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1.0 GENERAL PROVISIONS

1.1 Title. The Ordinance shall be known as the "City of the Village of Minnetonka Beach Zoning Ordinance" except as referred to herein, where it shall be known as "this ordinance."

1.2 Statutory Authority. This ordinance is adopted pursuant to the authorization and policies for protection of water resources contained in Minnesota Statutes, Chapter 103F, for management of shoreland contained in Minnesota Rules, Parts 6120.2500-6120.3900, and by the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

1.3 Historical Background. The City of the Village of Minnetonka Beach was developed in the late 1800s. The community originally consisted of seasonal homesites on wooded lots both on and off the lake. Minnetonka Beach was developed on land that contained the "Big Woods", tree filled areas consisting of maple and basswood trees as well as other hardwood, softwood, and conifer trees. The trees in the City are valuable assets to the community as they assist with stormwater management, maintain a canopy that holds rainwater and provides shade and natural cooling, all of which minimizes runoff to Lake Minnetonka and provides a pleasing aesthetic that is difficult to replace or replicate.

The City of the Village of Minnetonka Beach is on a boot shaped peninsula surrounded by Lake Minnetonka. All land in Minnetonka Beach is within 1000 feet of the lake and is subject to the state shoreland management rules, regulations and statutes controlling land use that impacts the lake. Riparian homes as originally developed are set back an average of 130'-150' or more from the lake to enhance the lake experience, encourage natural habitat for wildlife, allow privacy and tranquility and to provide an area for natural vegetation including trees. Land Use regulations have evolved in the City utilizing considerations including but not limited to the following: impact on the neighborhood setting, impact on the environment, protection of the lake, protecting riparian owners' lake views, limiting noise and respecting privacy, recognizing and addressing drainage challenges to adjoining properties and narrow lots, topography, Steep Slopes, Bluff areas, vegetation, wetlands, floodplain, and susceptibility to erosion and sedimentation.

The City's Land Use regulations emphasize the importance of limiting runoff to the lake and adjoining homeowners, encourage open spaces with natural vegetation and trees around the lake and between homes and strive to maintain the character and setting of the historic development with the intent not only to protect the lake, but also to maintain property values.

1.4 Purpose.

1.4.1 This ordinance is adopted for the following purposes:

A. To implement the policies of the City's Comprehensive Plan;

B. To protect the public health, safety, and general welfare of the community and its people through the establishment of regulations governing development and use;

C. To promote orderly development and redevelopment;

D. To protect established use areas as defined herein;

E. To provide adequate light, air, and convenience of access to property;

F. To prevent congestion in the public right-of-way;

G. To prevent overcrowding of land and undue concentration of structures by regulating land, buildings, yards, and allowed residential densities;

H. To provide for compatibility of land uses throughout the City;

I. To preserve and enhance the quality of surface waters, conserve economic and natural environmental values, and provide for the wise use of waters and related land resources by regulating Shoreland development;

J. To provide for administration and enforcement of this ordinance;

K. To provide for amendments;

L. To prescribe penalties for violation of such regulations; and

M. To define powers and duties of the City staff, the Board of Adjustment and Appeals, the Planning Commission, and the City Council in relation to the Zoning Ordinance.

1.5 Minimum Requirements.

In their interpretation and application, the provisions of this ordinance shall be held as the minimum requirements for the promotion of public health, safety, and welfare.

1.6 Effective date. This ordinance shall be effective on and after December 3, 2017. The adoption of this ordinance shall not be construed to confer any protected legal status on uses in existence prior to the effective date that did not conform to previous ordinance provisions. Uses that were illegal under previous ordinance provisions shall not be converted to a legal non-conforming use by reason of adoption of this ordinance.

1.7 Shoreland Classification.

1.7.1 Lake Minnetonka (DNR ID: 27013300) has been classified as a General Development Lake consistent with the criteria found in Minnesota Regulations, Part 6120.3000.

