

ORDINANCE 92-35

AN ARTICLE RELATING TO SHORELAND ZONING, REPLACING ARTICLE 12-1200.D. OF THE HAM LAKE CITY CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HAM LAKE, ANOKA COUNTY, MINNESOTA, AS FOLLOWS:

ARTICLE 12-1200.D. OF THE HAM LAKE CITY CODE IS REPEALED, TO BE REPLACED BY THE FOLLOWING NEW ARTICLE 12-1200.D.

SECTION 12-1.0 - STATUTORY AUTHORIZATION AND POLICY

12-1.1 Statutory Authorization

This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

12-1.2 Policy

The uncontrolled use of shorelands of the City of Ham Lake, Minnesota 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 Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the City of Ham Lake.

SECTION 12-2.0 GENERAL PROVISIONS AND DEFINITIONS

12-2.1 Jurisdiction

The provisions of this ordinance shall apply to the shorelands of the public water bodies as classified in Section 4.0 of this ordinance.

12-2.2 Compliance

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 ordinance and other applicable regulations.

#### 12-2.3 Enforcement

The Zoning Officer is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 12-3.1 of this ordinance.

#### 12-2.4 Interpretation

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.

#### 12-2.5 Severability

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

#### 12-2.6 Abrogation and Greater Restrictions

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

#### 12-2.7 Definitions

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

#### 12-2.711 Accessory structure or facility. "Accessory

**structure**" or "facility" means any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

**12-2.712 Bluff.** "Bluff" means a topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):

(1) Part or all of the feature is located in a shoreland area;

(2) The slope rises at least 25 feet above the ordinary high water level of the waterbody;

(3) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and

(4) The slope must drain toward the waterbody.

**12-2.713 Bluff impact zone.** "Bluff impact zone" means a bluff and land located within 20 feet from the top of a bluff.

**12-2.714 Boathouse.** "Boathouse" means a structure designed and used solely for the storage of boats or boating equipment.

**12-2.715 Building line.** "Building line" means a line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

**12-2.716 Commercial use.** "Commercial use" means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

**12-2.717 Commissioner.** "Commissioner" means the commissioner of the Department of Natural Resources.

**12-2.718 Conditional use.** "Conditional use" means a land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

**12-2.719 Deck.** "Deck" means a horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground.

12-2.720 **Dwelling site.** "Dwelling site" means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

12-2.721 **Dwelling unit.** "Dwelling unit" means any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

12-2.722 **Extractive use.** "Extractive use" means the use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51.

12-2.723 **Forest land conversion.** "Forest land conversion" means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

12-2.724 **Hardship.** "Hardship" means the same as that term is defined in Minnesota Statutes, Chapter 462.

12-2.725 **Height of building.** "Height of building" means the vertical distance between the highest adjoining ground level at the building or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

12-2.726 **Industrial use.** "Industrial use" means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

12-2.727 **Intensive vegetation clearing.** "Intensive vegetation clearing" means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

12-2.728 **Lot.** "Lot" means a parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

12-2.729 **Lot width.** "Lot width" means the shortest distance between lot lines measured at the midpoint of the building line.

12-2.730 **Nonconformity.** "Nonconformity" means any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior

to the date it was established, recorded or authorized.

12-2.731 **Ordinary high water level.** "Ordinary high water level" means the boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

12-2.732 **Public waters.** "Public waters" means any waters as defined in Minnesota Statutes, section 105.37, subdivisions 14 and 15.

12-2.733 **Semipublic use.** "Semipublic use" means the use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

12-2.734 **Sensitive resource management.** "Sensitive resource management" means the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

12-2.735 **Setback.** "Setback" means the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

12-2.736 **Sewage treatment system.** "Sewage treatment system" means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 12-5.8 of this ordinance.

12-2.737 **Sewer system.** "Sewer system" means pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

12-2.738 **Shore impact zone.** "Shore impact zone" means land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the structure setback.

12-2.739 **Shoreland.** "Shoreland" means land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and

300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the commissioner.

**12-2.740 Significant historic site.** "Significant historic site" means any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatte cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatte cemeteries are automatically considered to be significant historic sites.

