, lumen levels at all property lines, and compatibility and harmony with properties in the district that comply with Section 1207.02.
- p. Landscape plan showing quantities, size, common and botanical names, mature heights and spreads, root type and locations of plants and areas of sod that complies with Section 1207.05.
- q. Stormwater management analysis, if required.
- r. A tree preservation plan that complies with Section 1207.07, if required.
- s. Locations of trash enclosures (Section 1206.02D.6.a.), outside mechanical equipment (Section 1206.02D.8.) and signage (Chapter 1005), if applicable.

- t. Such other information as required by the Enforcement Official.
- D. Administrative Approval. The site plans for certain projects, including but not limited to those types of projects listed below, may be reviewed and approved administratively by the Enforcement Official in coordination with the City's other departments and any relevant regulatory agencies, however, the Enforcement Official may, at their discretion, refer any site plan to the Planning Commission and City Council for review:
- 1. Proposed minor structural additions involving either up to ten percent (10%) or less of the total existing floor area or site expansions or modifications involving ten percent (10%) or less of the total existing site area which meet all ordinance requirements may be approved by the Enforcement Official prior to the building permit being issued, and shall not require Planning Commission or City Council review, subject to the following rules:
 - a. This Section shall apply to all nonresidential and institutional uses which are subject to the site plan approval requirements of the Zoning Code.
 - b. This Section shall apply in the cases of new developments which have received City Council plan approval, but for which building permits have yet to be taken; and this Section shall apply to existing developments for which there are on file City Council approved site plans.
 - c. Compliance with all ordinance requirements shall be construed to include all adopted policies and codes.
 - d. Unresolved disputes as to administrative application of ordinance requirements shall be referred to the Planning Commission and City Council following normal plan review and approval procedures.
 - e. Plans submitted for minor structural additions or minor site alterations under the terms of this Section shall be the same as those required by the ordinance for site plan approval.

E. Lapse. Lapse of approval is governed by City Code Section 1203.09.

1203.05 VARIANCES:

- A. Purpose. The purpose of the variance is to allow variation from the strict application of the terms of this Ordinance where, by reason of the exceptional physical characteristics of the property, the literal enforcement of the requirements of this Ordinance would cause practical difficulties for the landowner.

B. General provisions. In no case may a variance be granted to permit a use other than a use permitted in the district.

C. Procedures. The procedure for variance review is as follows:

1. The property owner or the owner's agent shall meet with the Enforcement Official to be advised of the procedures and obtain an application form.
2. The applicant shall file the completed application form together with the required exhibits and fees pursuant to Section 1203.013 with the Enforcement Official.
3. The Enforcement Official shall submit the application to the Planning Commission for its review, comment and recommendation to the City Council.
4. The City shall hold a public hearing on the application pursuant to Section 1203.03.
5. The City Council shall, after receipt of the report of the Planning Commission, either approve or deny the application, within the timeframe established by Section 1203.02. Denial must comply with the requirements of Section 1203.08.
6. The City Council may impose such restrictions or conditions as may be necessary to comply with the standards established by this Ordinance, or to reduce or minimize the impacts upon other properties in the neighborhood and to better carry out the intent of the Comprehensive Plan and the Zoning Code. Any condition must be directly related to and must bear a rough proportionality to the impact created by the application.

D. Required variance information and materials. The following information and materials shall be required for the application:

1. A complete application form signed by all property owners.
2. All required fees and escrows.
3. A statement identifying all property owners of all land included within the proposal and a list of property owners' names and addresses within five hundred feet (500') of the outer boundaries of the property obtained from Dakota County or a title or abstract company.
4. Accurate and to-scale development plans for the project area, the number of which to be provided as indicated on the application form, including the following minimum information:
 - a. North point and graphic engineering scale.

- b. Locations and dimensions for existing and/or proposed buildings or other structure(s); setbacks; walkways and bikeways; off-street parking and driveways; refuse and service areas including screening materials; any fencing including material type; and any signs.
- 5. Such other information as required by the City.
- E. Findings. A variance may be granted only when all of the following conditions are found:
 - 1. The variance is in harmony with the general purposes and intent of this Ordinance.
 - 2. The variance is consistent with the Comprehensive Plan.
 - 3. The applicant for the variance establishes that there are practical difficulties in complying with this Ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that all of the following must be found to apply:
 - a. The property owner proposes to use the land in a reasonable manner for a use permitted in the zone where the land is located, but the proposal is not permitted by other official controls;
 - b. The plight of the landowner is due to circumstances unique to the property and that are not created by the landowner; and
 - c. The variance, if granted, will not alter the essential character of the neighborhood.
- F. Economic considerations alone do not constitute practical difficulties. Nonconforming uses, land, structures or buildings in the same district or other districts may not be the only consideration for issuance of a variance.
- G. Precedents. A previous variance must not be considered to have set a precedent for the granting of further variances. Each case must be considered on its merits.
- H. Lapse. Lapse of approval is governed by Section 1203.09.

1203.06 TEXT AND MAP AMENDMENTS:

The City Council may adopt amendments to this Ordinance and the zoning map in relation both to land uses within a particular district or to the location of the district line. Such amendments shall not be issued indiscriminately but shall only be used as a means to reflect changes in the goals and policies of the City as reflected in the Comprehensive Plan.

Amendments must be adopted by a majority vote of the City Council. The adoption or amendment of any portion of a Zoning Code which changes all or part of the existing classification of a zoning district from residential to either a commercial or an industrial district requires a two-thirds majority vote of the City Council.

A. There are the following kinds of amendments:

1. A change in a district's boundary (rezoning).
2. A change in a district's regulations.
3. A change in any other provision of this Ordinance.

B. Proceedings for amending this Ordinance shall be initiated by at least one (1) of the following methods:

1. By action of the Enforcement Official.
2. By petition of an owner of property which is proposed to be rezoned or for which district regulation changes are proposed.
3. By action of the City Council.

C. Amendments initiated by property owners. Procedures. The procedure for amendments is as follows:

1. The property owner or the owner's agent shall meet with the Enforcement Official to be advised of the procedures and obtain an application form.
2. The applicant shall file the completed application form together with the required exhibits and fees pursuant to Section 1203.013 with the Enforcement Official.
3. The Enforcement Official shall submit the application to the Planning Commission for its review, comment and recommendation to the City Council.
4. The City shall hold a public hearing on the application pursuant to Section 1203.03.
5. The City Council shall, after receipt of the report of the Planning Commission, either approve or deny the application, within the timeframe established by Section 1203.02. Denial must comply with the requirements of Section 1203.08.
6. The City Council may impose such restrictions or conditions as may be necessary to comply with the standards established by this Ordinance, or to reduce or minimize the impacts upon other properties in the neighborhood and to better

carry out the intent of the Comprehensive Plan and the Zoning Code. Any condition must be directly related to and must bear a rough proportionality to the impact created by the application.

D. Required application information and materials. The following information and materials shall be required for the application:

1. A complete application form signed by all property owners.
2. All required fees and escrows.
3. A statement identifying all property owners of all land included within the proposal and a list of property owners' names and addresses within five hundred feet (500') of the outer boundaries of the property obtained from Dakota County or a title or abstract company.
4. A written statement that explains the request, including the section of the Zoning Code for which an amendment is requested as well as suggested language for the amendment. If applying for a rezoning, the request should describe the current and proposed zoning classification along with reasons supporting the proposed change. For the City Council to adopt a Zoning Code amendment or rezoning, it needs to be consistent with the City's Comprehensive Plan. The written statement should address the request's consistency with the Comprehensive Plan or a proposed amendment to the Comprehensive Plan.
5. An accurate boundary survey and conceptual development plan for the area proposed to be rezoned.
6. Any other information identified by the Enforcement Official as required by state statute or necessary to review the proposal for consistency with the City's Comprehensive Plan for, but not limited to, environmental review, traffic impact study, future roadway layout, stormwater analysis, utility and grading plans and/or concept platting.

E. Amendments initiated by the Enforcement Official or City Council. The following is the procedure for initiating an amendment based upon a recommendation by the Enforcement Official or City Council:

1. The Enforcement Official may initiate a study on a proposed ordinance amendment and report its findings and recommendations to the City Council.
2. Amendments initiated by the Enforcement Official or City Council shall be referred to the Planning Commission for review and recommendation to the City Council.

3. The City shall hold a public hearing on the application pursuant to Section 1203.03.
4. The City Council shall, after receipt of the report of the Planning Commission, either approve or deny the proposed amendment or rezoning. Denial must comply with the requirements of Section 1203.08.

1203.07 CONDITIONAL USE PERMITS:

- A. Purpose. The purpose of a conditional use permit is to authorize and regulate uses which may be beneficial in a specific instance to the general welfare of the community yet ensure that such uses are not detrimental to surrounding property and are consistent with the stated purpose of the zoning district in which such uses are located regarding conditions of operation, location, arrangement, and construction.
- B. Procedures. The procedure for conditional use permits is as follows:
 1. The property owner or the owner's agent shall meet with the Enforcement Official to be advised of the procedures and obtain an application form.
 2. The applicant shall file the completed application form together with the required exhibits and fees pursuant to Section 1203.013 with the Enforcement Official.
 3. The Enforcement Official shall submit the application to the Planning Commission for its review, comment and recommendation to the City Council.
 4. The City shall hold a public hearing on the application pursuant to City Code Section 1203.03.
 5. The City Council shall, after receipt of the report of the Planning Commission, either approve or deny the application, within the timeframe established by Section 1203.02. Denial must comply with the requirements of Section 1203.08.
 6. The City Council may impose such restrictions or conditions as may be necessary to comply with the standards established by this Ordinance, or to reduce or minimize the impacts upon other properties in the neighborhood and to better carry out the intent of the Comprehensive Plan and the Zoning Code. Any condition must be directly related to and must bear a rough proportionality to the impact created by the application.
- C. Required application information and materials. The following information and materials shall be required for the application:
 1. A complete application form signed by all property owners.

2. All required fees and escrows.
3. A statement identifying all property owners of all land included within the proposal and a list of property owners' names and addresses within five hundred feet (500') of the outer boundaries of the property obtained from Dakota County or a title or abstract company.
4. The application shall include a written description of the request including an explanation of compliance with the conditional use permit criteria set forth in this Chapter, together with detailed graphic materials, the number, size, and format as prescribed by the Enforcement Official, fully explaining the proposed change, development, or use.
5. A copy of any approved site plan for the property or an "as built" survey which accurately represents existing conditions on the site, including entrances and exits, bona fide parking and driving areas, and which accurately indicates any proposed temporary structures, including tents, stands, and signs.
6. An accurate floor plan, when in the judgment of the Enforcement Official, such plan is necessary.
7. Other information deemed necessary by the Enforcement Official during the review process.

D. Findings

1. The Planning Commission and City Council may consider the following factors when reviewing a conditional use permit application:
 - a. Compliance with and effect upon the Comprehensive Plan, including public facilities and capital improvement plans.
 - b. The establishment, maintenance or operation of the conditional use will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort.
 - c. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
 - d. The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.

- e. Adequate public facilities and services are available or can be reasonably provided to accommodate the use which is proposed.
 - f. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.
 - g. The conditional use complies with the general and specific performance standards as specified by the Zoning Code.
- E. City staff may request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant deemed necessary to establish performance conditions in relation to all pertinent sections of this Ordinance.
- F. General Performance Standards. As may be applicable, the evaluation of any proposed conditional use permit request shall be subject to and include, but not limited to, the following general performance standards and criteria:
- 1. Consistency with the Comprehensive Plan. The proposed use shall be consistent with the Comprehensive Plan.
 - 2. Health and Safety. The proposed use shall not negatively impact the health, safety and general welfare of occupants of surrounding lands.
 - 3. Public Infrastructure Services. Adequate public facilities and services shall be able to be provided to the site where the use is proposed, and/or existing infrastructure shall be able to absorb the additional demand for public services such as utilities, streets, parks, schools, etc.
 - 4. Screening and Landscaping. Incompatible impacts of the proposed use shall be screened and buffered from adjacent property and the surrounding neighborhood. The City Council may require additional landscaping or screening above that required in the Zoning Code.
 - 5. Architectural Standards. The site or building associated with the proposed use meets or exceeds the architectural design and landscaping standards for the district in which it is located. The City Council may require additional architectural standards above those required in the Zoning Code.
 - 6. Zoning. The use is consistent with the purposes of the Zoning Code and the purposes of the zoning district in which the applicant intends to locate the proposed use.
 - 7. Traffic. The generation and characteristics of the traffic associated with the use and its impact on traffic volumes and safety associated with driveway locations,

existing and proposed capacity on adjacent roads, sidewalks and trail connections can be adequately mitigated.

G. Lapse. Lapse of approval is governed by City Code Section 1203.09.

1203.08 DENIAL:

The City Council may deny an application upon legally sufficient reasons with a factual basis, which must be stated on the record and written finding of which must be provided to the applicant. If a motion to approve fails, it is deemed denied and a subsequent motion to deny must be made. The written findings for denial may be adopted at the next subsequent meeting following the hearing and must be adopted pursuant to the timeframe required by Section 1203.02. No application which has been denied wholly or in part shall be resubmitted for a period of one (1) year from the date of the order of denial, except on grounds of new evidence or proof of changes of conditions found to be valid by the Enforcement Official.

1203.09 LAPSE:

Approval of a site plan, variance, administrative permit, and conditional use permit shall lapse and become null and void one (1) year following the date on which the approval was granted, unless prior to the expiration of the one (1) year the work or improvement described in the approval is commenced and diligently pursued on the subject site. The City Council may grant an extension for good cause.

1203.010 APPEALS:

- A. City Council as Board of Appeals and Adjustments; Authority: The City Council shall act as the Board of Appeals and Adjustments and shall determine, in harmony with the general purpose of this title and the Comprehensive Plan, by resolution, all appeals from any order, requirement, permit or decision made by the Enforcement Official under this Ordinance, and from any interpretation of the text of this Ordinance, or any determination by the Enforcement Official as to the location of the boundary of a zoning district as shown on the zoning map.
- B. Filing of Appeal: Within ten (10) business days after a decision of the Enforcement Official under the provisions of this Ordinance, except in connection with prosecutions for violations thereof, the applicant or other person or officers of the City affected thereby may appeal by filing a written notice to the City Clerk, stating the specific grounds upon which the appeal is made.
- C. Board Hearing; Notice: The City Council, as the Board of Appeals and Adjustments, may conduct such hearings and shall afford the applicant an opportunity to present evidence, testimony and witnesses. The City Council shall render a decision to

uphold or overturn the decision of the Enforcement Official. The decision of the City Council shall be final.

1203.011 REVOCATION:

The City Council may hold a hearing to consider the revocation of any site plan, conditional use permit, administrative permit approval, interim use permit or variance upon a determination and recommendation from the Enforcement Official that the authorized use is not in conformance with the conditions of approval or is in continued violation of City Codes or other applicable regulations. The Enforcement Official shall notify the responsible person to whom the permit was issued or to the current property owner that they have an opportunity to show cause, present evidence, testimony and witnesses before the City Council at a hearing as to why the permit, resolution or approval should not be revoked. The City Council will conduct a hearing and determine whether or not the permit, resolution or approval should be revoked. The decision of the City Council shall be final.

