

CITY CODE
 Chapter 26 - ZONING
 ARTICLE VI. - SHORELAND MANAGEMENT
 DIVISION 2. - SPECIFIC LAND USE RESTRICTIONS

DIVISION 2. - SPECIFIC LAND USE RESTRICTIONS ^[56]

⁽⁵⁶⁾ **Editor's note**— Ord. No. 92-13, adopted Dec. 14, 1992, amended Ch. 26, Art. VI, Div. 2, to read as herein set out in §§ 26-516—26-527. Prior to inclusion of said ordinance, §§ 26-516—26-525 pertained to similar subject matter and derived from Ord. No. 86-4, § 7.11 (II)(C)—(H), adopted June 30, 1986.

Sec. 26-516. - Lots and setbacks.

In order to reduce the effects of overcrowding, to prevent pollution of waters of the state, to maintain property values and to maintain natural characteristics of shorelands and adjacent water areas, the following standards shall be applied to all shorelands of the protected waters within the city as listed in Division 1 of this article:

- (1) Lot area:

Minimum Lot Area for Sewered Lots (square feet)

	Waterfront Lots	Other Lots
Single	15,000	10,000
Duplex	26,000	17,500
Triplex	38,000	25,000
Quad	49,000	32,500

Minimum Lot Area for Nonsewered Lots (square feet)

	Waterfront Lots	Other Lots
Single	20,000	40,000
Duplex	40,000	80,500
Triplex	60,000	120,000
Quad	80,000	160,000

- (2) Water frontage and lot width:

Minimum Water Frontage and Lot Width for Sewered Lots

	Waterfront Lots	Other Lots
Single	85	85
Duplex	135	135
Triplex	195	190
Quad	255	245

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Minimum Water Frontage and Lot Width for Nonsewered Lots

	Waterfront Lots	Other Lots
Single	100	150
Duplex	180	265
Triplex	260	375
Quad	340	490

- (3) Structure setback from ordinary high water mark:
 - a. For sewerred lots: fifty (50) feet.
 - b. For unsewered lots: one hundred (100) feet.
- (4) Structure setbacks from road:
 - a. Highways (federal, state & county), fifty (50) feet.
 - b. Municipal roads, thirty (30) feet.
- (5) Structure setback from top of bluff, thirty (30) feet, and no structures except stairways, lifts and landings are allowed in bluff impact zone.
- (6) Structure setback from unplatted cemeteries, fifty (50) feet.
- (7) Sewage systems from ordinary high water level, seventy-five (75) feet.
- (8) Where the requirements of the underlying zoning district as shown on the official map are more restrictive the more restrictive standards shall apply.

(Ord. No. 92-13, 12-14-92)

Sec. 26-517. - Agricultural use standards.

General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore 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, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the ordinary high water level.

(Ord. No. 92-13, 12-14-92)

Sec. 26-518. - Significant historic sites.

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

(Ord. No. 92-13, 12-14-92)

Sec. 26-519. - Elevation of lowest floor.

The lower floor level shall be at least three (3) feet above the highest known water level or three (3) feet above the ordinary highwater level, whichever is higher.

(Ord. No. 92-13, 12-14-92)

Sec. 26-520. - 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 and lifts shall meet the following design requirements:

- (1) Stairways and lifts shall not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments.
- (2) Landings for stairways and lifts on residential lots shall not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open-space recreational properties, 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 shall be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
- (6) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subsections (1)—(5) hereinabove are complied with in addition to the requirements of Minnesota Rules, Chapter 1340.

(Ord. No. 92-13, 12-14-92)

Sec. 26-521. - Shoreland alterations and development standards.

(a) *Steep slopes.* The city shall evaluate possible 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 shall be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

(b) *Vegetation alterations.*

- (1) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by this division are exempt from the vegetation alteration standards that follow.

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(2) Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in this ordinance is allowed subject to the following standards:

a. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

b. In shore 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 of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented access structures or facilities, provided that:

1. The screening of structures, vehicles, or facilities as viewed from the water, assuming summer, leaf-on conditions is not substantially reduced;
2. Along rivers, existing sharing of water surface is preserved; and
3. The above provisions are not applicable to the removal of trees, limbs, or branches which are dead, diseased, or pose safety hazards.

c. Use of fertilizer and pesticides in the shoreland management district shall be done in such a way as to minimize runoff into the shore impact zone or public water by the use of earth, vegetation, or both.

(c) *Topographic alterations, grading and filling.*

(1) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate permit. Grading and filling standards in this section shall be incorporated into the issuance of permits for construction of structures, sewage treatment systems and driveways.

(2) A grading and filling permit will be required for:

- a. The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones.
- b. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.