**12-2.741 Steep slope.** "Steep slope" means land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this ordinance. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

**12-2.742 Structure.** "Structure" means any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

**12-2.743 Subdivision.** "Subdivision" means land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

**12-2.744 Surface water-oriented commercial use.** "Surface water-oriented commercial use" means the use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

**12-2.745 Toe of the bluff.** "Toe of the bluff" means the lower point of a 50-foot segment with an average slope exceeding 18 percent.

**12-2.746 Top of the bluff.** "Top of the bluff" means the higher point of a 50-foot segment with an average slope exceeding 18 percent.

12-2.747 **Variance.** "Variance" means the same as that term is defined or described in Minnesota Statutes, Chapter 462.

12-2.748 **Water-oriented accessory structure or facility.** "Water-oriented accessory structure or facility" means a small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

12-2.749 **Wetland.** "Wetland" means a surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition).

## SECTION 12-3.0 - ADMINISTRATION

### 12-3.1 Permits Required

12-3.11 A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 12-5.3 of this ordinance. Application for a permit shall be made to the Zoning Officer on the forms provided. The application shall include the necessary information so that the Zoning Officer can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

12-3.12 A permit authorizing an addition to an existing structure which may increase the amount of effluent entering an existing identified non-conforming sewage treatment system shall stipulate that an identified nonconforming sewage treatment system, as defined by Section 12-5.8, shall be reconstructed or replaced in accordance with the provisions of this ordinance.

### 12-3.2 Certificate of Zoning Compliance

The Zoning Officer shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 12-3.1 of this ordinance. This certificate will specify that the use of land conforms to the requirements of this ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section 12-2.3 of this ordinance.

### 12-3.3 Variances

12-3.31 Variances may only be granted in accordance with Minnesota Statutes, Chapter 462, as applicable. A variance may not circumvent the general purposes and intent of this

ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the City Council must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.

12-3.32 The City Council shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 12-3.42 below shall also include the board of adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

12-3.33 For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system, if the activity for which the variance is needed will result in additional effluent entering such an existing non-conforming sewage treatment system.

#### 12-3.4 Notification to the Department of Natural Resources

12-3.41 Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls 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.

12-3.42 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.

### 12-4.0 - SHORELAND CLASSIFICATION SYSTEM AND LAND USE DISTRICTS

#### 12-4.1 Shoreland Classification System

The public waters of Ham Lake have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Anoka County, Minnesota.

12-4.11 The shoreland area for the waterbodies listed in

sections 12-4.12 shall be as defined in section 12-2.744 and as shown on the Official Zoning Map.

12-4.12 Lakes

Protected Waters	
A. Natural Environment Lakes	Inventory I.D.#
Little Coon Lake	2-48W
Mallard Lake	2-49W
Sec. 9	2-51W
Sec. 30 & 31	2-74W

Protected Waters	
B. Recreational Development Lakes	Inventory I.D.#
Lake Netta	2-52P
Ham Lake	2-53P

Protected Waters	
C. General Development Lakes	Inventory I.D.#
Coon Lake	2-42P

12-4.2 Land Use District Descriptions

12-4.21 All land adjacent to any natural environment lake, recreational lake, or general development lake shall be classified as C-A (Conservation/Agriculture), RS-1 (Residential Shoreland-1), RS-2 (Residential Shoreland -2), ML-PUD ( Marginal Land Planned Unit Development) as those classifications are established by Article 9 of the Ham Lake City Code. Uses permitted in such zoning districts shall be as prescribed in Article 9. Areas which meet the definition of "Shoreland" as found in Article 12-2.743, but which are not zoned RS-1, RS-2, C-A or ML-PUD, shall be subject to the restrictions and conditions of this Article 12.

12-5.0 - ZONING AND WATER SUPPLY/SANITARY PROVISIONS

12-5.1 Lot Area and Width Standards

The lot area (in square feet) and lot width standards (in feet) for single family dwellings shall be the same as for R-1 Single Family Residential as found in Table 9-2 of Article 9 of the Ham Lake City Code, for RS-1 and RS-2 zones. For C-A and ML-PUD zones, the standards found in Table 9-2 of Article 9 for those classifications shall apply.

12-5.2 Placement, Design, and Height of Structures.

12-5.21 Placement of Structures on Lots. 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. Structures shall be located as follows.