1.7.2 Minnetonka Beach contains no Natural Environment Lakes, Recreational Development Lakes, or Rivers and Streams of any classification.

1.7.3 All of the land in the City of the Village of Minnetonka Beach is classified as Shoreland.

1.8 Shoreland Community Responsibility. The uncontrolled use of shorelands within the City of the Village of Minnetonka Beach 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 near 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 in an effort to 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 the Village of Minnetonka Beach.

1.9 Jurisdiction. This ordinance is applicable to all land located within the City both now and as may be incorporated in the future. The use of land and buildings or structures, and the construction, reconstruction, alteration, expansion, or relocation of buildings or structures shall conform to the provisions of this ordinance.

1.10 Relation to the Comprehensive Plan. It is the policy of the City of the Village of Minnetonka Beach that the Comprehensive Plan is the City's guiding document for the regulation of land use and development. The enforcement, amendment, and administration of this ordinance is to be accomplished with due consideration of the recommendations contained in the Comprehensive Municipal Plan as developed and amended from time to time by the Planning Commission and City Council.

1.11 Relationship to Other Laws and Agreements.

1.11.1 Conflict with Other Public Laws, Chapters, Regulations, or Permits.

A. This ordinance is intended to complement other municipal, state, and federal regulations that affect land use. This ordinance is not intended to revoke or repeal any other public law, ordinance, regulation, or permit.

B. Where the provisions of this ordinance impose greater restrictions than those of any statute, other chapter or regulation; the provisions of this ordinance shall apply.

C. Where the provisions of any statute, other chapter or regulation impose greater restrictions than this ordinance, the provisions of that statute, other chapter or regulation shall apply.

1.11.2 Conflict with Private Agreements.

A. The existence of any easement, covenant, or other private agreement with respect to property affected by this ordinance shall not affect the duty of any interested person to comply with this ordinance.

B. The City shall have no obligation to waive or modify the requirements of this ordinance to conform to private agreements, nor shall it be obligated to enforce private agreements.

1.11.3 Conflict Between Standards in this Ordinance. Where conditions, standards, or requirements imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable standards imposed by any other public law, ordinance, or regulation; the provision(s) that are more restrictive or that impose higher standards or requirements shall govern.

1.12 Nonconformities

1.12.1 Purpose. It is the purpose of this section to provide for the regulation of non-conforming buildings, structures, and uses; and to specify those requirements, circumstances, and conditions under which non-conforming buildings, structures, and uses may be operated and maintained. The zoning ordinance establishes base zoning districts and overlay zoning districts that outline the appropriate area or location for permitted uses. It is necessary and consistent with the establishment of these districts that non-conforming buildings, structures, and uses not be permitted to continue without restriction. Furthermore, it is the intent of this chapter that all non-conforming uses shall be eventually brought into conformity.

1.12.2 Authority to Continue

A. Legally conforming existing structures and uses in existence on the effective date of this ordinance, as denoted in Section 1.5, which become non-conforming to this ordinance shall be considered legally non-conforming and shall be treated as follows:

(1) A use which is no longer permitted due to a change in zoning shall be considered a legally non-conforming use subject to all conditions for such use as may be outlined in this ordinance.

(2) A structure which becomes non-conforming to a required setback or setbacks shall be viewed as a legally non-conforming structure.

(3) Legal nonconforming uses and structures shall not be expanded, except that legally non-conforming, owner-occupied residential uses, may be expanded to improve livability provided the expansion is in a conforming location, and meets all other applicable requirements of the zoning district in which the residential use is located.

B. Legal nonconforming uses and structures may be continued-including through repair, replacement, restoration, maintenance, or improvement-unless:

(1) The nonconformity or occupancy has been discontinued (see Section 1.11.3).

(2) The nonconforming structure is destroyed by fire or other peril to the extent of greater than 50 percent of its estimated market value, as indicated in the records of the county assessor at the time of damage; and no building permit has been applied for within 180 days of when the property suffered the damage.

