

## **DIVISION 5.**

### **S SHORELAND DISTRICT**

#### **Sec. 36-691. Statutory authority; general policy.**

(a) This division is adopted pursuant to the authorization and policies contained in Minn. Stats. ch. 103G, Minn. Regs. parts 6120.2500--6120.3900, and the planning and zoning enabling legislation in Minn. Stats. ch. 462.

(b) The uncontrolled use of shorelands of the city affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The legislature of the state 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 recognized by the city.  
(Code 1984, § 375:108(1))

#### **Sec. 36-692. Applicability; compliance.**

(a) The provisions of this division shall apply to the shorelands of the public water bodies as classified in section 36-694. Pursuant to Minn. Regs. parts 6120.2500--6120.3900, no lake, pond, or flowage less than ten acres in size will be regulated. A body of water created by a private user where there was no previous shoreland shall be exempt from this division.

(b) The use of any shoreland of public waters, the size and shape of lots, the use, size, type and location of structures on lots, the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area, the cutting of shoreland vegetation, and the subdivision of land shall be in full compliance with the terms of this division and other applicable regulations, such as, but not limited to, chapter 34, article III, and chapter 14, article IV.

(c) The S shoreland district shall be applied to and superimposed upon all zoning districts as contained in this chapter as existing or amended by the text of this chapter and the zoning map. The regulations and requirements imposed by the S shoreland district shall be in addition to those established for districts which jointly apply. Under the joint application of districts, the more restrictive requirements shall apply.

(d) It is not intended by this division to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this division imposes greater restrictions, the provisions of this division shall prevail.  
(Code 1984, § 375:108(2))

### **Sec. 36-693. Administration.**

(a) *Permits.* Pursuant to other provisions of this Code, permits may be required for the construction of structures, the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by section 36-695. A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as described in sections 36-695 and 36-696, shall be reconstructed or replaced in accordance with the provisions of this division.

(b) *Certificate of occupancy.* A certificate of occupancy shall be required for each activity requiring a permit as specified in subsection (a) of this section. The certificate shall specify that the use of land conforms to the requirements of this division. Any use, arrangement or construction at variance with that authorized by permit shall be deemed a violation of this division.

(c) *Variances.* Variances may only be granted in accordance with this chapter, including, but not limited to, article II, division 5, of this chapter. No variance may circumvent the general purposes and intent of this chapter, and conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest.

- (1) The city council shall decide requests for variances under this division in accordance with article II, division 5, of this chapter. In addition, the council shall also consider the characteristics of development on adjacent properties, and no variance shall be granted which the council determines will or has a tendency to:
  - a. Result in the placement of an artificial obstruction which will restrict the passage of stormwater and floodwater in such a manner as to increase the height of flooding, except obstructions approved by the appropriate watershed district in conjunction with sound floodplain management;
  - b. Result in incompatible land uses or which would be detrimental to the protection of surface water and groundwater supplies;
  - c. Be not in keeping with land use plans and planning objectives for the city or which will increase or cause danger to life or property; or
  - d. Be inconsistent with the objectives of encouraging land uses compatible with the preservation of the natural land forms, vegetation and the marshes and wetlands within the city.
- (2) No variance shall be granted unless the applicant has submitted a shoreland impact plan as required and set forth in subsection (d) of this section. In granting any variance, the council may attach such conditions as it deems necessary to ensure compliance with the policy and intent of this chapter.
- (3) For existing developments, the application for variance must clearly demonstrate

whether public sewer or a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require connection to available public sewer as contemplated in chapter 34, article III, or, if no public sewer is available, reconstruction of a nonconforming sewage treatment system pursuant to sections 36-695(h) and 36-696(3), as well as applicable provisions of chapter 34, article III.

(d) *Shoreland impact plan.* Landowners or developers desiring to develop land or construct any dwelling or any other artificial obstruction on land located within any shoreland district within the city shall first submit a conditional use permit application as regulated by article II, division 4 of this chapter, and a plan of development, referred to in this division as a "shoreland impact plan," which shall set forth proposed provisions for sediment control, water management maintenance of landscaped features, and any additional matters intended to improve or maintain the quality of environment.

- (1) Such a plan shall set forth proposed changes requested by the applicant and affirmatively disclose what, if any, change will be made in the natural condition of the earth, including loss or change of earth ground cover, destruction of trees, grade changes, and its effect, if any, upon lakes, streams, watercourses and marshes.
- (2) The plan shall minimize tree removal, ground cover change, loss of natural vegetation, and grade changes as much as possible, and shall affirmatively provide for the relocation or replanting of as many trees as possible which are proposed to be removed.
- (3) The purpose of the shoreland impact plan shall be to eliminate as much as possible potential pollution, erosion and siltation.
- (4) No conditional use permit or shoreland impact plan shall be required for the development of permitted uses or permitted accessory uses contained within the R-A, R-1, R-2 or R-3 district provided that, where appropriate, all such uses are serviced with public sanitary sewer.