**A. Structure and On-site Sewage System Setbacks (in feet) from Ordinary High Water Level\*.**

Classes of Public Waters	Setbacks*		
	Structures Unsewered	Sewerage Treatment Sewered	System
<b>Lakes</b>			
<b>Natural Environment</b>			
150	150	150	
<b>Recreational Development</b>			
100	75	75	
<b>General Development</b>			
75	50	50	

\*One water-oriented accessory structure designed in accordance with Section 12-5.22 of this ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

**B. Additional Structure Setbacks.** The following additional structure setbacks apply, regardless of the classification of the waterbody:

Setback From:	Setback (in feet)
(1) top of bluff;	30
(2) unplatted cemetery;	50
(3) right-of-way line of federal, state, or county highway; and	50
(4) right-of-way line of town road, public street, or other roads or streets not classified.	20

**C. Bluff Impact Zones.** Structures and accessory facilities, except stairways and landings, must not be placed within

bluff impact zones.

D. Uses Without Water-oriented Needs. 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 from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

12-5.22 Design Criteria For Structures.

A. High Water Elevations. Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

- (1) for lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;
- (2) water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

B. Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 12-5.21 of this ordinance if this water-oriented accessory structure complies with the following provisions:

- (1) the structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
- (2) the setback of the structure or facility from the ordinary high water level must be at least ten feet;
- (3) the structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;

- (4) the roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
- (5) the structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
- (6) as an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the configuration of the shoreline.

C. 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 must meet the following design requirements:

- (1) stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;
- (2) landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;
- (3) canopies or roofs are not allowed on stairways, lifts, or landings;
- (4) stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
- (5) stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
- (6) facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (1) to (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

- D. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- E. Steep Slopes. The Zoning Officer 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.

12-5.23 Height of Structures. All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

#### 12-5.3 Shoreland Alterations

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.

#### 12-5.31 Vegetation Alterations.

- A. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 12-5.4 of this ordinance are exempt from the vegetation alteration standards that follow.
- B. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Sections 12-5.62 and 12-5.63, respectfully, 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. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
  - (2) 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, livestock

watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

- (a) the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
- (b) along rivers, existing shading of water surfaces is preserved; and
- (c) the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

12-5.32 Topographic Alterations/Grading and Filling.

- A. 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 grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
- B. Public roads and parking areas are regulated by Section 12-5.4 of this ordinance.
- C. Notwithstanding Items A. and B. above, a grading and filling permit will be required for:
  - (1) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
  - (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) Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland\*:
    - (a) sediment and pollutant trapping and retention;
    - (b) storage of surface runoff to prevent or reduce

flood damage;

- (c) fish and wildlife habitat;
- (d) recreational use;
- (e) shoreline or bank stabilization; and
- (f) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

\*This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.

- (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 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 qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
- (8) Fill or excavated material must not be placed in bluff impact zones;
- (9) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G.245;
- (10) 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; and

(11) 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 three 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.

E. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

#### 12-5.4 Placement and Design of Roads, Driveways, and Parking Areas

12-5.41 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 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.

12-5.42 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.

12-5.43 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 Section 12-5.32 of this ordinance must be met.

#### 12-5.5 Stormwater Management.

The following general and specific standards shall apply:

##### 12-5.51 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, 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. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

12-5.52 Specific Standards:

- A. Impervious surface coverage of lots must not exceed 25 percent of the lot area.
- B. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- C. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

12-5.6 Special Provisions for Commercial, Industrial, Public/Semipublic, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat.

12-5.61 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 waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:
  - (1) in addition to meeting impervious coverage limits, setbacks, and other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
  - (2) uses that require short-term watercraft mooring for patrons must centralize these facilities and design

them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

(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 on 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 must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

(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 must be located on lots or parcels without public waters frontage, or, 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 from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

#### 12-5.62 Agriculture Use Standards.

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, 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 50 feet from the ordinary high water level.

B. Animal feedlots must meet the following standards:

- (1) new feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins; and
- (2) 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.

12-5.63 Forest Management Standards. The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

12-5.64 Extractive Use Standards.

A. Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

B. Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

12-5.65 Mining of Metallic Minerals and Peat. Mining of metallic minerals and peat, as defined in Minnesota Statutes, sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes, sections 93.44 to 93.51, are satisfied.