(a) Upon written request, extensions to the deadline for building permit application may be granted by the City Council if the applicant can show good cause, and provided each extension does not extend the deadline beyond 730 days from when the property suffered the damage.

(b) In the case of a missed deadline under Section 1.11.2(B)(2):

(i) The City may impose reasonable conditions upon any subsequent zoning or building permit in order to mitigate any newly created impact on adjacent property or to Lake Minnetonka.

(ii) The start of discontinuance shall commence on the day the deadline expires.

(3) The nonconforming structure has less than 50 percent of the required setback from the water and is destroyed by fire or other peril to greater than 50 percent of its estimated market value as indicated in the records of the county assessor at the time of damage. In such a case, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body.

(4) Notwithstanding subsections (2) and (3) above, any nonconforming use located in the floodplain overlay district that is destroyed by fire or other peril to the extent of greater than fifty (50) percent of its market value, as determined by the Building Inspector, shall be regulated to the extent necessary to maintain eligibility in the National Flood Insurance Program, and in no case shall the use be continued or re-established in a manner that results in potential flood damage or obstructs flood flows in the floodway.

C. Nothing in this ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Building Inspector.

D. No non-conforming building, structure, or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the time of this ordinance adoption unless such movement shall bring the non-conformance into compliance with the requirements of this ordinance.

E. Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not physically extend or intensify the non-conforming use.

F. Normal maintenance, necessary non-structural repairs, and incidental alteration of a lawful non-conforming sign includes repair or maintenance of existing lettering done without changing the form or design of the lawful non-conforming sign.

1.12.3 Discontinuance

A. A nonconforming use shall not be reestablished after discontinuance of the use for a period of one year or more.

B. Efforts to renovate or repair the use as allowed in Section 1.11.3 are not considered discontinuance, provided all of the following conditions are met:

(1) All appropriate permits and/or development approvals are obtained;

(2) The renovation or repair is completed within one year from commencement of repair or renovation; and

(3) The use is re-established within one month from the time the renovation or repairs are completed.

C. Upon written request, extensions of up to one (1) year may, but need not, be granted by the City Council to complete renovations and repairs or re-establish the legal nonconforming use if the applicant can show good cause.

D. Failure to complete repairs or renovations within one year, or to reestablish the legally nonconforming use within one month following repairs or renovation, shall constitute discontinuance and the nonconforming use shall not be re-established.

1.12.4 Change in Use

A. A lawful non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the non-conformity.

B. When any lawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any non-conforming use.

1.12.5 Building Permits and Ordinance Amendments. Any proposed structure for which a building permit has been lawfully granted may be completed in accordance with approved plans in the event a subsequent ordinance amendment renders the pending structure non-conforming provided the following conditions are met:

A. Construction is started within sixty (60) days of the effective date of the applicable ordinance which renders the new structure non-conforming;

B. Activity to complete construction is not abandoned for a period of more than one hundred twenty (120) days; and

C. Construction is completed within two (2) years of the building permit issuance.

Such structure and use shall thereafter be a legally non-conforming structure and use.

1.12.6 Existing Nonconforming Lots

A. Required Merger of Common Ownership Lots

(1) Except as may otherwise be provided for in this ordinance, when a group of two (2) or more contiguous lots or parcels of land are owned or controlled by the same person, the following shall apply:

(a) If all lots are conforming to lot width, area and frontage requirements, all lots may remain as separate parcels.

(b) If one or more of the contiguous lots or parcels of land do not conform to either lot width, area, or frontage requirements; but each lot contains a legally nonconforming residential dwelling or is a buildable lot of record; then all lots may remain as separate parcels.