(e) *State review requirements.* No approval of any development or construction in the shoreland district can occur until any environmental review program or process required by the state environmental quality board, such as, but not limited to, the preparation of an environmental assessment worksheet or environmental impact statement, is complete.

(f) *Notification to state of public hearings.* Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under this division must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

(g) *Notification to state of approved amendments, plats, variances and conditional*

uses. A copy of approved amendments and subdivisions/plats, and final decisions granting 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. In addition, when a variance is approved after the state department of natural resources has formally recommended denial in the hearing record, the notification of the approved variance required in this subsection shall also include the city council's summary of the public records/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(h) *Responsibility of owner to obtain required approvals.* The granting of any permit, variance, or subdivision approval under provisions of this division shall in no way affect the owner's capability or responsibility to obtain the approval required by any other statute or ordinance or legislation of any state agency or subdivision thereof. Approval may be expressly given in conjunction with other permits applied for, but no approval shall be implied from the grant of such permits or from the necessity to apply for a permit as described in this section. (Code 1984, § 375:108(3))

**Sec. 36-694. Shoreland classification system.**

(a) The public waters of the city have been classified as provided in this section consistent with the criteria found in Minn. Regs. part 6120.3300 and the protected waters inventory map for the county. Other surface waters affected by this division, generally having less than ten acres, are classified as wetland systems and thus are regulated under the provisions of article VII, division 7 of this chapter.

(b) The surface waters affected by this division and which require controlled development of their shoreland (shoreland district) are identified in this section and include any and all navigable inlets, channels, bays, and waterways, whether naturally created or manmade, sharing the water of a body of water identified in subsection (c) of this section.

(c) The shoreland area for the following water bodies shall be as defined in section 36-3 and as shown on the official zoning map:

(1) *Natural environment lakes.*

	Protected Waters Inventory ID No.
Cook Lake	27-120
Goose Lake	27-122
Mud Lake	27-112
Pike Lake	27-111

(2) *Recreational development lakes.*

	Protected Waters Inventory ID No.
Cedar Island Lake	27-119
Fish Lake	27-118

Rice Lake	27-116
Edward Lake	27-121
Weaver Lake	27-117

(3) *General development lakes.*

	Protected Waters Inventory ID No.
Eagle Lake	27-111

(4) *Tributary streams.* Elm Creek, Rush Creek, and those water flowages identified by the commissioner and shown on the map referred to in subsection (a) of this section and in section 36-182.

(Code 1984, § 375:108(4))

**Sec. 36-695. Lot size, setbacks and improvement requirements; conditional uses.**

(a) *Minimum lot area and dimensions.* The following charts set forth the minimum lot area requirements of each respective classification stated in section 36-694:

(1) Minimum lot size above normal high-water mark:

		Natural Environment	Recreational Development	General Development Lakes and Tributary Streams
a.	Nonsewered, abutting lake or stream:			
	Single-family	2 acres	1 acre	1 acre
	Duplex	120,000 sq. ft.	80,000 sq. ft.	40,000 sq. ft.
	Triplex	160,000 sq. ft.	120,000 sq. ft.	60,000 sq. ft.
	Quad	200,000 sq. ft.	160,000 sq. ft.	80,000 sq. ft.
b.	Nonsewered, non-abutting:			
	Single-family	2 acres	1 acre	1 acre
	Duplex	160,000 sq. ft.	80,000 sq. ft.	80,000 sq. ft.
	Triplex	240,000 sq. ft.	120,000 sq. ft.	120,000 sq. ft.
	Quad	320,000 sq. ft.	160,000 sq. ft.	160,000 sq. ft.
c.	Sewered, abutting lake or stream:			
	Single-family	1 acre	20,000 sq. ft.	15,000 sq. ft.
	Duplex	70,000 sq. ft.	35,000 sq. ft.	26,000 sq. ft.
	Triplex	100,000 sq. ft.	50,000 sq. ft.	38,000 sq. ft.
	Quad	130,000 sq. ft.	65,000 sq. ft.	49,000 sq. ft.
d.	Sewered, non-abutting:			
	Single-family	20,000 sq. ft.	15,000 sq. ft.*	10,000 sq. ft.
	Duplex	35,000 sq. ft.	26,000 sq. ft.	17,500 sq. ft.
	Triplex	52,000 sq. ft.	38,000 sq. ft.	25,000 sq. ft.
	Quad	65,000 sq. ft.	49,000 sq. ft.	32,500 sq. ft.