(3) The following considerations and conditions shall be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

- a. Grading or filling in any type 2, 3, 4, 5, 6, 7 or 8 wetland shall be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland:
 1. Sediment and pollutant trapping and retention;
 2. Storage of surface runoff to prevent or reduce flood damage;
 3. Fish and wildlife habitat;

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4. Recreational use;
 5. Shoreland or bank stabilization; and
 6. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
- b. Alterations shall be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time.
 - c. Mulches or similar material shall be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover shall be established as soon as possible.
 - d. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature shall be used.
 - e. Altered areas shall be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts of the United States Soil Conservation Service.
 - f. Fill or excavated material shall not be placed in a manner that creates an unstable slope.
 - g. Plans to place fill or excavated material on steep slopes shall be reviewed by qualified professionals for continued slope stability and shall not create finished slopes of thirty (30) percent or greater.
 - h. Fill or excavated material shall not be placed in bluff impact zones.
 - i. Any alterations below the ordinary high water level or public waters shall first be authorized by the Minnesota Commissioner of Natural Resources under Minnesota Statutes, section 103G.245.
 - j. Alterations of topography shall only be allowed if they are permitted or conditional uses and do not adversely affect adjacent or nearby properties.
 - k. Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter-blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the rip rap is within ten (10) feet of the ordinary high water level, and the height of the rip rap above the ordinary high water level does not exceed three (3) feet.
- (4) Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, shall be controlled by local shoreland controls. Permission for excavations may be given only after the Minnesota Commissioner of Natural Resources has approved the proposed connection to public waters.
- (d) *Placement and design of roads, driveways and parking areas.*
- (1) Public and private roads and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation shall be provided by a qualified individual 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.

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(2) Roads, driveways, and parking areas shall meet structure setbacks and shall 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 shall 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 subpart are met. For private facilities, the grading and filling provisions of this division shall be met.

(e) *Stormwater management.* The following general and specific standards shall apply.

(1) General standards.

a. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces shall be to convey, store, filter, and retain stormwater runoff before discharge to public waters.

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

c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

(2) Specific standards.

a. Impervious surface coverage limitations for lots or properties within the shoreland management district are as follows:

1. Riparian lots or properties (Tier "A") are allowed to cover not more than twenty-five (25) percent of the total square footage.

2. Non-riparian lots or property within five hundred (500) feet of the ordinary high water level (Tier "B") are allowed to cover not more than thirty (30) percent of the total square footage.

3. Non-riparian lots or property within five hundred (500) to one thousand (1,000) feet of the ordinary high water level (Tier "C") are allowed to cover not more than forty (40) percent of the total square footage.

4. Any lots or properties zoned business or industrial and which are new developments are limited to seventy (70) percent impervious surface coverage and subject to the city's general storm water management standards which are constructed on site to remove sediment and/or oil from surface water leaving the site. Any business or industrial parcels or lots with existing facilities shall be allowed to reconstruct or demolish and rebuild to the existing impervious conditions provided the usage, building, and structures comply with section 26-6 of this Code.

5. If the boundary line for the five hundred (500) foot or the one thousand (1,000) foot line divides a lot, the lot shall be designated to be entirely in the tier that the majority of the area lies in.

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6. Each residential lot or parcel within the shoreland management zone will be allowed a maximum twenty-two-foot wide impervious driveway which will be excluded from the impervious coverage calculation. The excluded driveway area must extend from the garage or primary structure to the street right-of-way via a route that is perpendicular and most direct to the street right-of-way. If a residential lot or parcel of land has more than one (1) garage, the driveway exclusion area shall be computed as twenty-two-foot wide from the garage nearest the street to the street right-of-way. Any additional driveways or driveway widths will be included in the impervious lot computation.
- b. When constructed facilities are used for stormwater management, documentation shall be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- c. New construction of stormwater outfalls to public waters shall provide for filtering or settling of suspended solids and skimming of surface debris before discharge.
- d. Extractive use standards. Processing machinery shall be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs. An extractive use site development and restoration plan shall be developed, approved by the city, and followed over the course of operation of the site. The plan shall address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It shall also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and shall clearly explain how the site will be rehabilitated after extractive activities end.

(Ord. No. 92-13, 12-14-92; Ord. No. 96-11, 9-23-96)

Sec. 26-522. - Subdivisions/platting provisions.

- (a) *Land suitability.* Each lot created through subdivision, authorized under this subdivision, shall be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the city shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, 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.
- (b) *Consistency with other controls.* Subdivisions shall conform to all official controls of the city. A subdivision will not be approved where a later variance from one (1) or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with this ordinance and MPCA Rules Chapter 7080 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements, including at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two (2) standard soil treatment systems, where public sewer is unavailable. Lots that would require use of holding tanks will not be approved.
- (c) *Information requirements.* Subdivision applications will include the following information:
- (1) Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics.