1203.012 AMENDMENT TO APPROVED APPLICATION:

Holders of any site plan, conditional use permit, administrative permit approval, interim use permit or variance may propose amendments to the permit at any time, following the procedures for a new application as set forth in this Chapter. No significant changes in the circumstances or scope of the use shall be undertaken without review by the Planning Commission and approval by the City Council. The Enforcement Official shall determine what constitutes a significant change and may administratively approve insignificant changes. Significant changes include, but are not limited to, hours of operation, number of employees, expansion of structures and/or premises, different and/or additional signage, and operational modifications resulting in increased external activities and traffic, and the like. The Planning Commission may recommend, and the City Council may approve significant changes and modifications to a site plan, conditional use permit, administrative permit, interim use permit or variance, including additional or revised conditions.

1203.013 ZONING APPLICATION FEES; DEPOSITS:

- A. Generally. The application fees and escrow fees to be paid for each zoning application shall be adopted by the City Council and are codified in City Code Section 202.03. All fees must be paid at the time applications are submitted to the Enforcement Official or the application will be deemed incomplete. Fees shall include application fees, filing fees, consultant, legal, planning and engineering fees and/or escrow fees.
 - 1. The application fee is non-refundable unless the application is withdrawn prior to legal publication and notice. Upon legal publication of the notice, even if the application is subsequently withdrawn, the application fee is non-refundable.

2. There shall be no fee in the case of applications filed in the public interest by City Council or by the Planning Commission.
 3. Upon completion or withdrawal of any application, except for a withdrawal noted above, any unpaid balance due related to the application shall be considered delinquent and any building permits, certificates of occupancy or subsequent land use applications made by the same applicant or for the same property, may be withheld until the balance is paid.
- B. Escrow payment. Applicants shall be required to pay a cash escrow fee as required upon submission of the application. The escrow fee shall be used to pay any outside expenses and fees incurred by the City, including, but not limited to consultants, attorneys, planning and engineering fees or other expenses due to the application.
1. If, at any time, the balance in the cash escrow account is depleted to less than ten percent (10%) of the originally required cash escrow amount, the applicant shall deposit additional funds in the cash escrow account as determined by the Enforcement Official.
 2. All expenses and fees incurred by the City in excess of the escrow deposit, shall be paid by the applicant to the City within thirty (30) days of final action on the matter by the City. If not paid within thirty (30) days, the account shall be deemed delinquent.
 3. Any balance remaining in the cash escrow account upon completion of the process or if the application is withdrawn prior to completion, shall be returned to the applicant after all expenses and fees thereto have been deducted.

1203.014 PENALTIES AND ENFORCEMENT

- A. Penalty. Any person violating any provision of this Ordinance is guilty of a misdemeanor and shall, upon conviction, be subject to fine or imprisonment, or both plus, in either case, the cost of prosecution. Each day such violation continued or occurs constitutes a separate offense and may be prosecuted as such.
- B. Enforcement: Nothing herein contained shall prevent the City from taking any other appropriate actions or proceedings against a violator as provided by law or City Code to prevent or remedy the violation or penalize the violator.

1204. GENERAL DISTRICT PROVISIONS

1204.01 ESTABLISHMENT OF DISTRICTS:

The zoning districts are designed to assist in carrying out the intent and purpose of the Comprehensive Plan and are based upon the Comprehensive Plan which has the purpose of protecting the public health, safety, convenience and general welfare. For the purposes of this Ordinance, the City of Sunfish Lake is hereby divided into the following zoning districts:

<i>Symbols</i>	<i>Names</i>
R-1	Single-Family
INS	Institutional
SOD	Shoreland Overlay District

1204.02 ZONING MAP:

- A. The location and boundaries of the districts established by this Ordinance are set forth on the official zoning map which is hereby incorporated as part of this Ordinance, and which is on file with the City Administrator/City Clerk.
- B. District boundary lines recorded on the City zoning map are intended to follow lot lines, the center lines of streets or alleys, the center lines of streets or alleys projected, or the corporate limit lines as they exist at the time of the enactment of this Ordinance.
- C. Whenever any street, alley, or other public way is vacated, the zoning district adjoining that of such vacated street, alley or public way, shall automatically be extended to the center of such vacated area and all area included therein shall be then and hence forth subject to all of the regulations of the extended district.
- D. All territory which may hereafter be annexed to the City shall be considered zoned in the same manner as contiguous territory inside the previous City limits unless otherwise classified.
- E. It shall be the responsibility of the City Planner to maintain and amend said zoning map. The City Planner shall make, or cause to have made, any corrections or amendments to said map after all of the procedures outlined in this Ordinance for the making of such revisions or amendments shall have been followed by the City Council.
- F. The copy of the official zoning map shall be kept on file at the City.

- G. Appeals concerning the exact location of a zoning district boundary line shall be heard by the City Council serving as the Board of Adjustment and Appeals.
- H. All areas within the corporation limits of the City which are under water and which are not shown as included within any zone shall be subject to all regulations of the zone which immediately adjoining such water area. If such water area adjoins two (2) or more zones, the boundaries of each zone shall be construed to be extended into the water area in a straight line until they meet the other district at the half-way point and/or to the corporation limits.

1204.03 EXEMPTIONS:

The following essential services are permitted in any district: the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies of systems, including gas, electrical, steam or water transmission or distribution systems; collection, communication systems, including communication equipment facilities, supply or disposal systems; elevated and underground water storage tanks; poles, wires, mains, drains, sewers, pipes, conduits, cables; fire alarm boxes, police call boxes; traffic signals, hydrants, and other similar equipment and accessories in connection therewith, including city parks; reasonably necessary for the furnishing of adequate service of such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

1205. SINGLE-FAMILY RESIDENTIAL DISTRICT (R-1)

1205.01 INTENT:

A. Permitted Uses.

1. Single-family detached dwelling with attached garages.
2. State licensed residential facilities, including assisted living facilities under Minnesota Statute 144G, serving six (6) or fewer persons, a licensed day care facility serving twelve (12) or fewer persons and a group family day care facility under Minnesota Rules, Subp. 9502.0315 to 9502.0445 serving fourteen (14) or fewer children.
3. Attached Accessory Dwelling Units as regulated in Section 1207.012.
4. Garage sales or sales of household items subject to the following:
 - a. Sales shall last no longer than three (3) days and sales of individual household items shall last no longer than fifteen (15) days.
 - b. Sales are held no more than twice yearly.
 - c. Sales are conducted on the owner's property. Multiple family sales are permitted if they are held on the property of one (1) of the participants.
 - d. No goods purchased for resale may be offered for sale.
 - e. No consignment goods may be offered for sale.
 - f. All directional and advertising signs shall be free standing, no larger than two (2) feet by three (3) feet, must be placed on private property with the property owner's permission, and must be removed immediately after completion of the sale.

B. Accessory Uses.

1. Up to two (2) detached garages/accessory buildings.
2. Home occupations that comply with Performance Standards in Section 1207.08.
3. Private recreational facilities, including but not limited to tennis courts, swimming pools, and sport activity areas, as long as it is accessory to a principal permitted use on the same lot for the enjoyment and convenience of

the residents of the principal use and their occasional guests, it complies with the lighting requirements in Section 1207.02, and it complies with Accessory Structures in Section 1207.014.

4. One (1) radio, television, communications, internet antenna and satellite dish, as long as it is one (1) meter or less in diameter and complies with Section 1207.011.
5. Roof-mounted solar systems as regulated in Section 1207.013.

C. Conditional Uses.

1. Home occupations that do not comply with Section 1207.08.
2. More than two (2) but no more than four (4) detached garages/accessory structures.
3. More than one (1) radio, television, communications, internet antenna or satellite dishes (or combination thereof), or antenna that are more than one (1) meter in diameter.
4. Ground-mounted solar energy systems as regulated in Section 1207.013.
5. Free standing communication towers, as regulated in Section 1207.011.

D. R-1 Performance Standards

1. Setbacks.

<i>Building Setback (Principal)</i>		<i>Building Setback (Garages/Accessory Structures)</i>
Front	100 feet	100 feet
Rear	50 feet	25 feet
Side	50 feet adjacent to side lot line and 100 feet for corner lot adjacent to public right-of-way or private shared access drive	25 feet adjacent to side lot line and 100 feet for corner lot adjacent to public right-of-way or private shared access driveway

- a. Garages/accessory structures less than two hundred (200) square feet are exempt from rear and side yard setback requirements.
- b. On a through lot, both street lines shall be front lot lines when applying the yard setback regulations of this chapter.

2. Lot Size.

Minimum Lot Area	2 ½ Acres of Net Area
Minimum Lot Width	200 feet as measured at the front yard setback line

3. Building Height. The maximum building height of any structure shall not exceed two and one-half (2 ½) stories or thirty (30) feet, whichever is less.

4. Garages and Accessory Structures.

- a. All single-family dwellings are required to have at least one (1) attached or detached garage of a minimum size of four hundred (400) square feet, with no dimension less than twenty feet (20').
- b. Garages and Accessory Structures must comply with Section 1207.014.

5. Single-family dwellings, principal structure.

- a. The minimum finished first floor area shall be as follows:
 - i. Without basement: 1,500 square feet.
 - ii. With basement: 1,000 square feet.
- b. Residential dwellings must be constructed upon a contiguous perimeter foundation that meets City Code and Uniform Building Code requirements.
- c. The lower floor elevation of any structure shall be no lower than the Regulatory Flood Protection elevation or four feet (4'), whichever is greater.

6. Driveways. (This Section does not apply to private roads or shared driveways that serve two (2) or more properties.)

- a. Driveways shall not be closer than fifteen feet (15') from the side or rear property line, as measured from the edge of the driveway that is nearest the relevant property line. All driveways and approaches shall be hard surfaced using concrete, blacktop, or an equivalent hard surface approved by the City Engineer.

7. Architecture.

- a. The following building materials are allowed as exterior wall finishes on all principal and accessory buildings:

- i. Brick
 - ii. Natural or cultured stone
 - iii. Glass
 - iv. Masonry stucco or EIFS
 - v. Cementitious siding
 - vi. Architectural metal
 - vii. Wood
 - viii. Vinyl
 - ix. Other comparable or superior material as approved by the City Planner.
- b. The architectural style and color of all garages/accessory structures shall be complementary to the principal structure.

1206. INSTITUTIONAL DISTRICT (INS)

1206.01 INTENT:

The INS District is intended to provide a district for facilities devoted to serving the public. The district is unique in that the primary objective of uses is the provision of services, frequently on a non-profit basis, rather than the sale of goods or services. It is intended that uses within such a district will be compatible with adjoining development, and they normally will be located on an arterial street or thoroughfare.

1206.02 USES:

A. Permitted Uses.

1. Places of worship.

B. Accessory Uses.

~~1. Signs as regulated in Section 1005.06.~~

~~2.1.~~ Off-street parking and loading areas.

~~3.2.~~ One (1) radio, television, communications, internet antenna or satellite dish, as long as it is one (1) meter or less in diameter and complies with Section 1207.011.

~~4.3.~~ Up to one (1) detached garage/accessory structure that complies with Accessory Structures, Section 1207.014.

C. Conditional Uses.

1. Free standing communication towers, as regulated in Section 1207.011.
2. Day care, social services, or other non-directly related worship type activities, which must be located inside the principal structure.
3. More than one (1) radio, television, communications, internet antenna or satellite dish, (or combination thereof), or antenna that are more than one (1) meter in diameter.
4. Ground-mounted solar energy systems as regulated in Section 1207.013.

D. Performance Standards.

1. Setbacks.

<i>Building Setback</i>		<i>Parking Setback</i>
Front	100 feet	50 feet
Rear	50 feet	25 feet
Side	50 feet adjacent to side lot line and 100 feet for corner lot adjacent to public right-of-way or private shared access drive	25 feet adjacent to side lot line and 50 feet for corner lot adjacent to public right-of-way or private shared access drive

2. Lot Size.

Minimum Lot Area	2 ½ Acres of Net Area
Lot Width	200 feet, as measured at the front yard setback line

3. Building Height. The building height of any structure shall not exceed two and one-half (2 ½) stories or thirty feet (30'), whichever is less.

4. Landscaping.

a. Landscaping must comply with Section 1207.05.

b. Underground irrigation shall be required for all yards. Such irrigation shall extend to include public boulevards and into landscaped parking islands, except natural areas to be preserved.

5. Screening. On a lot adjacent to a lot in a residential district, there all be an opaque screen made up of trees and/or berms and a six-foot-high solid fence which complies with Section 1207.06. All screening within thirty feet (30') of any driveway or street intersection shall not be over thirty-six inches (36") in height above the curb or center line of the street.

6. Storage.

a. Trash enclosures, except for individual containers for public use, shall be located in the side yards or rear yards when feasible. Trash enclosures may be located in the front yard subject to approval of the City Planner. Such facilities shall be constructed of masonry materials in colors complementary to the principal structure and have solid gates.

- b. No exterior storage of any materials is permitted. All personal property shall be enclosed in a building or structure.

7. Architecture.

- a. The following building materials are allowed as exterior wall finishes on all principal and accessory buildings.

- i. Brick

- ii. Natural or cultured stone

- iii. Glas

- iv. Masonry stucco or EIFS

- v. Cementitious siding

- vi. Architectural metal

- vii. Wood

- viii. Metal

- ix. Vinyl

- x. Other comparable or superior material as approved by the City Planner.

- b. Traffic Control. The traffic generated by any use shall be controlled in a manner that will avoid congestion on public streets, traffic hazards, and excessive traffic through residential areas, particularly truck traffic. The City may require a traffic study if deemed necessary by the City Engineer. Internal traffic shall be so regulated as to insure its safe and orderly flow. Traffic into and out of Institutional areas shall, to the extent possible, be forward moving with no backing into streets. On corner lots, no structure or other materials shall be placed within the intersection clear view triangle.

- c. Access Drives and Access.

- i. A number and type of access drives onto arterial, collector, or local streets may be controlled and limited in the interest of public safety and efficient traffic flow.

- ii. Access drives onto county and state highways shall require a review by the county or state engineer who shall determine the appropriate

location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.

- iii. Access drives to principal structures which traverse wooded, steep, or open fields, shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles.
- iv. All lots or parcels shall have an approved direct access for emergency service vehicles along the frontage of a lot or parcel from a publicly dedicated street.

8. Mechanical Equipment.

- a. All mechanical equipment, including rooftop equipment, shall be:
 - i. Screened from the eye level view of adjoining properties by use of fence or parapet wall(s);
 - ii. Painted to match or complement the building structure; or
 - iii. Incorporated into an architectural design, as approved by the City Planner.