\*Platted lots existing September 30, 1976, shall be exempt from this requirement.

(1) Lot width\* (measured at building line):

		Natural Environment	Recreational Development	General Development Lakes and Tributary Streams
a.	Nonsewered, abutting lake or stream:			
	Single-family	200 ft.	150 ft.	100 ft.
	Duplex	300 ft.	225 ft.	180 ft.
	Triplex	400 ft.	300 ft.	260 ft.
	Quad	500 ft.	375 ft.	340 ft.
b.	Nonsewered, non-abutting:			
	Single-family	200 ft.	150 ft.	150 ft.
	Duplex	400 ft.	265 ft.	265 ft.
	Triplex	600 ft.	375 ft.	375 ft.
	Quad	800 ft.	490 ft.	490 ft.
c.	Sewered, abutting lake or stream:			
	Single-family	125 ft.	80 ft.	80 ft.
	Duplex	225 ft.	135 ft.	135 ft.
	Triplex	325 ft.	195 ft.	195 ft.
	Quad	425 ft.	255 ft.	255 ft.
d.	Sewered, non-abutting:			
	Single-family	125 ft.	80 ft.	80 ft.
	Duplex	220 ft.	135 ft.	135 ft.
	Triplex	315 ft.	190 ft.	190 ft.
	Quad	410 ft.	245 ft.	245 ft.

\*Platted lots existing September 30, 1976, shall be exempt from this requirement.

- (1) Residential subdivisions with dwelling unit densities exceeding those stated in subsections (a)(1) and (2) of this section will not be allowed.
- (2) Only land above the ordinary high-water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high-water level and at the building line. The sewered lot area dimensions in subsections (a)(1) and (2) of this section can only be used if publicly owned sewer system service is available to the property.
- (3) Subdivisions of duplexes, triplexes, and quads on natural environment lakes must also meet the following standards:

- a. Each building must be set back at least 200 feet from the ordinary high-water level;
  - b. Each building must be connected to public sewer and water;
  - c. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
  - d. No more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.
- (4) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions shall require a conditional use permit and must meet or exceed the following standards:
- a. They must meet the width and size requirements for residential lots, and be suitable for the intended use.
  - b. Persons desiring to plat or develop such lots shall submit with a subdivision or other development application a proposed docking, launching and/or mooring plan, which plan shall set forth therein all such facilities to be used by the landowners within the proposed development.
    - 1. Such plan shall set forth the location and size of the proposed docking, launching and/or mooring facilities to be used by the landowners within the proposed development.
    - 2. No such facility shall be constructed upon waters or lakes or upon land contiguous thereto when the usage of such facilities is to be by the owner of land which land has been developed or platted subsequent to July 7, 1976, without the facilities having been approved by the city council.
    - 3. The city council shall, when considering approval of any such docking, launching and/or mooring facilities for usage on waters or lakes within the city, approve only such facilities which centralize the docking, launching and/or mooring or watercraft owned or used by landowners within the development.
    - 4. The city council shall, before granting approval of any such facilities, consider the watercraft use density of the area and shall make a finding that the approval of such facilities does not disproportionately increase average watercraft use density found on other shoreland properties in the area.
    - 5. This subsection b shall not apply to a riparian single-family lot

separately owned and not subject to a public walkway or trail easement adjacent to the shoreline.

- c. If docking, mooring, or over-water storage of more than six watercraft is to be allowed at a controlled access lot, then the frontage of the lot as measured at the ordinary high-water level, and keeping the same lot depth, must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

#### CONTROLLED ACCESS LOT FRONTAGE REQUIREMENTS

Ratio of Lake Size to Shore Length (percent)	Required Increase in Frontage (acres/mile)
Less than 100	25
100--200	20
201--300	15
301--400	10
Greater than 400	5

- d. Such lots must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lots.
  - e. Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed.
    - 1. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the nonsignificant conflict activities include swimming, sunbathing, or picnicking.
    - 2. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.
- (b) *Setbacks.* When more than one setback applies to a site, structures and facilities

must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high-water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Otherwise, structures shall be located as follows:

- (1) The setback from the normal high-water mark shall be as follows:

Setback from Normal High-Water Mark*	Natural Environment	Recreational Development	General Development Lakes and Tributary Streams
Nonsewered	200 ft.	100 ft.	100 ft.
Sewered	150 ft.	75 ft.	75 ft.