(c) If one or more of the contiguous lots or parcels of land do not conform to either lot width, area, or frontage requirements; and the vacant parcels in contiguous ownership are not buildable lots of record; then the following shall apply:

(i) Such nonconforming lots shall not be sold or developed as a separate parcel of land; and

(ii) Such nonconforming lots shall be combined with adjacent lots or parcels under the same ownership or control so that the combination of lots will lessen the existing nonconformity, or will equal one (1) or more lots each meeting the full lot requirements of this ordinance.

(2) The combination of lots shall be in accordance with City Code Section 202, Subdivision Ordinance.

B. **Vacant or Redeveloped Lots.** With the exclusion of parcels within the Floodplain Overlay District established in Section 4.2.2 of this ordinance; vacant legal nonconforming lots of record may be developed for single-family detached dwellings provided the following conditions are satisfied:

(1) Legally Established. The lot in question shall have been legally established in accordance with ordinance requirements at the time of its creation; and is a separate, distinct tax parcel.

(2) Lot Minimums. The existing lot of record shall meet the following minimum standards:

(a) Riparian lot of record: 49.5 feet in width and 9,900 square feet in area.

(b) Non riparian lot of record: 49.5 feet in width and 6,600 square feet in area.

(3) Utilities Access. The lot shall be serviced by municipal sanitary sewer and municipal water.

(4) Access. The lot in question must have frontage on, and will provide direct access to, an improved public or private street.

(5) Setback and Yard Requirements. The setback and yard requirements of the base zoning district can be achieved.

(6) Shoreland Requirements. shoreland management controls can be met.

(7) Aggregate Setback Conformity. Development or sale of the lot of record, without regard to the side setback aggregate, will not render the remaining property under the same ownership nonconforming.

(8) Easements Required. Except the lake lot line, a 5-foot wide utility easement shall be dedicated to the City adjacent to each lot line.

1.13 Transitional Regulations.

1.13.1 Purpose. The purpose of transitional regulations is to resolve the status of properties with pending applications or recent approvals, and properties with outstanding violations, at the time of the adoption of this ordinance.

1.13.2 Violations Continue. Any violation of previous versions of this ordinance existing as of the effective date of this ordinance shall continue to be a violation under this ordinance and shall be subject to the penalties and enforcement set forth in Section 1.13: Enforcement; unless the use, development, construction, or other activity complies with the provisions of this ordinance.

1.13.3 Uses, Structures and Lots Rendered Nonconforming. Where any use, building, structure, or lot that legally existed on the effective date of this ordinance does not meet all standards set forth in this

ordinance, such building, structure, lot or parcel shall be subject to the requirements of Section 1.11: Nonconformities.

1.13.4 Existing Legal Nonconformities. Legal nonconforming lots of record and uses that existed on the effective date of this ordinance shall be controlled by Section 1.11: Nonconformities.

1.13.5 Processing of Applications Commenced or Approved Under Previous Ordinances

A. Pending Application

(1) Any complete application that has been submitted or accepted for review, but upon which no final action has been taken by the appropriate decision making body prior to the effective date of this ordinance, shall be reviewed in accordance with the provisions of ordinances in effect on the date the application was deemed complete by the City.

(2) An applicant with a pending application may waive the review available under the prior ordinance through a written letter to the Zoning Administrator, and instead request review under the provisions of this ordinance.

B. Approved Projects

(1) Approved land use and other related actions by the City of the Village of Minnetonka Beach authorized under the prior ordinance, including Building Permits that are valid on the effective date of this ordinance, shall remain valid until their expiration date, where applicable.

(2) Projects with valid approvals or permits shall comply with the requirements of this ordinance where the standards will not materially affect the project. Where use of these standards would materially affect the project, the project shall be completed pursuant to the development standards in effect at the time of approval, provided that the permit or approval is valid and has not lapsed.

(3) Any building or development for which a Building Permit was granted prior to the effective date of this ordinance shall be permitted to proceed as permitted or approved, even if such building or development does not conform to the provisions of this ordinance, as long as the Building Permit remains valid.