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(2) The surface water features required in Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources.

(3) Adequate soils information to determine suitability for building and on-site 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 one hundred-year flood plain areas from existing maps or data.

(d) *Platting.* All subdivisions shall be processed by the city as plats in accordance with Minnesota Statutes, Chapter 505.

(e) *Dedications.* If there are land or easement dedications, there shall be easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

(f) *Controlled access or recreational lots.* Lots intended as controlled access to public waters or for recreational use areas for use by nonriparian lots within a subdivision shall meet or exceed the sizing criteria in this subdivision.

(Ord. No. 92-13, 12-14-92)

Sec. 26-523. - Standards for commercial, industrial, public, and semipublic uses.

(a) Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public water may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs shall meet the following standards:

(1) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this ordinance, the uses shall be designed to incorporate topographic and vegetative screening of parking areas and structures;

(2) Uses that require short-term watercraft mooring for patrons shall centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.

(3) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:

a. No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or upon public waters by a public authority or under a permit issued by the county sheriff.

b. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs shall not contain other detailed information such as product brands and prices, shall not be located higher than ten (10) feet above the ground, and shall not exceed thirty-two (32) square feet in size. If illuminated

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by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

c. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

(b) Uses without water-oriented needs may be located on lots or parcels without public frontage, or if located on lots or parcels with public waters frontage, shall either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

(Ord. No. 92-13, 12-14-92)

Sec. 26-524. - Planned Unit Development (PUD's).

(a) *Types of PUD's permissible.* Planned unit developments (PUD's) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district descriptions of this ordinance and the official zoning map. Also, any multifamily buildings over four (4) units in the shoreland area shall comply with the PUD regulations of this section.

(b) *Processing of PUD's.* Planned unit developments shall be processed as a conditional use, except that an expansion to an existing commercial PUD involving six (6) or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures. Approval cannot occur until the environmental review process (EAW/EIS) is complete.

(c) *Application for PUD's.* Application for a PUD shall include the following:

(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 will not be provided), and topographic contours at ten-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat shall 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 PUD's) with mandatory membership, and all terms in accordance with the requirements of this subdivision.

(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 PUD's; and

b. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in this ordinance.

(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 planning commission that are necessary to explain

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how the PUD will be designed and will function.

(d) *Site "suitable area" evaluation.* Proposed new or expansions to existing planned unit developments shall be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation.

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

(2) The suitable area within each tier is next 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) *Residential and commercial PUD density evaluation.* The procedures for determining the base density of a PUD and density increase multiplies are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

(1) Residential PUD base density evaluation:

a. The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, which shall then be used to yield a base density of dwelling units or site for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analysis herein and the design criteria.

(2) Commercial PUD base density evaluation:

a. Determine the average inside area size of units or sites within each tier, including both existing and proposed units and sites. Computation of inside 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*

Public Water Classes

*Average Unit Floor area (sq. ft.)

	All Lakes and River Segments
200	.040
300	.048
400	.056

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500	.065
600	.072
700	.082
800	.091
900	.099
1,000	.108
1,100	.116
1,200	.125
1,300	.133
1,400	.142
1,500	.150

*For average unit floor areas less than shown, use the floor area ratios listed for two hundred (200) square feet. For areas greater than shown, use the ratios listed for one thousand five hundred (1,500) square feet. For recreational camping areas, use the ratios listed at four hundred (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 one thousand (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 units or sites.
- d. Divide the total floor area by tier computed in subsection c. hereinabove by the average inside area size determined in subsection a. hereinabove. This yields a base number of units and sites for each tier.
- e. Proposed locations and numbers of units or sites for the commercial planned unit development are then compared with the tier, density and suitability analysis herein and the design analysis and criteria herein.

(3) *Density increase multipliers:*

- a. Increases to the unit or site base densities previously determined are allowable if the dimensional standards are met or exceeded and the design criteria are satisfied. The allowable density increases below will only be allowed if structure setbacks from the ordinary high water level are increased to at least fifty (50) percent greater than the minimum setback or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the city and the setback is at least twenty-five (25) percent greater than the minimum setback.
- b. Allowable unit or site density increases for residential or commercial planned unit developments:

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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 shall be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

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

1. Commercial uses prohibited (for residential PUD's);
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. Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments shall use an owners association with the following features:

1. Membership shall be mandatory for each dwelling unit or site purchaser and any successive purchasers;
2. Each member shall pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
3. Assessments shall be adjustable to accommodate changing conditions; and
4. The association shall be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

(2) Open space requirements. Planned unit development shall contain open space meeting all of the following criteria.