1207. PERFORMANCE STANDARDS

1207.01 INTENT:

These performance standards are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. These standards are also designed to preserve the quality of development and reduce negative impacts on surrounding properties. All future development in all districts shall be required to meet these standards. These standards shall also apply to existing developments where stated.

1207.02 LIGHTING:

- A. In the R-1 zoning district, all decorative or landscape lighting must be downcast style fixtures with a concealed or shielded light source to prevent glare or spill to adjacent right-of-way or properties.
- B. In the INS District, any lighting used to illuminate off-street parking and driving areas, signs, or structures, including lights on accessory structures, shall consist of downcast style fixtures with a concealed or shielded light source to prevent glare or spill to adjacent right-of-way or properties.
- C. Any pole-mounted lighting in all zoning districts shall not have pole heights exceeding twenty feet (20').
- D. No light or combination of lights that cast light upon a residential-zoned property shall exceed 0.4 foot-candle meter reading as measured at the residential property line. All measurements shall be made after dark at the property line or edge of roadway.
- E. Lights on private recreation facilities in the R-1 shall not be illuminated after 9 p.m. or before 8 a.m. Below ground pools may have in-pool lights for safety reasons.
- F. The City shall require a lighting plan to ensure compliance with the intent of this Section for all new construction, including single-family dwellings. Building permits shall not be approved until the lighting plan has been approved by the City Planner.

1207.03 LAND RECLAMATION/EARTH REMOVAL:

Earth removal, land reclamation, material storage of filling, shall be permitted in all zoning districts, on any lot or parcel except that it shall be unlawful for any person to remove, store, excavate, or place as fill any rock, sand, dirt, gravel, clay, or other like material within the City, in excess of one hundred (100) cubic yards without a grading permit from the City.

1207.04 LOT PROVISIONS:

- A. A legal non-conforming lot of record ~~existing upon the effective date of this chapter~~ in the R-1 District, which does not meet the requirements of this chapter as to area or width may be utilized for single-family dwelling purposes.
- B. No more than one principal building shall be located on a lot.
- C. The required front yard of a corner lot shall not contain any wall, fence, or other structure, tree, shrub, or other growth, which may cause danger to traffic on a street or public road by obscuring the view. On corner lots, in any district, no structure or planting in excess of thirty inches (30") above the curb line shall be permitted within the clear view triangle. At driveway entrances, site obstructions will be reviewed for safety as part of the site plan review process.
- D. All setbacks shall be measured from the property line.

1207.05 LANDSCAPING:

- A. All permits for exterior building construction, including new building additions, shall include a complete landscape plan. The landscape plan should be submitted with the building permit or site plan.
- B. Detailed landscape plans shall include the following information:
 - 1. General. Name and address of developer/owner, name and address of architect/designer, date of plan preparation, date and description of all revisions, name of project or development, scale of plan, north point indication.
 - 2. Site analysis should include property lines with dimensions based upon certified survey, name and alignment of proposed and existing adjacent on-site streets, location of all proposed utility easements and right-of-way, location of existing and proposed buildings, topographic contours at two-foot contour intervals, location of parking areas, water bodies, proposed sidewalks, and percent of site not covered by structures.
 - 3. Landscape data. A planting schedule table shall contain the following information including symbols, quantities, common names, botanical names, size of plant materials, root specifications, and special planting instructions.
 - 4. Typical sections and details of fences, retaining walls, berms, and other landscape improvements.

5. Typical sections of landscape islands and planter beds with identification of materials used.
6. Details of planting beds and foundation plantings.
7. Delineation of both sodded and seeded areas indicated in square footage.
8. Where landscape or manmade materials are used to provide required screening from adjacent and neighboring properties, a cross section shall be provided at a legible scale illustrating the prospective of the site from the neighboring property and property line elevation.

C. Minimum number of plant materials required for new construction, including exterior additions in the Institutional (INS) District are as follows:

1. One (1) overstory deciduous shade tree for every two thousand (2,000) square feet of building footprint or one (1) tree for every one hundred feet (100') of site perimeter, whichever is greater.
2. One (1) coniferous tree for every two thousand (2,000) square feet of building footprint or one (1) coniferous tree for every two hundred feet (200') of site perimeter, whichever is greater.
3. One (1) understory shrub for every three hundred (300) square feet of building footprint or one (1) shrub for every thirty feet (30') of site perimeter, whichever is greater.
4. One (1) ornamental tree for every two thousand (2,000) square feet of building footprint or one (1) ornamental tree for every two hundred feet (200') of site perimeter, whichever is greater.
5. A variety of species shall be provided. Spacing and species of trees and shrubs are subject to approval of the City Forester.

D. Minimum size of plantings:

- | | |
|------------------------|------------------------------|
| 1. Overstory deciduous | Two-inch (2") caliper |
| 2. Coniferous | Six feet (6') in height |
| 3. Shrubs | Twenty-four-inch (24") (pot) |
| 4. Ornamental trees | Two-inch (2") caliper |

In the event a site plan layout does not have adequate open space to accommodate plant quantities per Section 1207.05.C, such quantities per species can be combined into less quantities per species, provided total required height or caliper is maintained.

- E. Trees planted in accordance with a required landscape plan shall not be removed without the approval of the City Forester.
- F. Sodding and ground cover. All open areas of any site not occupied by building, parking, or storage, shall be sodded over four inches (4") of topsoil. Exceptions are as follows:
 - 1. Seeding over four inches (4") of topsoil of future expansion areas as shown on approved plans.
 - 2. Undisturbed areas containing existing natural vegetation which can be maintained free of foreign and noxious materials.
 - 3. Areas designated as open space for future expansion area properly planted and maintained with grass.
- G. Slopes and berms.
 - 1. Final slope grade steeper than the ratio of 3:1 will not be permitted without special approval or treatment, such as terracing or retaining walls.
 - 2. Berming used to provide required screening shall not have a slope to exceed 3:1.
- H. Tree Preservation and Credit Policy. It is the policy of the City with respect to specific site development to retain, as far as practical, existing trees which should be incorporated into the site. Credit for retention of existing trees which are of the acceptable minimum size, species, and location, may be given to satisfy the minimum number of requirements. Replacement trees required by a tree preservation plan will be credited to the landscape requirements.
- I. Use of Landscaping for Screening. Where natural materials such as trees are approved as required screening, density and species of planting shall be such to achieve opaqueness year-round and must be approved by the City Forester.
- J. Maintenance Policy. It is the responsibility of the property owner to ensure that the landscaping is maintained in an attractive condition. The owner shall replace any damaged or dead trees, shrubs, ground covers, and sodding.

- K. Erosion Control. All open disturbed areas of any site shall be seeded as an erosion control measure in accordance with the provisions of Section 1207.05.F.
- L. Preservation of Shoreland, Wetland, and Marsh Areas. A protective buffer strip of natural vegetation of at least fifteen feet (15'), with an average width of twenty-five feet (25'), shall surround all wetlands.

1207.06 FENCES, RETAINING WALLS, SCREENING AND SECURITY GATES:

A. General Requirements for All Types of Fences or Retaining Walls.

1. Fences are allowed in any zoning district, subject to the provisions of this Chapter and after obtaining a building permit.
2. All parts of a fence shall be on the property of the owner of the fence and shall be located a minimum of three feet (3') from the property line. The owner of a fence is responsible to verify the location of their property lines.
3. Every fence shall be constructed in a workmanlike manner and of substantial material reasonably suited to the purpose for which the fence is to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition which would constitute a public nuisance or a dangerous condition.
4. No fences or walls shall be placed on or extend into public rights-of-way.
5. The finished side of any fence or wall must face abutting property or street rights-of-way.
6. No fence or wall shall obstruct a motorist's or pedestrian's safe view from the driveway or street as determined by the City Engineer.
7. No fence or wall shall exceed six feet (6') in height along rear and side property lines or four feet (4') in the front yard.
8. Fences within fifteen feet (15') of the front property line must be less than thirty inches (30") above grade level.

B. Prohibited Fences in All Districts.

1. Fences using barbed and razor wire, board on board fences, chain link, fabric, tarp, sheet metal, rebar, cardboard, pallets, sticks, plywood, and similar temporary type materials as determined by the City Planner.

2. Fences located in the clear view triangle.

C. Retaining Walls.

1. Retaining wall materials shall be of industry accepted quality and standards so as to prevent unstable retaining walls.
2. Construction techniques shall be properly followed in order to prevent unstable retaining walls.
3. Retaining walls over four feet (4') in height must be designed by an engineer and be reviewed and approved by the Building Official.
4. Retaining walls over thirty inches (30") in height that are located in pedestrian traffic areas or within thirty-six inches (36") of a public sidewalk or trail shall be completely fenced along the top edge with a permanent fencing material.

D. Security gates and other gates which limit vehicular access to a property:

1. The gate can be no higher than six feet (6') and no wider than twenty-four feet (24') including all support structures or aesthetic features.
2. The gate design and materials must comply with Section 1207.06.A.3. and be reflective of the style/architectural integrity of the residence. Gates may not be constructed of more than fifty percent (50%) solid matter.
3. Provision for emergency vehicle access to the property shall be arranged with the police, fire, and ambulance providers.

1207.07 TREE PRESERVATION:

A. Standards of Preservation During Construction or Grading.

1. Intent. Developments, structures, utilities, and all other site activities must be designed, installed, and constructed so that the maximum number of trees are preserved on all lots or parcels.
2. Tree Preservation Plan Required. To minimize tree loss and to mitigate tree removal on wooded lots or parcels with trees, a tree preservation plan must be submitted for approval along with application for any excavation permit, grading permit, building permit, conditional use permit, site plan or plat approval. All site activity associated with the proposed permit or plat must comply with the approved tree preservation plan.

3. Replacement.

- a. General. All significant trees removed or damaged through activities described in Section 1207.07.A. and B. must be replaced on-site with approval of the City Forester, or in the form of payment of a fee to the City reforestation fund in an amount established by the City Council.
 - b. In all zoning districts, it shall be required that significant trees removed shall be replaced on a 1:1 basis. The removal of trees on public right-of-way and conducted by or on behalf of a governmental agency in pursuance of its lawful activities or functions, will be exempt from this replacement.
4. The Tree Preservation Plan. The tree preservation plan must be prepared by a registered architect, landscape architect, forester or certified arborist. The plan must include a scaled drawing or survey including the following information:
- a. A tree inventory indicating size, species, location and condition of all significant trees and clumps of non-significant trees within the limits of the proposed activity; the location of existing and proposed structures, improvements, utilities and existing and proposed contours.
 - b. Specific disease control, if applicable, and protection techniques that will be utilized to minimize disturbance to all trees remaining on site.
 - c. A reforestation plan indicating size, species, location, and planting specifications of all street and yard trees and all replacement trees.
 - i. The reforestation plan shall utilize a variety of tree species with emphasis on native species when possible.
 - ii. Replacement trees shall be a minimum two inches (2") in diameter if deciduous, or six feet (6') in height if coniferous.
 - d. Financial Guarantee. All installations of trees required by the tree preservation plan or as a penalty for failing to comply with the tree preservation ordinance or plan must be completed at the time of request for a Certificate of Occupancy if issued between May 15th and October 15th, unless dates have been modified by the City Forester to accommodate unseasonable weather. A Certificate of Occupancy requested after October 15th and before May 15th may be issued with a cash deposit submitted by the builder in an amount required by the City Forester to guarantee installation of landscaping. Property owners/contractors/developers required to install replacement trees because of unauthorized removal or disturbance of existing trees on undeveloped parcels must submit a cash

deposit in an amount required by the City Forester to guarantee installation of landscaping.

5. Tree preservation plans must be approved by the City Forester.
6. Inspection and Enforcement. Prior to commencement of site grading or excavation, the site shall be staked and fenced for tree protection per the approved tree preservation plan. Construction activities shall cease until compliance with the tree preservation plan has been achieved.

B. Tree Removal on Lots without Construction or Grading Permits.

1. The number of significant trees removed from privately owned land shall be limited to two (2) significant trees per year, unless an approved Forest Management Plan has been obtained. Trees removed because they are an obstruction to traffic or power lines, or trees removed because they pose a hazard to structures or septic systems, shall be excluded from these requirements.
2. Tree removals exempt from tree replacement requirements include:
 - a. Shrubs, brush, buckthorn, invasive species;
 - b. Trees seriously damaged by storms, other catastrophic events or disease;
 - c. Trees with potential to cause serious damage as determined by the City Forester;
 - d. Invasive species.
3. Forest Management Plan. An approved Forest Management Plan will be required if more than two (2) significant trees per year are removed. At a minimum, the plan must include the following information:
 - a. A scaled map designating all forested areas and existing and proposed uses of such areas.
 - b. Location of all existing structures, roads, utilities, and driveways on the site.
 - c. A written narrative describing specific activities and reasons for developing the plan, and how these actions and activities will affect the forest. Specific examples include but are not limited to better forest management (thinning or removal of dead or diseased trees), improved wildlife habitat, recreational use, outdoor education, and trails.

d. Tree Replacement may also be required as part of the Forest Management Plan. Tree replacement, as outlined in Section 1207.07, shall be required if trees are removed without obtaining an approved approval for a Forest Management Plan.

e. Forest Management Plans must be approved by the City Forester.

1207.08 HOME OCCUPATIONS:

A. Intent. In order to provide peace, quiet, and domestic tranquility within all residential neighborhoods, and in order to guarantee to all residents' freedom from excessive noise, excessive traffic, nuisance, fire hazard and other possible effects of commercial uses being conducted in residential areas.

B. All home occupations that conform to the following standards may be conducted without a conditional use permit under this Ordinance:

1. Permitted home occupations shall not be conducted in any building on the premises other than the building which is used by the occupant as the private dwelling.
2. Home occupation may have one (1) wall sign per dwelling which may not exceed two and one-half (2 ½) square feet.
3. There shall be no exterior, garage or accessory building storage of any materials including business equipment, merchandise, inventory or heavy equipment. Motor vehicles used in the home occupation must be stored inside.
4. The area set aside for home occupations shall not exceed twenty-five percent (25%) of the total floor area of such residence.
5. Permitted home occupations shall not include the employment of any person who does not reside on the premises.
6. The use of exterior mechanical equipment other than for what is customary for purely domestic or hobby purposes is prohibited.
7. Merchandise shall not be regularly or openly displayed or offered for sale within the residence.
8. The operation of any wholesale or retail business must be conducted entirely by mail, online or by occasional home invitation.
9. Any home occupation or activity which produces noise or obnoxious odors, vibrations, glare, fumes, fire hazard, or electric interference detectable to normal sensory perception beyond the property line is prohibited.

10. No more than one (1) truck that is no greater than 16,000 pounds GVW may be stored, operated or maintained as part of the home occupation.

11. A home occupation must normally involve fewer than four (4) customers entering daily.

12. Home occupation may be served by delivery trucks no larger than 20,000 pounds GVW.

C. Conditional Use Permits. All home occupations that do not conform to all of the standards in Section 1207.08.B. shall require a conditional use permit.