\*Not applicable to piers, docks, approved shoreland district lakeshore setback area fences, and properties abutting those portions of tributary streams that are not navigable by watercraft or utilized or planned to be utilized by the city for public trail or park purposes.

Water-oriented accessory structures may be set back less than 75 feet from the normal high-water mark if the slope conditions along the entire width of the property, between the normal high-water mark and a point 75 feet from the ordinary high-water mark, are 4:1 or steeper over a minimum horizontal distance of 16 feet; provided, however, that the structures shall be placed at the toe of the 4:1 slope and at a point as far back as possible from of the ordinary high-water mark taking into account the allowable structure size, but at no point closer than 25 feet from the ordinary high-water mark.

Water-oriented accessory structures located less than 75 feet from the ordinary high-water mark shall not be greater than ten feet in height and 100 square feet in area and shall be screened as much as practical from view from the public water, utilizing vegetation, topography and/or color treatment (assuming summer leaf-on conditions), subject to the review and approval of the city.

- (2) Front yard and side yard setbacks shall conform with the regulations for the zoning district in which the property is located.
- (3) Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones, and no structure shall be placed within 30 feet of the top of a bluff.
- (4) Structures must be placed in accordance with any floodplain and wetland regulations applicable to the site. The following structures, improvements, materials and uses are prohibited and will not be approved in shoreland setback areas unless otherwise specifically allowed pursuant to some other provision of this Code:

- a. Houses, runs and pens for animals.
- b. Ice or fish houses.
- c. Storage sheds or buildings.
- d. Fences, except as provided in subsection 36-816(g).
- e. Decks or platforms, the main surface of which at any one point is more than six inches above the surface of the ground.
- f. Open storage, debris or junk.
- g. Boat storage or launching facilities, except as an integral part of a dock or pier that otherwise complies with the terms of this Code. Boat storage or launching facilities may not be enclosed and must be exposed to the elements from all directions.
- h. Stairways, except those meeting the following design specifications:
  - 1. Stairways shall be of wood, open stairway construction, stained or painted in earth tones, or otherwise treated so as to blend with the natural surroundings of the setback area.
  - 2. Stairways and landings may either be constructed above the ground on posts or pilings or installed directly into the ground or hillside wherever reasonably possible, provided they are designed and built in a manner that ensures control of soil erosion.
  - 3. Steps shall be no wider than three feet. Wider stairways may be used for commercial properties and public open space recreational properties.
  - 4. Landings shall be no wider or deeper than double the width of the steps and must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties and public open space recreational properties.
  - 5. Stairways shall be built in compliance with the city's building code.
  - 6. Canopies or roofs are not allowed on stairways or landings.
  - 7. Stairways 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.

8. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subsections 1 through 7 of this subsection are complied with in addition to the requirements of Minnesota Regulations chapter 1340.
  - i. Any concrete, blacktop, or other such nonporous walkway, driveway, or double-track vehicle access having a total width of more than five feet, except that this prohibition shall not apply to public improvements.
  - j. Gazebos, screen houses, and pump houses.
  - k. Any other structure, improvement, material or use that does not provide the property owner with access to and from lake waters, or that would tend to pollute or otherwise make dangerous the waters of a rising lake as debris or otherwise, or might otherwise be a threat to the public's health, safety or welfare.
  - l. Wind energy conversion systems.
  - m. Photovoltaic or solar thermal systems not on a building.
- (5) For lakes, ponds or flowages, no structure shall be placed in violation of article VII, division 4, of this chapter.
- (6) Regulations for shoreland district lakeshore setback fences are set forth in section 36-816(g).
- (7) Additions for decks, uncovered porches or patios shall be subject to the following setbacks:
  - a. All decks, uncovered porches or patios added to homes built after the adoption of the ordinance from which this division is derived (March 20, 1975) shall comply with setback requirements in this subsection (b).
  - b. All decks, uncovered porches or patios that may encroach into required setback areas, if added to homes built before March 20, 1975, will be considered subject to the following:
    1. Deck encroachments lakeward beyond the existing building line will be considered only after all other alternative locations and designs have been evaluated and found to be impractical.