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- a. At least fifty (50) percent of the total project area shall be preserved as open space;
 - b. Dwelling units or sites, or road right-of-ways, 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 shall 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 or 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 shall not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;
 - g. The appearance of open space areas, including topography, vegetation, and allowable uses, shall be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
 - h. The shore impact zone, based on normal structure setbacks, shall be included as open space. For residential PUD's, at least fifty (50) percent of the shore impact zone area of existing developments or at least seventy (70) percent of the shore impact zone area of new developments shall be preserved in its natural or existing state. For commercial PUD's, at least fifty (50) percent of the shore impact zone shall be preserved in its natural state.
- (3) Erosion control and stormwater management. Erosion control and stormwater management plans shall be developed and the PUD shall:
- a. Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This shall be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques shall be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and
 - b. Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier shall not exceed twenty-five (25) percent of the tier area, except that for commercial PUD's thirty-five (35) percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan consistent with this subdivision.
- (4) Centralization and design of facilities. Centralization and design of facilities and structures shall be done according to the following standards:
- a. Planned unit development shall be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems shall be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and this subdivision. On-site sewage treatment systems shall be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors shall be provided for a replacement soil

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treatment system for each sewage system.

b. Dwelling units or sites shall be clustered into one (1) or more groups and located on suitable areas of the development. They shall be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: Setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level shall be increased in accordance with this subdivision for developments with density increases;

c. Shore recreation facilities, including but not limited to swimming area, docks, and watercraft mooring areas and launching ramps, shall be centralized and located in areas suitable for them. Evaluation of suitability shall include consideration of land slope, water depth, vegetation, soil, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft shall not exceed one (1) for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). 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 shall be treated to reduce visibility as viewed from public waters and adjacent shoreland by vegetation, topography, increased setbacks, color, or other means acceptable to the city, assuming summer, leaf-on conditions. Vegetative and topographic screening shall be preserved, if existing, or may be required to be provided;

e. Accessory structures and facilities, except water oriented accessory structures, shall meet the required principal structure setback and shall be centralized; and

f. Water oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in this subdivision and are centralized.

(g) *Conversions.* The city may allow existing resorts or other land uses and facilities to be converted to residential planned unit developments if all of the following standards are met:

(1) Proposed conversions shall 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 shall be identified.

(2) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities shall be corrected as part of the conversion or as specified in the conditional use permit.

(3) Shore and bluff impact zone deficiencies shall be evaluated and reasonable improvements made as part of the conversion. These improvements shall include, where applicable, the following:

a. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;

b. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water; and

c. If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions shall also provide for future relocation of dwelling units, where feasible, to other

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locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

(4) Existing dwelling unit or dwelling site densities that exceed standards may be allowed for continue but shall not be allowed to be increased, either at the time of conversion or in the future. Efforts shall 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.

(Ord. No. 92-13, 12-14-92)

Sec. 26-525. - 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 by the city code. The following additional evaluation criteria and conditions apply with shoreland areas:

(1) *Evaluation criteria.* A thorough evaluation of the waterbody and the topographic vegetation, and soils conditions on the site shall be made to ensure:

- a. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- b. The visibility of structures and other facilities as viewed from public waters is limited;
- c. The site is adequate for water supply and on-site sewage treatments; 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) *Conditions attached to conditional use permits.* The city, upon consideration of the criteria listed above and the purposes of this ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this subdivision. 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 requirements that additional vegetation be planted; and
- c. Special provisions for the location design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

(Ord. No. 92-13, 12-14-92)

Sec. 26-526. - Variances for substandard lots of record.

A variance for lot size can be considered only if the lot has been in separate ownership from abutting lands at all times since it became substandard and was created compliant with official controls in effect at the time. If, in a group of two (2) or more contiguous lots under the same ownership, any lots do not meet the area requirements, the lots must be combined to create one (1) or more lots meeting the area requirements herein.

(Ord. No. 92-13, 12-14-92)

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Sec. 26-527. - Notification procedures.

(a) Copies of all notices of any public hearings to consider variances, amendments or conditional uses under local shoreland management controls shall be sent to the Minnesota Commissioner of Natural Resources or the commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed plats shall include copies of the plats.

(b) A copy of approved amendments and plats, and final decisions granting variances or conditional uses under local shoreland management controls shall be sent to the Minnesota Commissioner of Natural Resources or the commissioner's designated representative and postmarked within ten (10) days or of final action.

(Ord. No. 92-13, 12-14-92)

Secs. 26-528—26-550. - Reserved.