(4) Building permits authorized in accordance with the ordinance existing prior to the effective date of this ordinance shall still be valid, but shall not be renewed if the permit expires. All future permits shall only be issued if in compliance with the requirements of this ordinance.

1.14 Enforcement

1.14.1 Purpose. This article establishes procedures through which the City seeks to ensure compliance with the provisions of this ordinance and obtain corrections for ordinance violations. It also sets forth the remedies and penalties that apply to violations of this ordinance. The provisions of this chapter are intended to encourage the voluntary correction of violations whenever possible.

1.14.2 Compliance Required

A. **In General.** Compliance with all the procedures, standards, and other provisions of this ordinance shall be required by all persons owning, developing, managing, using, or occupying land or structures in the City.

B. **Approvals Required.** All persons shall obtain all necessary building permits and/or development approvals required by this ordinance prior to development.

1.14.3 Violations

A. **Failure to Comply with This Ordinance or Term or Any Condition of Approval Constitutes a Violation.** Any failure to comply with a standard, requirement, prohibition, or limitation imposed by this ordnance; or the terms or conditions of any permit or other development approval or authorization granted in accordance with this ordinance; shall constitute a violation of this ordinance. Examples of violations include but shall not be limited to the following:

(1) Development of land without first obtaining all appropriate permits or development approvals, and complying with all applicable terms and conditions.

(2) Occupying or using land or a structure without first obtaining all appropriate permits or development approvals, and complying with all applicable terms and conditions.

(3) Engaging in any development or other activity of any nature in any way inconsistent with a permit or development approval, or other form of authorization granted for such activity by the City.

(4) Violating, by act or omission, any term, condition, or qualification placed by the City upon a required permit, certificate, or other form of authorization granted by the City to allow the development or other activity upon land.

(5) To alter, maintain, or use any building or structure or to use any land in violation of any provision of this Ordinance.

(6) To install, create, erect, alter, or maintain any sign without first obtaining the appropriate permits or development approvals, and complying with their terms and conditions.

(7) Create, expand, replace, or change any nonconformity, except in accordance with this Ordinance.

(8) Reduce or diminish the requirements of use, development, or dimensional standards below the minimum required by this Ordinance.

(9) Through any act or omission, fail to comply with any other provisions, procedures, or standards, as required by this Ordinance.

(10) To continue any of the above-stated violations.

B. Development Shall Adhere to Approved Plans

(1) Permits or development approvals issued by a decision-making body or City official authorize only the use, density or intensity, location, design, and/or development set forth on the plans reviewed in issuing such permits or development approvals.

(2) Development that differs from that which was approved by a decision-making body in a permit or development approval is a violation of this ordinance.

1.14.4 Responsible Persons. The owner, tenant, or occupant of any land or structure, or an architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this ordinance may be held responsible for the violation and subject to the remedies and penalties set forth in this chapter. A general or sub-contractor, engaged by a property owner shall, for the purpose of this ordinance, be considered an authorized agent of the property owner.

1.14.5 Enforcement Generally

A. **Responsibility for Enforcement.** The Zoning Administrator shall be responsible for enforcing the provisions of this ordinance.

B. General Inspection

(1) The Zoning Administrator, City Engineer and Building Inspector may enter upon land or inspect any structure to ensure compliance with the provisions of this Ordinance provided permission has been granted by one of the following:

(a) An owner of the property in question;

(b) A licensee of the business being inspected;

(c) A resident of a dwelling on the property being inspected; or

(d) Any other person in control of the premises.

(2) If the owner, licensee, resident, or other person in control of a premises objects to the inspection of or entrance to the property, the City may petition a court of competent jurisdiction for a search warrant to authorize entrance to the property.

(3) Every owner, licensee, resident, or other person in control of a premises within the City shall permit, at reasonable times, inspections of or entrance to the property by the Zoning Administrator to determine whether the provisions of this ordinance are being complied with and to enforce this ordinance. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses, or City service to the property. Mailed notice shall be given to the owner, licensee, resident or other person in control of the property, stating the grounds for the termination, the scheduled date of termination, and the right to appeal in accordance with Section 3.4.6, Appeal of Administrative Decisions.