1207.09 PERMITTED ENCROACHMENTS – YARDS:

For the purpose of this Ordinance, the following shall be considered permitted encroachments within the yards indicated.

- A. Decks thirty inches (30") or greater in height and/or attached to the home; balconies; open terraces; marques; flues; sills; lintels; pilasters; cornices; gutters; open canopies; open porches not enclosed by walls, screens, windows, or doors; and awnings; are permitted to encroach by up to twenty-five percent (25%) of the required setbacks in the front, side, and rear yard.
- B. Unenclosed gazebos, covered shelters, recreation equipment, picnic tables, arbors, trellises, pergolas, outdoor living rooms, outdoor eating facilities, patios, pool deck surrounds and aprons, detached decks less than thirty inches (30") in height and laundry drying equipment located in the rear yard are permitted with a minimum 25-foot setback from the side and rear lot lines.
- C. Chimneys, flag poles, sidewalks, fences, landscaping, posts and similar amenities are permitted encroachments in any location.
- D. Cantilevers and window wells may encroach by up to two feet (2') of the required setback in the front, rear, and side yards.
- E. Encroachments in any yard that abut a public or private road, shall be considered as permitted encroachments, as outlined above, except that no encroachment shall be permitted within present or proposed street right-of-way lines.
- F. On corner lots in any district, encroachments are not permitted in excess of thirty inches (30") above the curb line in the clear view triangle.

1207.010 PARKING:

- A. Any nonconforming off-street parking space in connection with existing buildings or structures, ~~on the effective date of this Ordinance,~~ shall not be removed, enlarged, or altered, except in conformance with the requirements of this OrdinanceSection.
- B. In connection with any building or structure which is to be erected or substantially altered and which required off-street parking spaces, off-street parking spaces shall be provided in accordance with the following regulations. No change in use is permitted until the required number of parking stalls are furnished.
- C. The following requirements are designed to provide adequate off-street parking space for passenger automobiles in the INS (Institutional) District.

1. Size.

- a. Stall and aisle dimensions shall be constructed to the following minimum specifications listed below.

Parking Angle	Stall Width Including Striping	Stall Length of Line	Aisle Width
90 degrees	9 feet	18 feet	24 feet
60 degrees	9 feet	23 feet	15 feet
45 degrees	9 feet	25 feet	12 feet

- b. Accessible parking spaces shall meet the dimensional requirements of the Minnesota Accessibility Code.
- c. All off-street parking areas shall be striped between stalls. Directional rows shall be used on one-way traffic lanes.
- d. Traffic safety islands may be required to maintain a safe and orderly flow of traffic within the parking lot and/or driveways.

2. Access.

- a. Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to parking spaces.
- b. All off-street parking facilities shall be provided with appropriate means of vehicular access to a street or a driveway, in a manner which will least interfere with traffic movements.

c. All parking areas shall have vehicular access to it by a street or driveway, containing all-weather, hard-surfaced pavement. No driveway access across public property, or at the curb line of a private road, shall have a width exceeding thirty feet (30').

~~d. Repair and Service. No motor vehicle repair work of any kind shall be permitted in parking lots.~~

~~e. Design, Maintenance, and Installation. All open off-street parking areas or areas traveled by vehicles shall be of hard surface.~~

~~e.—~~

~~3.f.~~ Yards. Off-street parking and driveways shall not be permitted within any front yard, corner side yard, side yard, or rear yard minimum setbacks established for parking and driveways.

~~4.g.~~ Computation of Parking Spaces. When determination of the number of parking spaces required by ordinance results in a requirement of a fractional space, any fraction of one-half ($\frac{1}{2}$) or less may be dropped, while a fraction in excess of one-half ($\frac{1}{2}$) shall be counted as one (1) parking space.

~~5.A. Repair and Service. No motor vehicle repair work of any kind shall be permitted in parking lots.~~

~~6. Design, Maintenance, and Installation. All open off-street parking areas or areas traveled by vehicles shall be of hard surface.~~

~~7.D.~~ Required Parking Spaces. Off-street parking spaces accessory to designated uses shall be provided as follows:

~~a.1.~~ Single-family dwellings: At least two (2) parking spaces for each dwelling, which must comply with the following:

~~i.a.~~ Parking and storage shall be limited to vehicles registered and licensed to the occupants of the dwelling unit and their guests only.

~~ii.b.~~ Parking or storage of passenger vehicles shall be on paved surfaces only.

~~iii.c.~~ Recreational vehicles, boats, truck toppers, and trailers must be parked in the rear yard on a paved or class 5 surface and are subject to the driveway setbacks. Collector vehicles parked on paved or class 5 surface for a maximum of two (2) years bearing collector vehicles license plates.

The two-year time frame will commence as soon as a collector vehicle has been observed and documented.

| ~~iv-d.~~ Temporary parking for events for up to twelve (12) consecutive hours are exempt from these provisions.

| ~~b-2.~~ Places of Worship: At least one (1) parking space for each four (4) seats in accordance with design capacity of the main auditorium.

**1207.011 RADIO, TELEVISION, COMMUNICATIONS, AND INTERNET ANTENNAS
AND FREE-STANDING TOWERS:**

- A. Radio, television, communications and internet antennas and support systems are allowed either as a permitted use or by conditional use permit, provided that the following conditions and provisions are met.
1. No antenna shall be located within the front yard.
 2. Antennas attached or mounted to buildings shall comply with the requirements of the International Building Code as adopted, wind design of the State Building Code, and such compliance and method of attachment shall be certified by a registered state structural engineer.
 3. The total area of the antenna shall not encompass more than 120 square feet.
 4. The antenna shall be located and designed so as to minimize impact at street level from surrounding properties and public streets.
 5. Free standing antennas, including those attached to buildings for additional support, shall be setback from the side and rear lot lines a distance at least equal to their height.
 6. No signs, pictures, or messages shall be painted on or attached to any antennas.
- B. Free standing communication towers are only allowed by conditional use permit and are subject to the following standards:
1. The applicant must hold an FCC license to operate the proposed communication system.
 2. The applicant shall submit a study which demonstrates that colocation with existing facilities is not technically feasible.
 3. All structures must be monopole design and constructed for co-location.
 4. The applicant must provide proof that the construction and operation of the facilities will not interfere with reception and transmission of radio, television or other communication services of neighboring residential and non-residential properties.
 5. The structures shall have no lighting other than what is required by the FAA, FCC, or other governmental bodies.

6. The structures shall have no signage except as required by state and federal regulations.
7. The structures shall not be multi-colored, and the color be of minimal visibility.
8. The structures shall be located in the ~~read-rear~~ yard of any property.
9. The structure shall not be located within the following distance of any residential structures:
 - a. Three hundred and fifty feet (350') for towers one hundred feet (100') in height or greater.
 - b. Three hundred feet (300') for towers greater than eighty feet (80') and less than one hundred feet (100').
 - c. Two hundred and fifty feet (250') for towers eight feet (80') in height or less.
10. The height of any structure shall not exceed one hundred fifty feet (150').
11. The structures must be placed with a minimum setback from all lot lines equal to the height of the proposed structure, unless a qualified structural engineer specifies in writing that the collapse of any antenna or tower will occur within a lesser distance under all foreseeable circumstances. Towers may not be located within the building setback areas of the underlying zoning district.
12. The structure must be removed within twelve (12) months after terminating transmission from the facility.

C. Height Limitations.

1. Communication antennae attached to or on top of existing buildings or structures may exceed the height limitations of the district when the following standards are met:
 - a. The applicant must hold an FCC license to operate the proposed communication system;
 - b. Building-mounted antennas shall not extend more than ten feet (10') above the roof and must be setback at least five feet (5') from the roof edge; and
 - c. Wall- or façade-mounted antennae shall not extend more than five feet (5') above the roof.
2. Height limitations shall not apply to church spires and flag poles.

1207.012 ACCESSORY DWELLING UNITS (ADUs):

Standards for attached ADUs are as follows:

- A. Allowed as a permitted use in the R-1 district when accessory to a single-family home.
- B. Must meet living space setbacks.
- C. No more than one (1) door may be located on the front façade of the home unless designed in a manner to minimize the visibility from the street of the second door, subject to City approval.
- D. Maximum size of fifty percent (50%) of the finished square footage of the primary residence or one thousand two hundred (1,200) square feet, whichever is less.
- E. The home and ADU are considered a two-family home for the purpose of application of the Minnesota Residential Code unless the home and the ADU are connected by a passageway at least forty inches (40”) in width without a door.

1207.013 SOLAR ENERGY SYSTEMS:

A. Zoning Districts:

- 1. Roof-mounted solar energy systems in accordance with the standards in this Section are allowed as an accessory use in all zoning districts.
 - a. Visibility. Roof-mounted solar energy systems shall be designed to blend into the architecture of the building and shall be screened from view to the extent possible without impacting their function.
 - b. Height. Roof-mounted solar energy systems shall comply with the maximum height requirements in the applicable zoning district.
 - c. Setbacks. Roof-mounted systems shall comply with all building setbacks in the applicable zoning district and shall not extend beyond the exterior perimeter of the building on which the system is mounted. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
 - d. Mounting. Roof-mounted solar collectors may be flush-mounted or bracket-mounted. Bracket-mounted and ballast-mounted collectors shall be permitted only when a determination is made by the Building Official that the underlying roof structure will support apparatus, wind, and snow loads and all applicable building standards are satisfied.

- i. Roof- or building-mounted solar energy systems shall allow for adequate roof access to the south-facing or flat roof upon which the panels are mounted.
 - ii. Ground material solar energy systems shall allow for adequate roof access to the south-facing or flat roof upon which the panels are mounted.
 - 2. Approvals required. No solar energy system shall be erected, altered, improved, reconstructed, maintained, or moved without obtaining a building permit.
- B. General Provisions. All solar energy systems within the City shall be subject to the following general provisions:
- 1. Exemptions.
 - a. Passive or building-integrated solar energy systems are exempt from the requirements of this Section and shall be regulated as any other building element.
 - b. Ground-mounted solar systems that cover less than seventeen (17) square feet do not require a conditional use permit.
 - 2. Aesthetics. All solar energy systems shall minimize glare towards vehicular traffic and adjacent properties.
 - 3. Feeder Lines. The electrical collection system shall be placed underground within the interior of each parcel.
 - 4. Safety.
 - a. Standards. All active solar energy systems shall meet the approval of the Building Official consistent with the State of Minnesota Building Code. Solar thermal systems shall further comply with HVAC-related requirements of the Energy Code.
 - b. Certification. The City reserves the right to deny a building permit for proposed solar energy systems deemed to have inadequate certification.
 - 5. Utility Connection. All grid connected systems shall have an agreement with the local utility prior to the issuance of a building permit. A visible external disconnect shall be provided if required by the utility.
 - 6. Abandonment. If a solar energy system remains nonfunctional or nonoperative for a continuous period of one (1) year, the system shall be deemed to be

abandoned and shall constitute a public nuisance. The property owner shall remove the abandoned system and restore vegetation upon the site at his/her expense after a demolition permit has been obtained. Removal includes the entire structure including distribution equipment. If the property owner does not remove the abandoned system within thirty (30) days after the system becomes abandoned, the City shall send a written notice to the owner and direct the owner to remove the abandoned system. If the owner does not remove the abandoned system within ninety (90) days after the date of the written notice, the City shall have the power to abate the public nuisance as authorized by law.

7. Easements. Solar energy systems shall not encroach on public drainage, utility roadway or trail easements.

C. Ground-Mounted Systems. Ground-mounted solar energy systems may be approved by conditional use permit in accordance with the following standards:

1. Visibility. Ground-mounted solar energy systems are required to adhere to accessory screening requirements from adjacent properties and public rights-of-way. The system may not negatively impact views of abutting properties or serve to distract from the open natural setting of the community.
2. Height. Ground-mounted solar energy systems shall not exceed twelve feet (12') in height when oriented at maximum tilt in all zoning districts.
3. Setbacks. Ground-mounted solar energy systems shall comply with accessory structure setbacks in the applicable zoning district and may not extend into setbacks when oriented at minimum design tilt.
4. Location. Ground-mounted solar energy systems are not permitted in front yards.
5. Maximum Coverage. The surface area of pole or ground-mounted systems shall not exceed half the building footprint of the principal structure.

1207.014 ACCESSORY STRUCTURES:

In all zoning districts, accessory structures shall be subject to the following performance standards.

- A. Number of Accessory Structures. No more than four (4) accessory structures are allowed per property.
- B. Construction.
 1. Accessory structures shall not be taller than the principal structure.

2. Accessory structures shall not be located in the front yard setback.
3. Building permits are required for all permanent accessory structures over two hundred (200) square feet.
4. Temporary accessory structures including tents that consist of metal or fiberglass poles, metal hoops and PVC, cotton or nylon fabric covering materials are prohibited except in conjunction with a special event.
5. The exterior finishes of accessory structures sized less than two hundred (200) square feet shall be constructed of quality weather resistant materials.
6. For accessory structures over two hundred (200) square feet, architectural materials shall comply with Section 1205.02.D.7 for the R-1 District and Section 1206.02.D.7 for the INS District.
7. No accessory structures, primary or accessory garages shall be constructed on any lot prior to the construction of the principal structure.
8. No tent, trailer, camper, motor home, storage container or accessory building or structure shall be used as a habitable building.
9. Private recreational facilities and private dog kennels shall meet the accessory structure setbacks for the appropriate zoning district.
10. Lighting of private recreational facilities shall comply with Section 1207.02.
11. No accessory structure shall be located on, over, or within a drainage and utility easement.

1208. ENVIRONMENTAL STANDARDS

1208.01 SOIL EROSION AND SEDIMENTATION CONTROL:

A. Findings of Fact. It is hereby determined that:

1. Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition;
2. This stormwater runoff contributes to increased quantities of water-borne pollutants; and
3. Stormwater runoff, soil erosion and non-point source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.

Therefore, the City of Sunfish Lake establishes this set of water quality and quantity policies applicable to all surface waters to provide reasonable guidance for the regulation of stormwater runoff for the purpose of protecting local water resources from degradation. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety. All new development and redevelopment shall conform to engineering specifications for site work and the natural limitations as presented by the topography and soil to create the best potential for preventing soil erosion.

B. Purpose. The purpose of this Section is to control and eliminate, to the greatest extent possible, stormwater pollution and soil erosion and sedimentation in order to protect and safeguard the general health, safety, and welfare of the public. It establishes standards and specifications for development and conservation practices and planning activities designed to:

1. Minimize increases in stormwater runoff from any new development or redevelopment in order to reduce flooding, siltation, streambank erosion and maintain the integrity of stream and ditch channels;
2. Minimize increases in non-point source pollution caused by stormwater runoff from new development or redevelopment which would otherwise degrade local water quality;

3. Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.
 4. Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.
- C. Scope. All public and private development and redevelopment projects, alterations, or improvements shall meet the requirements of this Section, the NPDES Construction Stormwater Permit (if applicable) and the rules of whichever Water Management Organization has jurisdiction on the subject property. Except where a variance is granted or ordinance does not require, any person, firm, sole proprietorship, partnership, corporation, state agency, or political subdivision proposing a land disturbance activity within the City shall apply to the City for project approval which shall include the following:
1. Grading, Erosion, and Sediment Control Plan;
 2. Stormwater Pollution Prevention Plan (SWPPP); and
 3. Stormwater Management Plan.