12-5.7 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:

12-5.71 Evaluation criteria. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:

- (1) the prevention of soil erosion or other possible pollution of public waters, both during and after construction;
- (2) the visibility of structures and other facilities as viewed from public waters is limited;
- (3) the site is adequate for water supply and on-site sewage treatment; and
- (4) the types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

12-5.72 Conditions attached to conditional use permits. The City Council 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 ordinance. Such conditions may include, but are not limited to, the following:

- (1) increased setbacks from the ordinary high water level;
- (2) limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
- (3) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

#### 12-5.8 Water Supply and Sewage Treatment

12-5.81 Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

12-5.82 Sewage treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:

- A. Publicly-owned sewer systems must be used where available.
- B. All private sewage treatment systems must meet or exceed

the Minnesota 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 ordinance.

- C. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 5.21 of this ordinance.
- D. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subitems (1)-(4). 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 boring and percolation tests from on-site field investigations.

Evaluation criteria:

- (1) depth to the highest known or calculated ground water table or bedrock;
- (2) soil conditions, properties, and permeability;
- (3) slope;
- (4) the existence of lowlands, local surface depressions, and rock outcrops;

- E. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with section 12-6.3 of this ordinance.

#### SECTION 12-5.9 DISCHARGE OF FIREARMS

The discharge of firearms within any land area inside a Shore Impact Zone (see Article 12-2.738), or upon or over the surface of any water within the normal high water mark of Ham Lake, Coon Lake, Lake Netta, or Little Coon Lake, is prohibited.

#### SECTION 12-6.0 NONCONFORMITIES

All legally established nonconformities as of the date of this ordinance may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subject of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:

##### 12-6.1 Construction on nonconforming lots of record.

- A. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do

not meet the requirements of Section 12-5.1 of this ordinance may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district.

B. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, 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.

12-6.2 Additions/expansions to nonconforming structures.

A. All additions or expansions to outside dimensions of an existing non-conforming structure must meet the conditions for non-conforming uses as found in Article 9 of the Ham Lake City Code.

B. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met.

- (1) the structure existed on the date the structure setbacks were established;
- (2) a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
- (3) the deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever, is more restrictive; and
- (4) the deck is constructed primarily of wood, and is not roofed or screened.

12-6.3 A sewage treatment system not meeting the requirements of Section 12-5.8 of this ordinance 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 under circumstances where the new activity will result in increased effluent entering the non-conforming sewage treatment system. 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.

SECTION 12-7.0 SUBDIVISION/PLATTING PROVISIONS

12-7.11 Land Suitability. Each lot created through new

subdivision, including marginal planned unit developments authorized under Article 9 of the Ham Lake City Code, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the local unit of government 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.

12-7.12 Consistency with other controls. Subdivisions must conform to all official controls of this community. A subdivision will not be approved where a later variance from one 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 Sections 12-5.2 and 12-5.8 can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 12-5.1, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

12-7.13 Information requirements. Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

- (1) topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
- (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 boring, percolation tests, or other methods;
- (4) information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after

construction activities;

- (5) location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
- (6) a line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

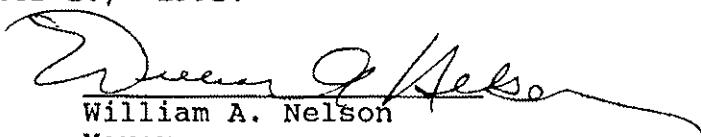
12-7.14 Dedications. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

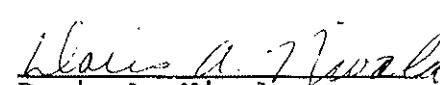
12-7.15 Platting. All subdivisions that create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

12-7.16 Controlled Access or Recreational Lots. 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 5.14 of this ordinance.

12-7.17 Applicability to Plats in Process. Any plat on marginal planned unit development which has been presented for sketch plan approval prior to the effective date of this ordinance shall be governed by the shoreland zoning and subdivision standards in effect as of the date of sketch plan presentation.

Presented to the Ham Lake City Council on November 2, 1992 and adopted on November 16, 1992.

  
William A. Nelson  
Mayor

  
Doris A. Nivala  
City Administrator/Clerk/Treasurer