(4) Nothing in this section shall be construed to limit the authority of the City to enter private property in urgent emergency situations where there is an imminent danger in order to protect public health, safety and welfare.

C. **Complaints Regarding Violations.** Any person may notify the Zoning Administrator of a suspected violation of this ordinance. In registering a complaint, the complaining party shall state, in writing, the cause and/or basis of the alleged violation. The identity of individuals registering complaints shall remain confidential as required by MN State Statute Section 13.44.

D. **Investigation of Complaints.** Upon learning there is a potential violation of this ordinance, the Zoning Administrator may conduct a general inspection to determine whether a violation of this ordinance exists.

E. Notice of Violations

(1) On finding that a violation of this Ordinance exists, the Zoning Administrator or other City Official shall provide written notification of the violation to the owner of the property on which the violation exists and the person causing or maintaining the violation. The notification shall be delivered by personal service or through standard mail accompanied by an affidavit of service. The notice of violation shall:

(a) Describe the location and nature of the violation;

(b) State the actions necessary to abate the violation;

(c) Order that the violation be corrected within a specified reasonable time period not to exceed 30 days after receipt of the notice of violation;

(d) State what course of action is intended if the violation is not corrected with the specified time limit; and advise the alleged violator(s) of their right to appeal the notice of violation to the Board of Adjustment and Appeals in accordance with Section 3.4.6.

(2) On receiving a written request for extension of the time limit for correction specified in the notice of violation, the Zoning Administrator may, for good cause shown, grant a single extension of the time for up to 30 days.

(3) If the owner of the property cannot be located or determined, the Zoning Administrator shall post a copy of the notice of violation on the building, structure, sign, or site that is the subject of the violation. In such a case, the time limit for correction of the violation shall be deemed to begin five days after the notice is posted.

F. Application of Penalties

(1) On determining that the violator has failed to correct the violation by the time limit set forth in the notice of violation, or any granted extension thereof, or has failed to timely appeal the notice of violation, the Zoning Administrator shall take appropriate action, as provided in Section 1.13.6, to correct and abate the violation and to ensure compliance with this ordinance.

(2) Each day a violation continues is a separate offense.

G. **Emergency Enforcement without Notice.** On determining that delay in correcting the violation would pose a danger to the public health, safety, or welfare, the Zoning Administrator may seek immediate enforcement without prior written notice by invoking any of the remedies or penalties listed in Section 1.13.6.

1.14.6 Remedies and Penalties.

A. If the responsible person to whom the notice of violation was directed fails to comply with the applicable provisions of this ordinance, that person is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than three hundred dollars ($300.00) for each offense or imprisoned for not more than ninety (90) days or both.

B. The City may also enforce any provision of this ordinance by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction.

C. A person who knowingly makes or submits a false statement or document in connection with an application or procedure required by this ordinance is guilty of a misdemeanor.

D. A person who violates, fails to comply with or assists, directs or permits the violation of a performance standard required by this ordinance must reimburse the City or its agent for the actual costs of the tests, measurements or other procedures necessary to demonstrate that violation.

1.15 Severability.

1.15.1 If any court of competent jurisdiction invalidates any provision of this ordinance, then such judgment shall not affect the validity and continued enforcement of any other provision of this ordinance.

1.15.2 If any court of competent jurisdiction invalidates the application of any provision of this ordinance to a particular property, structure, or situation, then such judgment shall not affect the application

of that provision to any other building, structure, or situation not specifically included in that judgment.

1.15.3 If any court of competent jurisdiction rules invalid any condition attached to an approval under this ordinance, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.