No land shall be disturbed until the project is approved by the City, has received a watershed district permit, any other applicable permits, and conforms to the standards set forth herein.

- D. Abrogation and Greater Restrictions. This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section imposes greater restrictions, the provisions of this Section shall prevail. All other ordinances inconsistent with this Section are hereby repealed to the extent of the inconsistency only.
- E. Definitions. Unless specifically defined below, words or phrases used in this Section shall be interpreted so as to give them the same meaning as they have in common usage and to give this Section its most reasonable application. For the purpose of this Section, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

As used in this Section, the following words and terms shall have the meanings ascribed to them in this Section:

1. Bench. A relatively level step excavated into earth material on which fill is to be placed.

2. Best Management Practices (BMP). Erosion control, sediment control and water quality management practices that are most effective and practicable for means of controlling, preventing and reducing the degradation of surface water as published by state or designated area-wide planning agencies.
3. Borrow. Soil or other earth materials acquired from an off-site location for use in grading or filling on a site.
4. Buffer. See Section 1209.02.D.6.
5. Channel. A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
6. Clearing and Grubbing. The cutting and removal of trees, shrubs, bushes, windfalls and other vegetation including removal of stumps, roots and other remains in the designated areas.
7. Common Plan of Development or Sale. A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, or on different schedules, but under one (1) proposed plan. This item is broadly defined to include design, permit application, advertisement or physical demarcation indicating that land-disturbing activities may occur.
8. Detention Facility. A temporary or permanent natural or manmade structure that provides for the temporary storage of stormwater runoff.
9. Discharge. The release, conveyance, channeling, runoff or drainage of stormwater, including snowmelt, from a construction or development site.
10. Disturbed Ground. Any clearing, grading, excavating or other activity that removes vegetation and/or exposes or loosens the soil making it susceptible to erosion by wind, water, vehicular traffic or manmade activity.
11. Erosion. Any process that wears away the surface of land by the action of wind, water, ice, gravity, nature or manmade activities.
12. Erosion Control. Methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.
13. Exposed Soil Areas. Areas of the construction site where the vegetation (trees, shrubs, brush, grasses, etc.) or impervious surfaces have been removed, thus rendering the soil more prone to erosion. This includes topsoil stockpile areas; borrow areas and disposal areas within the construction site. It does not include temporary stockpiles or surcharge areas of clean sand, gravel, concrete or

bituminous, which have less stringent protection requirements. Once soil is exposed, it is considered “exposed soil”, until it meets the definition of “final stabilization.”

14. Fill. A deposit of soil or other earth materials placed by artificial means.
15. Filter Strip. A vegetated section of land designed to treat runoff as overland sheet flow. It may be designed in any natural vegetated form from a grassy meadow to a small forest. The dense vegetated cover facilitates pollutant removal, reduces erosion and promotes infiltration.
16. Floodplain. The channel or beds proper and the areas adjoining a wetland, lake or watercourse that have been or hereafter may be covered by the regional flood.
17. Final Stabilization requires that all soil disturbing activities at the site have been completed, and all soils must be stabilized by a uniform perennial vegetative cover with a minimum density of seventy percent (70%) over the entire pervious surface area, or other equivalent means necessary to prevent soil failure under erosive conditions.
18. High Water Level. The expected elevation the water in a stormwater pond will rise to a 100-year rain event as calculated by the pond design.
19. Hydric Soils. Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper soil horizon.
20. Hydrologic Soil Group (HSG). A Natural Resource Conservation Service classification system in which soils are categorized into four (4) runoff potential groups. The groups range from A soils, with high permeability and little runoff production, to D soils, which have low permeability rates and produce much more runoff.
21. Impaired Waters. Water bodies that do not meet water quality standards and designated uses because of pollutant(s), pollution, or unknown causes of impairment.
22. Impervious Surface. See Section 1209.02.D.11.
23. Land Disturbance Activity. 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 this government's jurisdiction, including but not limited to construction, clearing and grubbing, grading, excavating, transporting and filling of land. Within the context of this Section, land disturbance activity does not mean:

- a. Minor land disturbance activities including, but not limited to, underground utility repairs, home gardens, home landscaping, minor repairs and maintenance work which do not disturb more than two thousand (2,000) square feet of land or exceed one hundred (100) cubic yards of earthwork provided work does not obstruct or modify a watercourse or storm sewer system and is not located in a floodplain;
 - b. Installation and maintenance of fences, signs, posts, poles, electric, telephone, cable television, utility lines or individual service connections to these utilities;
 - c. General farming practices; or
 - d. Emergency work to protect life, limb, or property and emergency repairs, unless the land disturbing activity would have otherwise required an approved erosion and sediment control plan, except for the emergency. If such a plan would have been required, then the disturbed land area shall be shaped and stabilized in accordance with the City's requirements as soon as possible.
24. Native Vegetation. The pre-settlement (already existing in Minnesota at the time of statehood in 1858) group of plant species native to the local region, that were not introduced as a result of European settlement or subsequent human introduction.
25. Normal Water Level. The permanent pool of water retained in a stormwater pond. By design, this is the water level below the invert elevation of the pond outlet with a depth not to exceed eight feet (8').
26. Ordinary High-Water Level or OHWL. The boundary of water basins, watercourses, public waters, and public waters wetlands, and:
- a. The ordinary high-water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial;
 - b. For watercourses, the ordinary high-water level is the elevation of the top of the bank of the channel; and
 - c. For reservoirs and flowages, the ordinary high-water level is the operating elevation of the normal summer pool.
27. Outfall. The point of discharge to any watercourse from a public or private stormwater drainage system.

28. Permanent Cover. Examples include grass, gravel, asphalt and concrete. See also the definition of Final Stabilization.
29. Public Waters. See Section 1209.02.D.17.
30. Retention Facility. A temporary or permanent natural or manmade structure that provides for the storage of stormwater runoff by means of a permanent pool of water.
31. Runoff. Rainfall, snowmelt, dewatering discharge, irrigation or any man-made sources of water flowing over the ground surface.
32. Sediment. The product of an erosion process; solid material both mineral and organic, which is in suspension, is being transported, or has been moved by water, wind, or ice and has come to rest on the earth's surface either above or below water level.
33. Slope. The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.
34. Special Water. Surface water or receiving water that is of a high quality or is deemed worthy to receive extra protection.
35. Stormwater. Under Minnesota Rule, Section 7077.0105, Subpart 41(b), "stormwater" means precipitation runoff, stormwater runoff, snow melt runoff and any other surface runoff and drainage. According to the Code of Federal Regulations (CFR), under 40 CFR 122.26 [b][13], "Stormwater" means stormwater runoff, snow melt runoff and surface and drainage. Stormwater does not include construction site dewatering.
36. Storm Sewer System. Includes, but is not limited to, the combination of roadway gutters, roadway section ditches, culverts, storm sewer piping, overflow channels, infiltration trenches, detention and retention water quality treatment basins and other methods or devices used for capturing, conveying, controlling and treating stormwater and snow melt runoff.
37. Stormwater Pollution Prevention Plan or SWPPP. Joint stormwater, erosion prevention and sediment control plan that is a document containing the requirements of Section H. below. When implemented, the plan will define the methods to be used to reduce soil erosion on a parcel of land and off-site non-point pollution. The plan involves both temporary and permanent controls.
38. Stormwater Pond (also referred to as wet sedimentation basin, wet retention basin, or simply wet pond). A manmade or modified natural basin constructed to capture and retain stormwater runoff for the purpose of removing pollutants and mitigating downstream water quantity impacts.

39. Surface Waters. All streams, ponds, lakes, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems, whether natural or artificial, public or private.
40. Surveyor. A person duly registered or authorized to practice land surveying in the State of Minnesota.
41. Temporary Erosion Protection. Short-term methods installed to prevent erosion. Examples include silt fence, straw mulch, wood fiber blanket, wood chips and erosion netting.
42. Vegetated (Grassy) Swale. A vegetated earthen channel that conveys stormwater while treating the stormwater by biofiltration. Such swales aid in the removal of pollutants by both filtration and infiltration.
43. Waters of the State. As defined in Minnesota Statutes, Section 115.01, Subdivision 22, the term, "...waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof." Commentary: According to Minnesota Rules 7050.0130, Subp. 2, disposal systems or treatment works operated under either a Minnesota Pollution Control Agency (MPCA) permit or an agency certificate of compliance are not considered "waters of the state." Under Minnesota Rules 7050.0186, Subp. 1a(B), constructed wetlands designed for wastewater treatment are not "waters of the state." Also see the definition of "Wetlands."
44. Wetlands. Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three (3) attributes:
- a. Have a predominance of hydric soils;
 - b. Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
 - c. Under normal circumstances support a prevalence of such vegetation. See Minnesota Statutes, Section 103G.005 subd. 19.
- F. General Criteria. The Grading, Erosion and Sediment Control plan shall be required for any land disturbance activity or project disturbing more than twenty thousand (20,000) square feet and shall minimize exposed soil and unstable soil

conditions in area and duration, disturbance of natural soil cover and vegetation, work in and adjacent to water bodies and wetlands, off-site sediment transport by trucks and equipment, and disturbance to the surrounding soils, root systems and trunks of trees adjacent to site activity that are intended to be left standing. The Plan shall also protect receiving water bodies, wetlands, storm sewer inlets and adjacent properties from sediment deposition. It shall provide a plan for minimal compaction of site soils.

G. Submittal Components. An acceptable application for construction will include the following requirements and contain the components detailed in the following sections.

1. Grading and Erosion and Sediment Control Plans. The Grading/Erosion Control Checklist and Approval Form should be used as a reference. These can be obtained from the City Engineer. All grading and erosion and sediment control plans shall include the following items:

a. Plans for Existing and Proposed Conditions. A complete site plan and specifications, signed by the person who designed the plan shall comply with the Ordinance, shall be clearly labeled with a north arrow and a date of preparation, and shall include, at a minimum, the following information:

i. Project map indicating site boundaries and existing elevations, property lines and lot dimensions in relation to surrounding roads, buildings and other structures, and other significant geographic features.

ii. Identification of all surface waters, on and adjacent to the site and within one-half (½) mile of project boundary, including, but not limited to lakes, ponds, streams (including intermittent streams), wetlands, natural or artificial water diversion or detention areas, public and private ditches, subsurface drainage facility (including drain tiles), stormwater conveyance, and storm sewer catch basins. Show ordinary high-water marks of all navigable waters, 100-year flood elevations, normal and high-water elevations of ponds, and delineated wetland boundaries, if any. If not available, appropriate flood zone determination or wetland delineation, or both, may be required at the applicant's expense.

iii. For projects that have a discharge point on the project that is within one (1) mile of, and flows to, an impaired water, the applicant must identify the impaired water(s) in the SWPPP, and whether there is a United States Environmental Protection Agency approved Total Maximum Daily Load (TMDL) for the pollutant(s) or stressor(s) identified in this part. Unless otherwise notified by the MPCA in writing, the applicant's identification of impaired waters must be based on the most recent USEPA approved section 303(d) Clean Water Act list of impaired waters and USEPA approved TMDLs at the time a complete permit application

is submitted. The applicant's identification must include those TMDLs applicable to the project's stormwater discharge that were approved at any time prior to permit application submittal and are still in effect.

- iv. Map of watershed drainage areas showing direction of flow for pre and post construction drainage, soil types, infiltration rates, and depth to seasonal high-water table.
- v. Existing and proposed grades showing drainage on and adjacent to the site using two-foot contours or less.
- vi. Existing and proposed impervious surfaces.
- vii. Steep slopes of twelve percent (12%) or more existing over a distance for fifty feet (50') or more.
- viii. Location of all areas not to be disturbed during construction including trees, vegetation, and designated areas for infiltration.
- ix. Proposed grading or other land-disturbing activity; areas of soil or earth material storage; quantities of soil or earth material to be removed, placed, stored or otherwise moved on-site, and delineated limits of disturbance.
- x. Locations of proposed runoff control, temporary and permanent erosion and sediment control, and temporary and permanent soil stabilization measures.
- xi. If more than ten (10) acres are disturbed and drained to a single point of discharge temporary sediment basins must be installed, however, if the site has special waters as defined by the NPDES Construction Permit requirements, then temporary sediment basins must be installed where five (5) or more acres are disturbed. When site restrictions do not allow for a temporary sediment basin, equivalent measures as approved by the City may be used.
- xii. Any mitigation measures required as a result of any review conducted for the project (e.g. wetland mitigation, etc.).

- 2. A SWPPP specific to the conditions and requirements of the site. (See Section H below).

H. SWPPP Design Components. All SWPPPs shall be reviewed by the City for effectiveness of erosion and sediment control measures in the context of the site topography and drainage, proposed design, suggested location and phased implementation of effective practicable stormwater pollution prevention measures.

1. General Criteria. Design, engineering and implementation of these measures shall use the following performance standards, BMPs, and design criteria:
 - a. Project Compliance. Statement of how the project will comply with all requirements of the NPDES Phase II regulations.
 - b. Description. Explanation of the project and associated construction activity.
 - c. Contact information for the on-site individual responsible for implementation of the SWPPP; and for the project manager and contractor.
 - d. Training. The applicant must identify a person knowledgeable and experienced in the application of erosion prevention and sediment control BMPs who will oversee the implementation of the SWPPP, and the installation, inspection and maintenance of the erosion prevention and sediment control BMPs before and during construction.
 - e. Runoff Easements. If a stormwater management plan involves directing some or all runoff from the site, the applicant shall obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.
 - f. Scheduling Site Activities. The applicant shall schedule site activities to lessen their impact on erosion and sediment creation. A detailed schedule indicating dates and sequence of land alteration activities; implementation, maintenance and removal of erosion and sedimentation control measures; and permanent site stabilization measures shall be provided.
2. Best Management Practice Implementation. All erosion and sediment control and water quality BMPs must be constructed and or installed prior to the commencement of land disturbing activities. These measures shall be coordinated with the different stages of development.
3. Monitoring and Inspection. The trained person identified in the SWPPP or their assigned designee must routinely inspect the entire construction site at least once every seven (7) days during active construction and within twenty-four (24) hours after a rainfall event greater than one-half inches ($\frac{1}{2}$ ") in twenty-four (24) hours. Following an inspection which occurs within twenty-four (24) hours after a rainfall event, the next inspection must be conducted within seven (7) days after that. All inspections and maintenance conducted during construction must be recorded in writing and these records must be retained with the SWPPP in accordance with the NPDES Construction Site Permit.
4. Other Information. The City will require additional or modified information as warranted, including, but not limited to:

- a. The City may require soil borings or other site investigation to be conducted and may require submission of a soils engineering or geology report. The report shall include information as requested by the City.
 - b. The City may require a stormwater runoff volume and rate analysis report or other hydrologic, water quality and hydraulic computations to be submitted.
 - c. The SWPPP shall be modified when there is a change in design, operation, maintenance, weather or seasonal conditions that have a significant effect on discharge and/or inspections indicate that the plan is not effective and existing BMPs are not controlling pollutants and discharges from the site.
5. Contractor/Owner Inspections and Maintenance. The contractor or owner shall be responsible for inspections and maintenance on the site.
- a. Inspections and maintenance must be documented and readily available for review on-site. Inspections are required as follows:
 - i. Once every seven (7) days on exposed soil areas.
 - ii. Within twenty-four (24) hours after a one-half-inch rain event over twenty-four (24) hours.
 - iii. Once every thirty (30) days on stabilized areas.
 - iv. As soon as runoff occurs or prior to resuming construction on frozen ground.
 - b. Maintenance is required as follows:
 - i. When sediment reaches one-third ($1/3$) the height of the BMP on perimeter control devices, sediment must be removed within twenty-four (24) hours.
 - ii. If the perimeter control device is not functional it must be repaired or replaced within twenty-four (24) hours.
 - iii. Temporary sediment basins shall be maintained when sediment reaches one-half ($1/2$) the outlet height or one-half ($1/2$) the basin storage volume. Basin must be drained or sediment removed within seventy-two (72) hours.