2. The maximum allowable deck, uncovered porch, or patio lakeward of the building line shall not exceed 15 percent of the structure's existing setback. The minimum setback, however, for any deck, uncovered porch or patio shall be no less than 50 percent of the required setback distance for each lake class (natural environment, recreational development and general development) and tributary streams.
  3. Any deck, uncovered porch or patio that is constructed closer than the required setback from the normal ordinary water elevation shall be constructed of wood and be stained or painted in earth tones, or otherwise treated so as to blend with the natural surroundings of the setback area.
  4. Decks, porches or patios shall not be screened in or roofed under any circumstances.
- (8) Except as provided in section 36-8 and articles III and IV of this chapter, all structures in residential districts must not exceed 30 feet in height. The limitation contained in this subsection (8) does not apply to churches, nonresidential agricultural structures, or multiple dwellings, but their height may be subject to limitations set forth in articles III and IV of this chapter.
  - (9) The zoning administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation. No structure shall be placed in any area which will require grading and/or filling which will result in impairment of public waters by reason of erosion and sedimentation, violate provisions of statewide standards and criteria for management of floodplain areas of the state, or result in impairment of fish or aquatic life.
  - (10) The terms of this subsections (a) and (b) of this section shall not apply to property owned by the city or any other political subdivision or public governmental body where the city council finds that a proposed use, although not in compliance with such provisions, will preserve the natural features of a site's amenities, or will be an enhancement to the public function of a site or the public facility on the site, and will not diminish the storage capacity of the affected waters.
  - (11) Unless otherwise provided, any structure, improvement, material or use for which a permit or other review or permission is not already required elsewhere in this Code shall require a permit from the zoning administrator prior to the placement or construction thereof in any setback area required by this section. Application

for such a permit shall be made in writing by the property owner and delivered to the city's community development department.

- a. The application shall include a description of the proposed structure, improvement, material or use in sufficient detail so as to enable the zoning administrator to assess compliance with this division or lack thereof.
- b. The zoning administrator may request such additional information from the applicant as is necessary to review the application and may require the applicant to modify the proposal as a condition to receiving a permit or may refuse to issue a permit if the proposal is contrary to this division.

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

(1) *Vegetation alterations.*

- a. Vegetation alteration necessary for the construction of structures, public trails, sewage treatment systems, roads and parking areas regulated by subsection (d) of this section are exempt from the vegetation alteration standards that follow.
- b. Removal or alteration of vegetation, except for agricultural uses as regulated in subsection (f)(2) of this section, is allowed subject to the following standards:
  1. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed.
  2. In shore impact and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement, if allowed, of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted structures or facilities, provided that the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer leaf-on conditions, is not substantially reduced.
  3. The provisions of subsections 1 and 2 of this subsection are not meant to limit the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards, nor are they meant to prevent normal and ordinary lawn maintenance.

4. Natural vegetation shall be restored insofar as feasible after any construction project.

(2) *Topographic alterations; grading and filling.*

- a. Grading, filling and excavations necessary for construction of structures, driveways and sewage treatment systems under validly issued permits do not require the issuance of a separate grading and filling permit unless otherwise required pursuant to any other section of this Code, such as, but not limited to, chapter 14, article IV. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures, driveways and sewage treatment systems.
- b. Public roads and parking areas are regulated by subsection (d) of this section.
- c. Notwithstanding subsections a and b of this subsection, a grading and filling permit will be required for:
  1. The movement of more than ten cubic yards of material on steep slopes or within shore or bluff impact zones.
  2. The movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.
- d. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
  1. The provisions of article VII, division 7, of this chapter shall be applicable.
  2. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
  3. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover such as sod must be established as soon as possible.
  4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used.
  5. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States

Soil Conservation Service.

6. Fill or excavated material must not be placed in a manner that creates an unstable slope.
  7. Plans to place fill or excavated material on steep slopes must be reviewed by the city engineer for continued slope stability and must not create finished slopes of more than four to one.
  8. Fill shall not restrict a floodway or destroy the storage capacity of a floodplain.
  9. Fill or excavated material must not be placed in bluff impact zones or in areas lower in elevation than the normal high-water mark.
  10. Any alterations below the ordinary high-water level of public waters must first be authorized by the commissioner under Minn. Stats. § 103G.245.
  11. No grading or filling shall be permitted within 20 feet of the normal high-water mark of a water body. Notwithstanding this restriction, grading or filling in connection with the following improvements may be made within the 20 feet so long as any permit required for the improvement has first been issued: beaches, landscaping for slope stabilization, erosion protection, installation of public or private utilities, and public improvements.
  12. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
  13. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed four feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high-water level, and the height of the riprap above the ordinary high-water level does not exceed three feet. Such riprap shall not be permitted solely for decorative purposes.
- e. Connections to public waters shall be subject to the following:
1. Any work which will change or diminish the course, current, or cross section of a public water must be approved by the state department of natural resources and city before the work is begun. This includes construction of channels and ditches, lagooning, dredging of the lake bottom for the removal of muck, silt or weeds,

and filling in the lake bed, including low-lying marsh areas. Approval shall be construed to mean the issuance of a conditional use permit by the city and the issuance by the commissioner of natural resources of a permit pursuant to Minn. Stats. § 103G.315 and other related statutes.