- iv. Sediment tracked from construction site vehicle entrance and exit locations must be removed from paved surfaces within twenty-four (24) hours of discovery.
- v. Inlet protection devices must be cleaned weekly or more frequently as necessary. Sediment and other debris captured in these devices must be deposited in appropriate locations or containers.

I. SWPPP Implementation Components.

1. Minimize Exposed Soil. Land shall be developed in increments of workable size such that adequate erosion and sedimentation control can be provided as construction progresses. At no time shall more than twenty (20) acres be exposed. Special consideration shall be given to the stabilization of steep slopes. Development shall be carefully reviewed to ensure adequate measures have been taken to prevent erosion, sedimentation and structural damage.
2. Restabilization. The area exposed shall be covered by an approved ground cover within fourteen (14) days after work is completed. When construction work is completed, a minimum depth of four inches (4") of topsoil meeting current MnDOT specifications shall be spread over the developed area and turf establishment started.
3. Reduce Compaction. To reduce soil compaction and enhance vegetation establishment all compacted soil shall be tilled to a depth of at least six inches (6") before revegetation.
4. Perimeter Sediment Controls. Perimeter sediment control measures shall be properly installed before construction activity begins. These control measures shall be designed to contain sediment on-site and control the quality and quantity of stormwater leaving a site before, during, and after construction. Control measures may include silt fence, compost logs, berms, or other approved methods.
5. Channel Protection. Channels shall be diverted around disturbed areas if practical, or other channel protection measures will be required. The normal wetted perimeter of any temporary or permanent drainage channel must be stabilized within two hundred (200) lineal feet of the property edge, or from a point of discharge to any surface water. Stabilization must be completed within twenty-four (24) hours of connecting to surface water. Sediment control is required along channel edges to reduce sediment reaching the channel. Stabilization of all waterways and outlets shall conform with the stipulations of this Section.

6. Outlet Protection. Pipe outlets must have approved energy dissipation measures installed within twenty-four (24) hours of connection to a surface water.
7. Slope Protection. The following control measures shall be taken to control erosion during construction.
 - a. No exposed slopes shall be steeper in grade than four feet (4') horizontal to one foot (1') vertical.
 - b. Exposed slopes steeper than ten feet (10') horizontal to one foot (1') vertical (10:1) shall be stabilized to minimize erosion.
 - c. At the foot of exposed slopes or slopes with long runs a channel and berm may be required to be constructed to control erosion. The channeled water shall be diverted to the sedimentation basin (debris basin, sediment basin, or silt trap) before being allowed to enter the natural drainage system.
 - d. Along the top of exposed slopes or slopes with long runs a berm may be required to be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. These methods shall be approved by the City Engineer. At the base of the slope, an energy dissipater shall be installed to prevent erosion.
 - e. Exposed slopes shall be protected by whatever means will effectively prevent erosion considering the degree of slope, soils materials, and expected length of exposure. Slope protection shall consist of mulch, burlap, jute netting, sod blankets, fast growing seeds or temporary plantings or annual grasses. A mulch shall consist of hay, straw, or other approved protective materials. Mulch must be anchored to the slopes by an approved method to provide additional slope stability.
 - f. Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated that they will effectively protect exposed slopes and are approved by the City Engineer.
 - g. Wind Erosion. Snow fences or other wind reducing means shall be employed during construction on-site to reduce wind erosion of the soil. These measures shall be employed as soon as construction has started on-site and shall be extended as needed throughout the development.
 - h. All exposed soil areas with a continuous positive slope that are within two hundred (200) lineal feet of any surface water, or any conveyance (curb, gutter, storm sewer inlet, drainage ditch, etc.) to a surface water, must have

temporary or permanent cover year-round. The area shall be stabilized if it has not been worked for seven (7) days on slopes greater than three feet (3') horizontal to one foot (1') vertical (3:1), fourteen (14) days on slopes ranging from 3:1 to 10:1 and twenty-one (21) days for flatter slopes. On sensitive sites or sites with special waters, exposed soil areas with a greater than three feet (3') horizontal to one foot (1') vertical (3:1) must be stabilized within three (3) days and slopes flatter than 3:1 must be stabilized within seven (7) days. All exposed soil areas must have temporary erosion protection or permanent cover no later than November 1 regardless of the stabilization requirements listed above. All exposed soils from construction activities taking place after November 1 must provide temporary erosion protection or permanent cover by the end of the workday if conditions warrant.

- i. If more than ten (10) acres are disturbed and drained to a single point of discharge temporary sediment basins must be installed. When site restrictions do not allow for a temporary sediment basin, equivalent measures such as smaller basins, check dams, and vegetated buffer strips can be included.
 - j. For disturbed areas less than ten (10) acres, temporary sedimentation basins are encouraged but not required. The applicant shall install erosion and sediment controls at locations that result in maximum protection and sediment capture. Minimum requirements include silt fences, rock check dams, or other equivalent control measures along slopes. Silt fences, rock check dams, etc. must be regularly inspected and maintained.
8. Silt Fence. Silt fence shall be properly installed by being trenched and buried at least six inches (6") into the soil. Generally, sufficient silt fence will be required to contain sheet flow runoff generated at an individual site. This method is used to prevent sediment damage to adjacent properties and sensitive environmental areas such as water bodies, plant communities, rare, threatened and/or endangered species habitat, wildlife corridors, greenways, wetlands, etc. Provide that all silt fences used for erosion and sedimentation control and all other temporary controls shall not be removed until the City and other permitting agencies have determined that the site has been permanently stabilized and shall be removed within thirty (30) days thereafter.
9. Soil Stockpiling. Temporary stockpiling of one hundred (100) cubic yards or more of excess soil on any lot or other vacant area will not be allowed without issuance of a permit for the earth moving activity in question. Stockpiles of soil or other materials subject to erosion by wind or water shall be covered, vegetated, enclosed, fenced on the down gradient side or otherwise effectively protected from erosion in accordance with the amount of time the material will be on-site and the manner of its proposed use. No stockpiling is allowed in the street.

10. **Stockpile Protections.** For soil stockpiles greater than ten (10) cubic yards the toe of the pile must be more than twenty-five feet (25') from a road, drainage channel or stormwater inlet. If left for more than seven (7) days, they must be stabilized with mulch, vegetation, tarps or other means. If left for less than seven (7) days, erosion from stockpiles must be controlled with perimeter control devices such as silt fence. If for any reason a soil stockpile is located closer than twenty-five feet (25') to a road, drainage channel or stormwater inlet, it must be covered with tarps or a more permanent protection and controlled with perimeter control devices immediately.
11. **Vehicle Exits/Entrances.** Vehicle tracking of sediment from the construction site must be minimized by BMPs such as stone pads, concrete or steel wash racks, or equivalent systems. Street sweeping must be used if such BMPs are not adequate to prevent sediment from being tracked onto the street. The exit must be at least fifty feet (50') long (fifteen-foot minimum on single-family residential sites), and the exit must be graded so runoff does not enter the adjacent street. Place a geotextile fabric under a layer of aggregate at least six inches (6") thick. The aggregate size must be a minimum of one inch (1") to three inches (3") or an approved equal. Direction should be given to use the designated construction exits.
12. **Street Cleaning.** Streets and outlying roads shall be cleaned and swept within twenty-four (24) hours whenever tracking of sediments occurs and before sites are left idle for weekends and holidays.
13. **Dewatering Treatment Required.** Sediment laden water that is being removed from the site by pumping or trenching shall be treated to remove a minimum of eighty percent (80%) of suspended solids before discharge. Water may not be discharged in a manner that causes erosion to receiving channels or flooding of the discharge site.
14. **Storm Drain Protection.** All storm drain inlets shall be protected during construction with control measures as approved by the City. These devices shall remain in place until final stabilization of the site. A regular inspection and maintenance plan shall be developed and implemented to assure these devices are operational at all times, providing protection of storm sewer infrastructure from sediment loading/plugging. Silt fence fabric under catch basin grates will not be considered appropriate protection. Protective devices shall be removed prior to freeze up and replaced when temperature permits.
15. **Waste Containment.** Appropriate on-site containment must be provided for all trash, solid waste, construction debris, floating debris, and hazardous materials. Disposal of collected sediment shall be deposited only in approved locations.

16. Special Precautions. Extra precautions must be taken to contain sediment when working in or crossing water bodies.

J. Review. The City shall complete a review of the SWPPP concurrent with other submittals. City approval is contingent on issuance of all other permits required by other agencies having jurisdiction on the project. There shall be no work on the site until the requirements are met and approval has been granted.

1. Compliance. A SWPPP will be considered compliant when the City determines that the SWPPP meets the requirements of this Ordinance and all other requirements for project approval. Compliance assumes implementation and maintenance of the SWPPP components.

2. Noncompliance. If the City determines that the SWPPP does not meet the requirements of this Ordinance the City shall not issue approval for the land disturbance activity. The SWPPP must be resubmitted for approval before the land disturbance activity begins.

3. City Inspections and Enforcement. Inspections are required before any land disturbing activity begins, at the completion of the project and prior to the release of financial securities. The City shall also conduct inspections on a regular basis during the course of construction to ensure that erosion and sediment control measures are properly installed and maintained. In all cases the inspectors will attempt to work with the applicant to maintain proper erosion and sediment control at all sites. In cases where cooperation is withheld or applicant fails to achieve compliance, enforcement proceedings will be applied as outlined in Section 1208.01.N.4. below. An inspection must be conducted before any work is allowed to restart.

K. Modification of Plan. The applicant must amend the SWPPP as necessary to include additional requirements such as additional or modified BMPs designed to correct problems identified or address situations whenever:

1. A change in design, construction, operation, maintenance, weather, or seasonal conditions that has a significant effect on the discharge of pollutants to surface waters or underground waters.

2. Inspections indicate the SWPPP is not effective in eliminating or significantly minimizing the discharge of pollutants to surface waters or underground waters or that the discharges are causing water quality standard exceedances.

3. The SWPPP is not achieving the general objectives of controlling pollutants and sediments or is not consistent with the terms and conditions of the approved project plans.

- L. Financial Securities. The applicant shall be subject to the financial security provisions as required by the City.
- M. Emergency Action. If circumstances exist such that non-compliance with this Ordinance poses an immediate danger to the public health, safety and welfare, as determined by the City, the City may take emergency preventative action. The City shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the City may be recovered from the applicant's financial security.
- N. Notification of Failure of the SWPPP. The City shall notify the project contact of the failure of the SWPPP's measures.
1. Initial Contact. The initial contact will be to the party or parties listed on the application and/or the SWPPP as contacts. Except during an emergency action, forty-eight (48) hours after notification by the City or seventy-two (72) hours after the failure of erosion control measures, whichever is less, the City at its discretion, may begin corrective work. Such notification should be in writing, but if it is verbal, a written notification should follow as quickly as practical. If after making a good faith effort to notify the responsible party or parties, the City has been unable to establish contact, the City may proceed with corrective work. If there are conditions when time is of the essence in controlling erosion, the City may take immediate action and then notify the applicant as soon as possible. Any cost incurred by the City may be recovered from the applicant's financial security.
 2. Erosion Off-Site. If erosion breaches the perimeter of the site, the applicant shall immediately develop a cleanup and restoration plan, obtain the right-of entry from the adjoining property owner, and implement the cleanup and restoration plan within forty-eight (48) hours of obtaining the adjoining property owner's permission. In no case, unless written approval is received from the City, may more than seven (7) calendar days go by without corrective action being taken. If in the discretion of the City, the permit holder does not repair the damage caused by the erosion, the City may do the remedial work required. Any cost incurred by the City may be recovered from the applicant's financial security. When restoration to wetlands and other resources are required, the applicant will be required to work with the appropriate agency to ensure that the work is done properly.
 3. Erosion into Streets, Wetlands, or Water Bodies. If eroded soils (including tracked soils from construction activities) enter or appear likely to enter streets, wetlands, or other water bodies, cleanup and repair shall be immediate. The applicant shall provide all traffic control and flagging required to protect the traveling public during the cleanup operations.

4. Failure to do Corrective Work. When an applicant fails to conform to any provision of this policy within the time stipulated, the City may take one (1) or more of the following actions:
 - a. Issue a stop work order, withhold the scheduling of inspections, and/or the issuance of a Certificate of Occupancy.
 - b. Correct the deficiency or hire a contractor to correct the deficiency. Project approval constitutes a right of entry for the City or its contractor to enter upon the construction site for the purpose of correcting deficiencies in erosion control.
 - c. Require reimbursement to the City for all costs incurred in correcting stormwater pollution control deficiencies. If payment is not made within thirty (30) days after costs are incurred by the City, payment will be made from the applicant's financial securities.
5. Right of Entry and Inspection.
 - a. Powers. The applicant shall allow the City and their authorized representatives, upon presentation of credentials, to:
 - i. Enter upon the permitted site for the purpose of obtaining information, examination of records, conducting investigations or surveys.
 - ii. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.
 - iii. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of this permitted site.
 - iv. Inspect the stormwater pollution control measures.
 - v. Sample and monitor any items or activities pertaining to stormwater pollution control measures.

1208.02 PRESERVATION OF NATURAL DRAINAGE WAYS:

A. Waterways.

1. The natural drainage system shall be used as far as is feasible for storage and flow of runoff. Stormwater drainage shall be discharged to marshlands, swamps, retention basins or other treatment facilities. Diversion of stormwater to marshlands or swamps shall be considered for existing or planned surface drainage provided such diversion complies with state law and all necessary

easements have been obtained. Marshlands and swamps used for stormwater shall provide for natural or artificial water level control. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged to reduce peak flow, erosion damage, and construction cost. Pretreatment of runoff and dewatering operations must be provided before discharging to any surface water.

2. The widths of a constructed waterway shall be sufficiently large to adequately channel runoff from a ten-year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.
3. No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
4. The banks of the waterway shall be protected with a permanent vegetation.
5. The banks of the waterway should not exceed five feet (5') horizontal to one foot (1') (5:1) vertical in gradient.
6. The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
7. The bed of the waterway should be protected with turf, sod, or riprap. If turf or sod will not function properly, riprap shall be used. Rip-rap, in conformity with engineering specifications, shall consist of MnDOT 3601 material Class A with filter blanket Type 1.
8. If the flow velocity in the waterway is such that erosion of the turn side wall will occur and said velocity cannot be decreased by velocity control structures, then riprap shall replace turf on the side walls.

B. Sediment Control of Waterways.

1. To prevent sedimentation of waterways, pervious and impervious sediment traps and other sediment, control structures shall be incorporated throughout the contributing watershed.
2. Temporary pervious sediment traps shall be constructed according to standard details per plan requirements. Such structures would serve as temporary sediment control features during the construction stage of development. Development of housing and other structures shall be restricted from the area on either side of the waterway required to channel a 100-year storm.
3. Permanent impervious sediment control structures consist of sediment basins (debris basins, desilting basins, or silt traps) and shall be utilized to remove

sediment from runoff prior to its disposal in any permanent body of water or stream.

1209. SHORELAND MANAGEMENT OVERLAY DISTRICT

1209.01 STATUTORY AUTHORIZATION AND POLICY.

- A. Statutory Authorization. This shoreland ordinance ("Shoreland Ordinance") is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules, Subp. 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.
- B. Policy. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by City of Sunfish Lake.

1209.02 GENERAL PROVISIONS AND DEFINITIONS.

- A. Jurisdiction. The provisions of this Shoreland Ordinance apply to the shorelands of the public water bodies as classified in Section 1209.04 of this Shoreland Ordinance, and to the shorelands of public water bodies greater than 10 acres in unincorporated areas in which the City has, by ordinance, extended the application of its zoning regulations as provided by Minnesota Statute, Section 462.357 Subd 1. Pursuant to Minnesota Rules, Subp. 6120.2500 - 6120.3900, no lake, pond, or flowage less than ten (10) acres in size in municipalities or twenty-five (25) acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this Shoreland Ordinance.
- B. Enforcement. The City of Sunfish Lake is responsible for the administration and enforcement of this Shoreland Ordinance. Any violation of the provisions of this Shoreland Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitutes a misdemeanor and is punishable as defined by law. Violations of this Shoreland Ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in Section 1209.03.
- C. Abrogation and Greater Restrictions. It is not intended by this Shoreland Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Shoreland Ordinance imposes greater restrictions, the provisions of this Shoreland Ordinance shall prevail. All other ordinances inconsistent with this Shoreland Ordinance are hereby repealed to the extent of the inconsistency only.

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

1. Bluff. A topographic feature such as a hill, cliff, or embankment having the following characteristics:
 - a. Part or all of the feature is located in a shoreland area;
 - b. The slope must drain toward the waterbody;
 - c. The slope rises at least twenty-five feet (25') above the ordinary high-water level; and
 - d. The grade of the slope from the toe of the bluff to a point twenty-five feet (25') or more above the ordinary high-water level averages thirty percent (30%) or greater (See Figure 09-01) except that an area with an average slope of less than 18 percent over a distance of at least fifty feet (50') shall not be considered part of the bluff. See Figure 09-02.

Figure 09-01

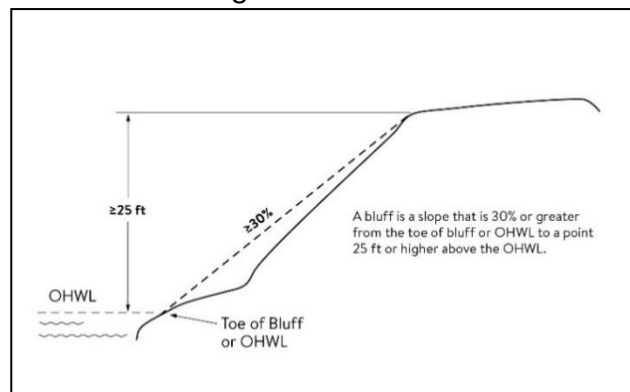
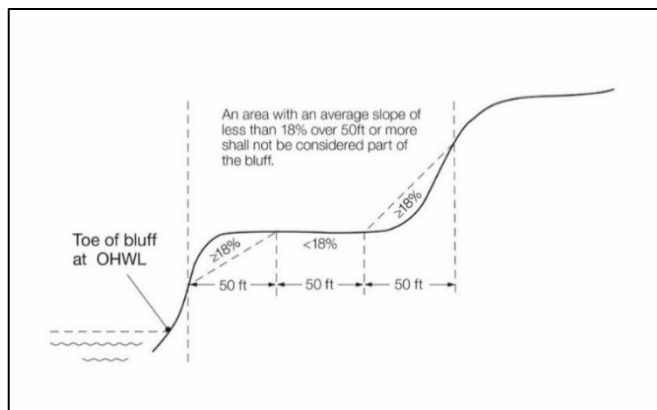
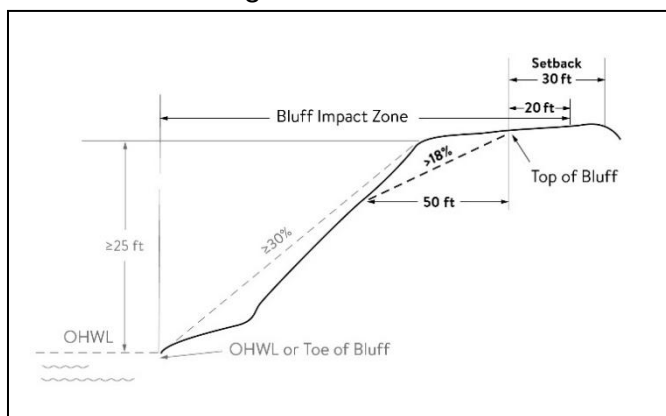


Figure 09-02



2. Bluff impact zone or BIZ. A bluff and land located within twenty feet (20') of the top of a bluff. See Figure 09-03.

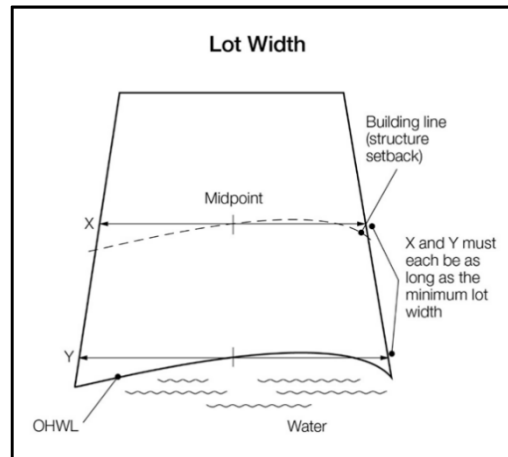
Figure 09-03



3. Bluff, Toe of. The lower point of a 50-foot segment with an average slope exceeding eighteen percent (18%) or the ordinary high-water level, whichever is higher.
4. Bluff, Top of. For the purposes of measuring setbacks, bluff impact zone, and administering vegetation management standards, the higher point of a 50-foot segment with an average slope exceeding eighteen percent (18%). See Figure 09-03.
5. Boathouse. A facility as defined by Minnesota Statutes, Section 103G.245.
6. Buffer. A vegetative feature as defined by Minnesota Statutes, Section 103F.48.

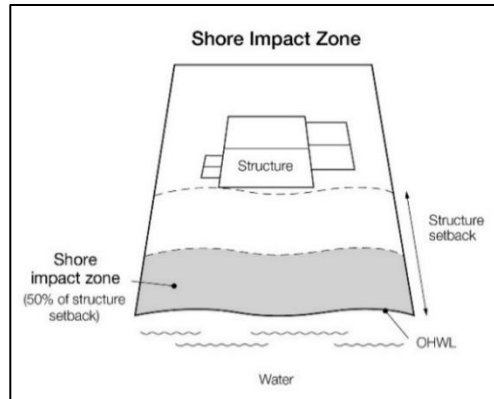
7. Building line. A line parallel to a lot line or the ordinary high-water level at the required setback beyond which a structure may not extend.
8. Commissioner. The commissioner of the Department of Natural Resources.
9. Deck. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.
10. Expansion. Any increase in a dimension such as number of units or size, area, volume, or height of an existing structure or accessory structure or facility.
11. Impervious surface. A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt, gravel driveways, or permeable pavers; and other similar surfaces.
12. Improvement. Making an existing structure or accessory structure or facility of better quality, more efficient, or more aesthetically pleasing, that does not replicate what pre-existed, but does not include an expansion, enlargement, or intensification.
13. Intensive vegetation clearing. The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.
14. Lot. For purposes of this Shoreland Management Overlay District, a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.
15. Lot width. For purposes of this Shoreland Management Overlay District, the minimum distance between:
 - a. Side lot lines measured at the midpoint of the building line; and
 - b. Side lot lines at the ordinary high-water level, if applicable. See Figure 09-04.

Figure 09-04



16. Ordinary high-water level or OHWL. See Section 1208.01.E.26.
17. Public waters. Any water as defined in Minnesota Statutes, Section 103G.005, Subd. 15, 15a.
18. Replacement and restoration. Reconstruction of part or all of an existing structure or accessory structure or facility that closely matches or replicates the preexisting structure or facility.
19. Semipublic use. The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.
20. Setback. For purposes of this Shoreland Management Overlay District, the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high-water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.
21. Sewage treatment system. Sewage treatment system has the meaning given under Minnesota Rules, Subp. 7080.1100, Subp. 82.
22. Sewer system. Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
23. Shore impact zone or SIZ. Land located between the ordinary high-water level of a public water and a line parallel to it at a setback of fifty percent (50%) of the structure setback. See Figure 09-05.

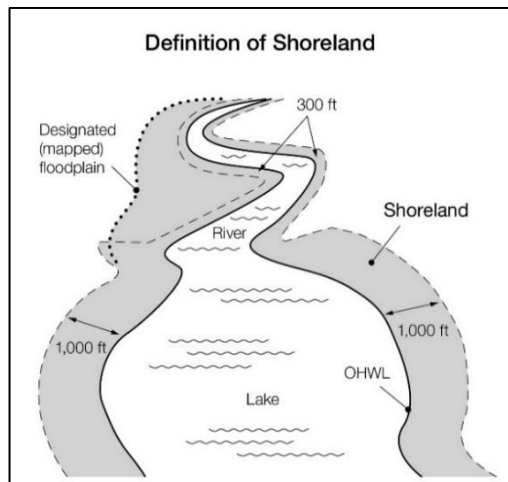
Figure 09-05



24. Shoreland. Land located within the following distances from public waters:

- a. 1,000 feet from the ordinary high-water level of a lake, pond, or flowage; and
- a. 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. See Figure 09-06.

Figure 09-06



25. Shore recreation facilities. Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.

26. Significant historic site. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on

either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

- 27. Steep slope. Lands having average slopes over twelve percent (12%), as measured over horizontal distances of fifty feet (50') or more, which are not bluffs.
- 28. Subdivision. Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.
- 29. Suitability analysis. An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.
- 30. Variance. Variance has the meaning given under Minnesota Statutes, Section 462.357, Subd. 6 (2).
- 31. Water-oriented accessory structure or facility. A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include, watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, patios, and detached decks. Boathouses and boat storage structures given the meaning under Minnesota Statutes, Section 103G.245 are not a water-oriented accessory structures.
- 32. Wetland. Wetland has the meaning given under Minnesota Rule, Subp. 8420.0111.

1209.02 ADMINISTRATION.

- A. Purpose. The purpose of this Section is to identify administrative provisions to ensure the Shoreland Ordinance is administered consistent with its purpose.
- B. Permits.

1. A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities.
 2. A certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700, Subp. 3, is required whenever a permit or variance of any type is required for any improvement on or use of the property. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high-water level.
- C. Application materials. Application for permits and other zoning applications such as variances shall be made to the City Administrator on the forms provided. The application shall include the necessary information so that the City Administrator can evaluate how the application complies with the provisions of this Shoreland Ordinance.
- D. Variances. Variances may only be granted in accordance with Minnesota Statutes, Section 462.357 and are subject to the following:
1. A variance may not circumvent the general purposes and intent of this Shoreland Ordinance; and
 2. For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required for variance approval. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high-water level.
- E. Conditional Uses. All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:
1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 2. The visibility of structures and other facilities as viewed from public waters is limited;
 3. There is adequate water supply and on-site sewage treatment; and
 4. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.
- F. Mitigation.

1. In evaluating all variances, conditional uses, zoning and building permit applications, the City Council shall require the property owner to address the following conditions, when related to and proportional to the impact, to meet the purpose of this Shoreland Ordinance, to protect adjacent properties, and the public interest:
 - a. Advanced storm water runoff management treatment;
 - b. Reducing impervious surfaces;
 - c. Increasing setbacks from the ordinary high-water level;
 - d. Restoration of wetlands;
 - e. Limiting vegetation removal and/or riparian vegetation restoration;
 - f. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
 - g. Other conditions the City Council deems necessary.
2. In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions 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 shall be attached to permits.

G. Nonconformities.

1. All nonconformities with regard to the Shoreland Overlay District are governed by Section 1201.07.

H. Notifications to the Department of Natural Resources.

1. All amendments to this Shoreland Ordinance must be submitted to the Department of Natural Resources at least thirty (30) days before the public hearing for review and approval for compliance with the statewide shoreland management rules.
2. All notices of public hearings to consider variances, conditional uses or subdivisions/plats under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least ten (10) days before the public hearing. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

3. All approved ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent 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 of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
4. Any request to change the shoreland management classification of public waters within the City of Sunfish Lake must be sent to the commissioner or the commissioner's designated representative for approval, and must include a resolution and supporting data as required by Minnesota Rules, Chapter 6120.3000, Subp. 4.
5. Any request to reduce the boundaries of shorelands of public waters within the City of Sunfish Lake must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.
- I. EAW. An Environmental Assessment Worksheet consistent with Minnesota Rules, Chapter 4410 must be prepared for projects meeting the thresholds of Minnesota Rules, Chapter 4410.4300, Subp. 19a, 20a, 25, 27, 28, 29, and 36a.