2. Excavation on shorelands where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, shall require a permit from the city engineer prior to commencement of construction. Such permit shall be obtained only after the state commissioner of natural resources has approved the proposed connection to public waters. Approval will be given only if the proposed work is consistent with applicable state regulations for work in beds of public waters.

(d) *Placement and design of roads, driveways, and parking areas.*

- (1) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by an architect, landscape architect, or civil engineer, any one of which must be registered with the state, that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district or other applicable technical materials. Parking areas of more than four spaces shall be screened in accordance with a landscaping plan submitted and approved by the city council.
- (2) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
- (3) Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this section are met. For private facilities, the grading and filling provisions of subsection (c)(2) of this section must be met.
- (4) This subsection (d) does not apply to public trails.

(e) *Stormwater management.*

(1) *General standards.*

- a. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater

runoff before discharge to public waters.

- b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, and erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used.

(2) *Specific standards.*

- a. Impervious surface coverage of lots must not exceed 30 percent of the lot area, unless there is provided mitigating stormwater infrastructure acceptable to and approved by the commissioner and all other authorities having jurisdiction over stormwater management for the lot.
- b. When constructed facilities are used for stormwater management, documentation must be provided by a civil engineer registered with the state that they are designed and installed consistent with the latest current city stormwater management plan.
- c. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(f) *Special provisions for commercial, industrial, and agricultural uses.*

- (1) *Commercial and industrial uses.* Surface-water-oriented commercial uses and industrial uses with similar needs are prohibited. Commercial uses and industrial uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high-water level setback or be substantially screened, blended, or camouflaged from view from the water by vegetation, topography, or architecture, assuming summer, leaf-on conditions.

(2) *Agriculture uses.*

- a. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent

vegetation or operated under an approved conservation plan (resource management systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high-water level.

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

(g) *Conditional uses.* Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses, established community-wide. The following additional evaluation criteria and conditions apply within shoreland areas and are in addition to the requirements of article II, division 4, of this chapter:

- (1) A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:
  - a. Soil erosion or other possible pollution of public waters, both during and after construction, is prevented;
  - b. The visibility of structures and other facilities as viewed from public waters is limited;
  - c. The site is adequate for water supply and on-site sewage treatment if public sewer or water are not available; and
  - d. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
- (2) The city council, upon consideration of the criteria listed in subsection (g)(1) of this section and the purposes of this chapter, shall attach such conditions to the issuance of conditional use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:
  - a. Increased setbacks from the ordinary high-water level;
  - b. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted;
  - c. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle

parking areas; and

d. Connection to public sewer and water if available.

(h) *Water supply and sewage treatment.*

(1) Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the state department of health and the state pollution control agency.

(2) Any premises used for human occupancy shall be provided with an adequate method of sewage disposal to be maintained in accordance with acceptable practices and as follows:

a. Public sanitary sewer collection and treatment facilities must be used where available and where feasible.

b. All private sewage treatment systems in the S shoreland district must meet or exceed the state pollution control agency's standards for individual sewage treatment systems contained in the document titled "Individual Sewage Treatment Systems Standards, chapter 7080," a copy of which is hereby adopted by reference and declared to be a part of this chapter.

c. Placement of septic tank soil absorption systems/on-site sewage treatment systems shall be subject to the following setback requirements where soil conditions are adequate and where public sewer is not available:

1. On natural environment lakes, at least 150 feet from the normal high-water mark;

2. On recreational development lakes, at least 75 feet from the normal high-water mark;

3. On general development lakes and tributary streams, at least 50 feet from the normal high-water mark.

d. A septic tank/drainfield system shall be the only acceptable system for installation where public sewer is not available unless it can be demonstrated that this system is not feasible on the particular lot in question and it can be demonstrated that the system being proposed as an alternative will not cause a pollution problem.

e. No person shall install, alter, repair or extend any individual sewage disposal system without first obtaining a permit therefor from the director of fire and building inspection services for the specific installation, alteration, repair or extension.

f. Location and installation of a septic and soil absorption system (where public sewer is not available) shall be such that, with reasonable maintenance, it will function in a sanitary manner and will not create a nuisance, endanger the quality of any domestic water supply, or pollute or contaminate any waters of the state. If the determination of a site's suitability cannot be made with publicly available existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations. In determining a suitable location for the system, consideration shall be given to the following:

1. The size and shape of the lot;
2. Slope of natural and finished grade;
3. Soil conditions, properties, and permeability;
4. High groundwater elevation;
5. Geology;
6. Proximity to existing or future water supplies;
7. Depth to the highest known or calculated groundwater table or bedrock;
8. Accessibility for maintenance;
9. The existence of lowlands, local surface depressions, and rock outcrops; and
10. Possible expansion of the system.

g. Soil absorption systems shall not be allowed in the following areas for disposal of domestic sewage:

1. Low swampy areas or areas subject to recurrent flooding;
2. Areas where the highest known groundwater table, bedrock or impervious soils conditions are within four feet of the bottom of the system; and
3. Areas where ground slope will create a danger of seepage of the effluent onto the surface of the ground.

- h. Nonconforming sewage treatment systems shall be regulated and upgrading in accordance with section 36-696(3).

(Code 1984, § 375:108(5); Ord. No. 08-07, § 1, 5-5-2008; Ord. No. 09-11, § 2, 10-5-2009)

**Sec. 36-696. Nonconformities.**

Nonconforming lots, structures, and uses shall be governed by the provisions of section 36-6. In addition, the following standards will also apply in shoreland areas. Where there is a conflict between this section and section 36-6, the conflict shall be resolved in such a manner that will tend to eliminate or bring into compliance the nonconformity.

- (1) *Construction on nonconforming lots.*
  - a. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating any proposed variance, the city council shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
  - b. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of section 36-695(a) and (b), the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of section 36-695(a) and (b) as much as possible.
- (2) *Outside dimensions, additions or expansions.* All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of section 36-695. Any deviation from these requirements must be authorized by a variance pursuant to article II, division 5 of this chapter and section 36-693(c).
- (3) *Nonconforming sewage treatment systems.*
  - a. A sewage treatment system not meeting the requirements of section 36-695(h) must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high-water level. However, sanitary facilities shall be discontinued when there is evidence of septic tank effluent percolating from the ground flowing directly into a lake or stream, or other indications of system failure.
  - b. The city intends to identify nonconforming sewage treatment systems in

the S shoreland district. Any nonconforming system identified by this program shall be upgraded or replaced within a reasonable period of time, which will not exceed two years from notice of such identification. Sewage systems installed according to all applicable local shoreland management standards adopted under Minn. Stats. §§ 103F.201--103F.221, and their predecessors, in effect at the time of installation, may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the state pollution control agency's chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

(Code 1984, § 375:108(6))

### **Sec. 36-697. Subdivision and platting.**

The subdivision and platting requirements of chapter 30 shall apply to land in the S shoreland district. In addition, the following requirements shall also apply:

- (1) Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis shall include, but not be limited to, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
- (2) Subdivisions must conform to all ordinances and controls of the city.
- (3) Sufficient information must be submitted by the applicant for the city to make a determination of land suitability. Such information shall include, but not be limited to, the following:
  - a. The surface water features required in Minn. Stats. § 505.02, subd. 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
  - b. Information regarding extent of anticipated vegetation and topographic alterations, and near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation;
  - c. Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and
  - d. 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.

- (4) Easements shall be dedicated over natural drainage or ponding areas for management of stormwater and significant wetlands.
- (5) Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in section 36-695(a)(6).

(Code 1984, § 375:108(7))

### **Sec. 36-698. Planned unit developments.**

(a) *Allowed developments.* Planned unit developments are allowed in the S district for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land.

(b) *Review and approval.* Planned unit developments must be processed pursuant to divisions 2 and 4 of article II of this chapter.

(c) *Required information.* The applicant for a PUD must submit the following documents prior to final action being taken on the application request:

- (1) A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems are not available), and topographic contours at two-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.
- (2) A property owners' association agreement (for residential PUDs) with mandatory membership, all in accordance with the requirements of subsection (f) of this section.
- (3) Deed restrictions, covenants, permanent easements or other instruments that:
  - a. Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
  - b. Ensure the longterm preservation and maintenance of open space in accordance with the criteria and analysis specified in subsection (f) of this section.
- (4) When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.

(5) Those additional documents as requested by the city that are necessary to explain how the PUD will be designed and will function.

(d) *Determination of suitable area.* Proposed new planned unit developments or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation under subsection (e) of this section:

(1) The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high-water level at the following intervals, proceeding landward:

#### SHORELAND TIER DIMENSIONS

	Unsewered (feet)	Sewered (feet)
General development lakes--first tier	200	200
General development lakes--second and additional tiers	267	200
Recreational development lakes	267	267
Natural environment lakes	400	320

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

(e) *Dwelling unit/dwelling site density evaluation.* The procedures for determining the "base" density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the water body, but must not be transferred to any other tier closer to the water body.