1209.03 SHORELAND CLASSIFICATION SYSTEM AND LAND USES.

A. Shoreland Classification System.

1. Purpose. To ensure that shoreland development on the public waters of the City of Sunfish Lake is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, Subp. 6120.3300.
2. The shoreland area for the waterbodies listed in A.3 below are shown on the Official Zoning Map.
3. Lakes are classified as Recreational Development (RD):

Recreational Development Lake Name	DNR Public Waters I.D. #
Sunfish Lake	19005000
Horseshoe Lake	19005100
Hornbeam Lake	19004700

B. Land Uses.

1. Purpose. To identify land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality.
2. Shoreland district land uses listed in 2.c.i. below are regulated as follows:
 - a. Permitted uses (P). These uses are allowed, provided all standards in this Shoreland Ordinance are followed;
 - b. Conditional uses (C). These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in Section 1209.03E. of this Shoreland Ordinance and any additional conditions listed in this Shoreland Ordinance; and
 - c. Not permitted uses (N). These uses are prohibited.
 - i. Land uses for lake classifications:

Land Uses	Recreational Development
Single family residential	P
Parks & historic sites	C

1209.04 DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS.

- A. Purpose. To establish dimensional and performance standards that protect shoreland resources from impacts of development.
- B. Lot Area and Width Standards. All lots must meet the minimum lot area and lot width requirements in below, subject to the following standards:
 1. Only lands above the OHWL and excluding right-of-way can be used to meet lot area and width standards;
 2. Lot width standards must be met at the building setback line in the front yard;
 3. Lake Minimum Lot Area and Width Standards:

Lot Type	Riparian Lot Area	Riparian Lot Width	Nonriparian Lot Area	Nonriparian Lot Width
Single Family	40,000 sf <u>2.5 net acres</u>	150'	40,000 sf	150'

- a. Recreational Development lake – no sewer.

C. Special Residential Lot Provisions.

1. Access Easements. Easements providing access to boat docking and mooring facilities to non-riparian property owners are prohibited.

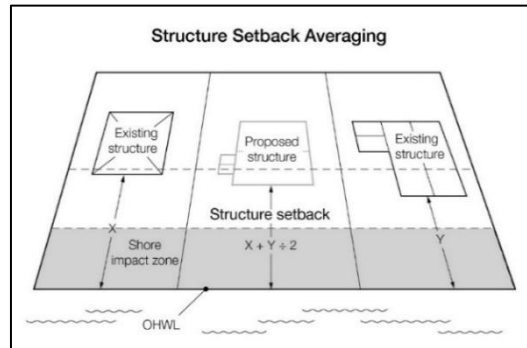
D. Placement and Design of Structures.

1. OHWL Setback for Structures and Sewage Treatment Systems. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks and comply with the following OHWL setback provisions.

Waterbody Classification	Structures with Sewer	No Sewage Treatment Systems
Recreational Development Lakes	100'	75'

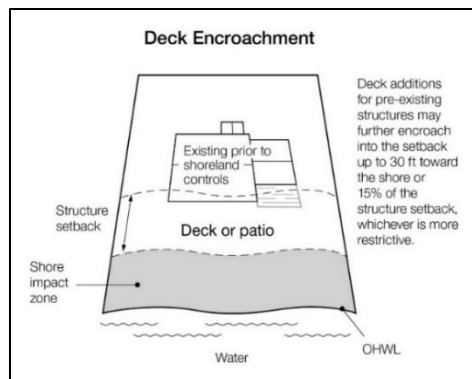
- a. OHWL Setbacks. Structures, impervious surfaces, and sewage treatment systems must meet setbacks from the ordinary high-water level, except that one water-oriented accessory structure or facility, designed in accordance with Section 1209.06.D, may be set back a minimum distance of ten feet (10') from the OHWL.
- b. Setback averaging. Where principal structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining principal structure setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone. See Figure 09-07.

Figure 09-07



- c. Setbacks of decks. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high-water level if all of the following criteria are met:
 - i. The structure existed on the date the structure setbacks were established;
 - ii. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high-water level setback of the structure;
 - iii. The deck encroachment toward the ordinary high-water level does not exceed fifteen percent (15%) of the existing setback of the structure from the ordinary high-water level or is no closer than thirty feet (30') from the OHWL, whichever is more restrictive; and
 - iv. The deck is constructed primarily of wood and is not roofed or screened. See Figure 09-08.

Figure 09-08



- d. Additional structure setbacks. Structures must also meet the following setbacks, regardless of the waterbody classification:

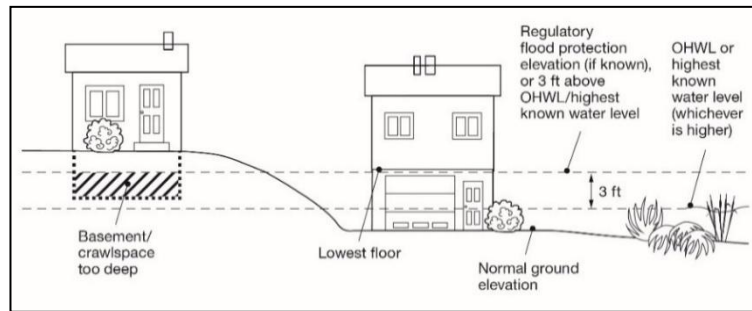
Setback from:	Setback
Top of bluff	30'
Right-of-way line of federal, state, or county highway	50'
Right-of-way line of town road, public street, or other roads not classified	20'

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

2. Lowest Floor Elevation.

- a. Determining elevations. Structures must be placed at an elevation consistent with the applicable floodplain regulatory elevations. Where these elevations are not known, the lowest floor, including basement, must be placed or flood-proofed at an elevation determined using the following methodology:
 - i. For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high-water level, whichever is higher. See Figure 09-09;
 - ii. For rivers and streams, by placing the lowest floor at least three feet above the highest known flood elevation. If highest known flood elevation is not available, by placing the lowest floor at least three feet above the ordinary high-water level (see Figure 0909), or by conducting a technical evaluation to establish a flood protection elevation. Technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules, Chapters 6120.5000 - 6120.6200.
- b. Methods for placement.
 - i. In addition to the lowest floor, all service utilities must be elevated or water-tight to the elevation determined in Section 1209.04.D.2.a.
 - ii. If elevation methods involving fill would result in filling in the SIZ, then structures must instead be elevated through floodproofing methods in accordance with Section 1209.04.D.2.b.iii. below.
 - iii. If the structure is floodproofed, then it must be built to resist hydrostatic pressure through elevation methods such as blocks, pilings, filled stem walls, elevated concrete pad, internally flooded enclosed areas, or through other accepted engineering practices consistent with FEMA technical bulletins of Sections 1209.04.D.2.b.i.ii.iii above.

Figure 09-09



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

E. Water Supply and Sewage Treatment.

1. Water supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
2. Sewage treatment. Any premises used for human occupancy must be connected to a publicly-owned sewer system, where available or comply with Minnesota Rules, Chapters 7080 – 7081.

1209.05 PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES.

- A. Placement and Design of Roads, Driveways, and Parking Areas. These facilities must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters. They must be constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil water and conservation district and comply with the following standards:
1. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts;
 2. Private watercraft access ramps, approach roads, and access-related parking areas are prohibited.
 3. For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- B. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways, lifts, and landings must meet the following design requirements:
1. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments;
 2. Landings for stairways and lifts on residential lots must not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public-space recreational uses, and planned unit developments;
 3. Canopies or roofs are not allowed on stairways, lifts, or landings;
 4. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
 5. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and

6. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas in order to provide a reasonable accommodation.

C. Docks.

1. Docks shall ~~not~~:
 - a. ~~Not Be be~~ greater than five feet (5') in width;
 - b. ~~Not Exceed exceed~~ two hundred (200) square feet in area if configured in a linear, T, L, U, Y, or similar shape;
 - c. ~~Not Extend extend~~ more than fifty feet (50') from the lakeshore; ~~or~~
 - d. ~~Not Be be~~ covered with a roof or awning, nor shall they be enclosed in any manner; ~~and~~
 - d.e. Comply with DNR dock regulations or this subsection, whichever is more restrictive.
2. Each parcel of land containing a principal structure and having lakeshore fee ownership/frontage as part of that parcel shall have no more than one (1) dock.
3. Docks may be constructed of wood, metal, fiberglass, or plastic, or any combination of thereof, provided they are visually unobtrusive and limited to color(s) which blend with the environment.

D. Water-oriented Accessory Structures or Facilities. Each residential lot may have one water-oriented accessory structure or facility if it complies with the following provisions:

1. The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than two hundred fifty (250) square feet. The structure or facility may include detached decks not exceeding eight feet (8') above grade at any point or at-grade patios;
2. The structure or facility is not in the BIZ;
3. The setback of the structure or facility from the ordinary high-water level must be at least ten feet (10');
4. The structure is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245;

5. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
 6. The roof may be used as an open-air deck with safety rails, but must not be enclosed with a roof or sidewalls or used as a storage area;
 7. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;
 8. As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for storage of watercraft and boating-related equipment may occupy an area up to 400 square feet provided the maximum width of the structure is twenty feet (20') as measured parallel to the shoreline; and
 9. Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 1209.05.D.2. if the structure is designed to accommodate internal flooding, constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
- E. Fences. Fences within the Shoreland Overlay District are subject to the fence standards in Section 1207.06.
- F. Lighting. Lighting within the Shoreland Overlay District is subject to the lighting requirements in Section 1207.02.

1209.06 VEGETATION AND LAND ALTERATIONS.

- A. Purpose. Alterations of vegetation and topography are regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, sustain water quality, and protect fish and wildlife habitat.
- B. Vegetation Management.
1. A vegetation permit from the City is required prior to vegetative clearing in the SIZ and BIZ and on steep slopes. No clearing is allowed until a plan is submitted and approved consistent with these vegetation management provisions.
 2. Removal or alteration of vegetation must comply with the provisions of this subsection except for:

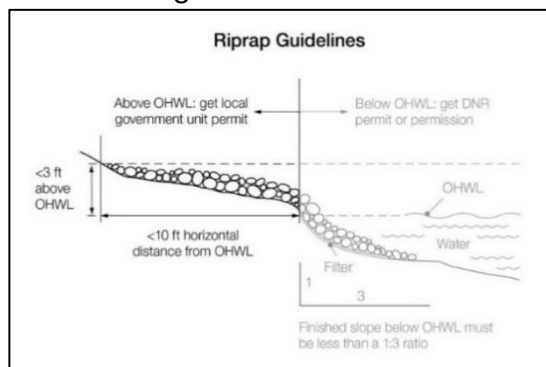
- a. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities;
 - b. The construction of public roads and parking areas if consistent with Section 1209.05.A.
3. Intensive vegetation clearing in the shore and bluff impact zones and on steep slopes is prohibited.
4. Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes, is allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - a. Cutting debris or slash shall be scattered and not mounded on the ground;
 - b. Perennial ground cover is retained; and
 - c. Picnic areas, access paths, beaches and watercraft access areas are prohibited in bluff impact zones.
5. Removal of trees, limbs, or branches that are an invasive species, or are dead, diseased, dying, or pose safety hazards is allowed without a permit.
6. Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.
7. Violations of the vegetation standards shall be subject to a Restoration Order including vegetation restoration plan and a three-year maintenance plan prepared by the landowner and approved by the City Engineer. Near shore or highly erodible locations are to be restored with a mix of deep-rooted woody and herbaceous vegetation with high stem-density, suitable for the location.

C. Grading and Filling.

1. Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section 1209.05.A.
2. Permit Requirements.
 - a. Grading, filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways, if part of an approved permit, do not require a separate grading and filling permit.

- b. For all other work, including driveways not part of another permit, a grading and filling permit is required for:
 - i. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - ii. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
 - iii. Placement of retaining walls, including boulder walls within the SIZ and BIZ provided that:
 - (a) If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project.
 - (b) The structures are used only to correct a documented existing erosion problem and not for aesthetic reasons.
 - (c) The height and length are the minimum necessary to control the erosion problem and are not higher than four feet (4') or longer than ten feet (10'), unless the City Engineer determines that a larger wall is necessary to correct the erosion problem; and
 - (d) Walls are screened by vegetation to not be visible from the waterbody.
 - iv. Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket is permitted if:
 - (a) If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project;
 - (b) The finished slope does not exceed three feet (3') horizontal to one (1) foot vertical (3:1);
 - (c) The landward extent of the riprap is within ten feet (10') of the OHWL; and
 - (d) The height of the riprap above the OHWL does not exceed three feet (3'). See Figure 09-10.
 - (e) A vegetative buffer, consisting of deep rooted and woody vegetation, is to be established at a distance no less than ten feet (10') from the landward extent of the riprap.

Figure 09-10



3. Grading, filling and excavation activities must meet the following standards:

- a. Grading or filling of any wetland must meet or exceed the wetland protection standards under Minnesota Rules, Chapter 8420 and any other permits, reviews, or approvals by other local state, or federal agencies such as watershed districts, the DNR or US Army Corps of Engineers;
- b. Land alterations must be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:
 - i. Limiting the amount and time of bare ground exposure;
 - ii. Using temporary ground covers such as mulches or similar materials;
 - iii. Establishing permanent, deep-rooted and dense vegetation cover as soon as possible;
 - iv. Using sediment traps, vegetated buffer strips or other appropriate techniques;
 - v. Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;
 - vi. Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of thirty percent (30%) or greater;
 - vii. Fill or excavated material must not be placed in bluff impact zones;

viii. Any alterations below the ordinary high-water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G; and

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

4. Connections to public waters. Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, Chapter 6115.

D. Stormwater Management.

1. General Standards:

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

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

~~ii.c.~~ When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

2. Specific Standards:

a. Impervious surfaces of lots must not exceed ~~thirty~~ twenty-five percent (~~30~~25%) of the lot area.

~~i.b.~~ When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.

~~ii.c.~~ New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, Subp. 6115.0231.

1209.07 SUBDIVISION/PLATTING PROVISIONS.

- A. Purpose. To ensure that new development minimizes impacts to shoreland resources and is safe and functional.
- B. Land suitability. Each lot created through subdivision authorized under Article XIII of this Shoreland Ordinance, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
- C. Consistency with other controls. Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed later to use the lots for their intended purpose.
- D. Water and Sewer Design Standards.
 - 1. A potable water supply and a sewage treatment system consistent with Minnesota Rules, Chapters 7080 – 7081 must be provided for every lot.
 - 2. Each lot must include at least two soil treatment and dispersal areas that support systems described in Minnesota Rules, Subp. 7080.2200 to 7080.223 or site conditions described in Subp. 7081.0270, Subp. 3 to 7, as applicable.
 - 3. Lots that would require use of holding tanks are prohibited.
- E. Information requirements.
 - 1. Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;
 - 2. The surface water features required in Minnesota Statutes, Section 505.021, Subd. 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources;
 - 3. Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
 - 4. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions,

- including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
5. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
 6. A line or contour representing the ordinary high-water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- F. Dedications. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- G. Platting. All subdivisions that cumulatively create five or more lots or parcels that are two and one-half (2 ½) acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Section 462.358 Subd. 3a and Ch. 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after the adoption of this Shoreland Ordinance unless the lot was previously approved as part of a formal subdivision.
- H. Controlled Access Lots. Controlled access lots within a subdivision must meet or exceed the lot size criteria in Section 1209.05.