(1) *Residential PUD "base" density evaluation.* The suitable area within each tier is divided by the single residential lot size standard for lakes. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses in this section and the design criteria in subsection (f) of this section.

(2) *Commercial PUD "base" density evaluation.*

a. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable

space.

- b. Select the appropriate floor area ratio from the following table:

COMMERCIAL PLANNED UNIT DEVELOPMENT FLOOR AREA RATIOS\*

Unit floor area (sq. ft.)	Public Waters Classes		Natural environment lakes
	Sewered general development lakes; first tier on unsewered general development lakes	Second and additional tiers on unsewered general development lakes; recreational development lakes	
200	0.040	0.020	0.010
300	0.048	0.024	0.012
400	0.056	0.028	0.014
500	0.065	0.032	0.016
600	0.072	0.038	0.019
700	0.082	0.042	0.021
800	0.091	0.046	0.023
900	0.099	0.050	0.025
1,000	0.108	0.054	0.027
1,100	0.116	0.058	0.029
1,200	0.125	0.064	0.032
1,300	0.133	0.068	0.034
1,400	0.142	0.072	0.036
1,500	0.150	0.075	0.038

\*For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home or, if unknown, the ratio listed for 1,000 square feet.

- c. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
- d. Divide the total floor area by tier computed in under subsection (e)(2)c of this section by the average inside living area size determined under subsection a of this subsection. This yields a base number of dwelling units and sites for each tier.
- e. Proposed locations and numbers of dwelling units or sites for the commercial planned unit development are then compared with the tier, density and suitability analyses in this section and the design criteria in subsection (f) of this section.

(3) *Density increase multipliers.*

a. Increases to the dwelling unit or dwelling site base densities determined under subsection (e)(1) or (2) of this section are allowable if the dimensional standards in section 36-695 are met or exceeded and the design criteria in subsection (f) of this section are satisfied. The allowable density increases under subsection (e)(3)b of this section will only be allowed if structure setbacks from the ordinary high-water level are increased to at least 50 percent greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the city and the setback is at least 25 percent greater than the minimum setback.

b. Allowable dwelling unit or dwelling site density increases for residential or commercial planned unit developments are as follows:

Density Evaluation Tiers	Maximum Density Increase Within Each Tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

(f) *Maintenance and design criteria.*

(1) *Maintenance and administration requirements.*

a. Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

b. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

1. Commercial uses prohibited (for residential PUDs);
2. Vegetation and topographic alterations other than routine maintenance prohibited;
3. Construction of additional buildings or storage of vehicles and other materials prohibited; and

4. Uncontrolled beaching of watercraft prohibited.
- c. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners' association with the following features:
1. Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
  2. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
  3. Assessments must be adjustable to accommodate changing conditions; and
  4. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
- (2) *Open space.* Planned unit developments must contain open space meeting all of the following criteria:
- a. At least 50 percent of the total project area must be preserved as open space.
  - b. Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space.
  - c. Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.
  - d. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public.
  - e. Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
  - f. Open space must not include commercial facilities or uses.
  - g. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive covenants, permanent easements, public dedication and acceptance, or other equally

effective and permanent means.

- h. The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUDs, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUDs, at least 50 percent of the shore impact zone must be preserved in its natural state.

(3) *Erosion control and stormwater management.* Erosion control and stormwater management plans must be developed and the PUD must:

- a. Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure.
  - 1. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features.
  - 2. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrants.
- b. Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except that for commercial PUDs 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with section 36-695(c).

(4) *Centralization and design of facilities and structures.* Centralization and design of facilities and structures must be done according to the following standards:

- a. Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the state department of health and sections 36-695(b) and 36-695(h). On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system.
- b. Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and

located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high-water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high-water level must be increased in accordance with subsection (e)(3) of this section for developments with density increases.

- c. Shore recreation facilities, including, but not limited to, swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them.
    - 1. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors.
    - 2. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).
    - 3. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.
  - d. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the city, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
  - e. Accessory structures and facilities must meet the required principal structure setback and must be centralized.
  - f. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in section 36-695(b) and are centralized.
- (5) *Conversion of existing uses and facilities.* Existing land uses and facilities may be converted to residential planned unit developments if all of the following standards are met:
- a. Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified.

- b. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit.
- c. Shore and bluff impact zone deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
  - 1. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
  - 2. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and
  - 3. If existing dwelling units are located in shore or bluff impact zones, conditions attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

(6) *Densities.* Existing dwelling unit or dwelling site densities that exceed standards in subsection (e) of this section may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

(Code 1984, § 375:108(8))

**Secs. 36-699--36-720. Reserved.**