1.15.4 Whenever a condition or limitation is included in an administrative action authorizing regulatory activity, then it shall be conclusively presumed that the authorizing officer, commission, or board considered such condition or limitation necessary to carry out the spirit and intent of this ordinance, and that the officer, commission, or board would not have granted the authorization to which the condition or limitation pertained except in the determination that the condition or limitation was lawful.

1.15.5 No judgment of any court of competent jurisdiction shall be considered final until all appeals therefore have been exhausted.

1.15.6 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.

2.0 RULES AND DEFINITIONS

2.1 General Rules for Interpretation. The language set forth in the text of this ordinance shall be interpreted in accordance with the following rules of construction:

2.1.1 Meanings and Intent. All provisions, terms, phrases, and expressions contained in this ordinance shall be interpreted in accordance with the general purposes set forth in Section 1.3, Ordinance Purpose, and the specific purpose statements set forth throughout this ordinance. When a specific section of these regulations gives a different meaning than the general definition provided in this article, the specific section's meaning and application of the term shall control.

2.1.2 Headings, Illustrations, and Text. In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control. Graphics and other illustrations are provided for informational purposes only and should not be relied upon as a complete and accurate description of all applicable regulations or requirements.

2.1.3 Lists and Examples. Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

2.1.4 Computation of Time. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the City, the deadline or required date of action shall be the next day that is not a Saturday, Sunday, or holiday observed by the City. References to days are calendar days unless otherwise stated.

2.1.5 References to Other Regulations/Publications. Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, regulation, or document, unless otherwise specifically stated.

2.1.6 Delegation of Authority. Any act authorized by this ordinance to be carried out by a specific official or department of the City may be carried out by a professional-level designee of such official or department.

2.1.7 Technical and Non-Technical Terms. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

2.1.8 Public Officials and Agencies. All public officials, bodies, and agencies to which references are made are those of the City of the Village of Minnetonka Beach, unless otherwise indicated.

2.1.9 Mandatory and Discretionary Terms.

A. The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision.

B. The words "may" and "should" are permissive in nature.

2.1.10 Conjunctions. Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

A. "And" indicates that all connected items, conditions, provisions or events apply.

B. "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

2.1.11 Tenses, Plurals, and Gender

A. Words used in the present tense include the future tense.

B. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.

C. Words used in the masculine gender include the feminine gender, and vice versa.

2.1.12 Terms Not Defined. If a term used in this Ordinance is not defined in Section 2.4, the Zoning Administrator shall have the authority to provide a definition based upon the definitions used in accepted sources including but not limited to A Planners Dictionary (APA PAS Report 521/522), or any standard dictionary.

2.2 Rules of Measurement

2.2.1 Measurements, Generally

A. Purpose. The purpose of this section is to clarify the rules of measurement and exemptions that apply to all principal and accessory uses allowed in this ordinance. These standards may be modified by other applicable sections of this ordinance.

B. Distance Measurements, Generally

(1) Unless otherwise expressly stated, distances specified in this ordinance are to be measured as the length of an imaginary straight line joining identified points on a horizontal plane.

(2) Measurements involving a structure are made to the closest support element of the structure.

(3) Structures or portions of structures that are entirely underground are not included in measuring required distances.

2.2.2 Lots and Yards

A. Lot Types (see Figure 2.2.2(A))

(1) Bisected Lot. A lakeshore lot that is bisected near the lakeshore by a public roadway.

(2) Corner Lot. A lot bordered on at least two (2) adjacent sides by adjoining streets.

(3) Cul-de-Sac Lot. A lot located on the head or turnaround of a cul-de-sac with side lot lines on a tangent to the arc of the right-of-way.

(4) Double Frontage Lot. A lot, other than a corner lot, with frontage on more than one street.

(5) Flag Lot. A lot that does not abut or front a street where access is obtained by a narrow private right-of-way.

(6) Interior Lot. A lot other than a corner lot with only one frontage on a street other than an alley.

(7) Landlocked Lot. A lot bordered by public or private properties on all sides having no frontage on a right-of-way.

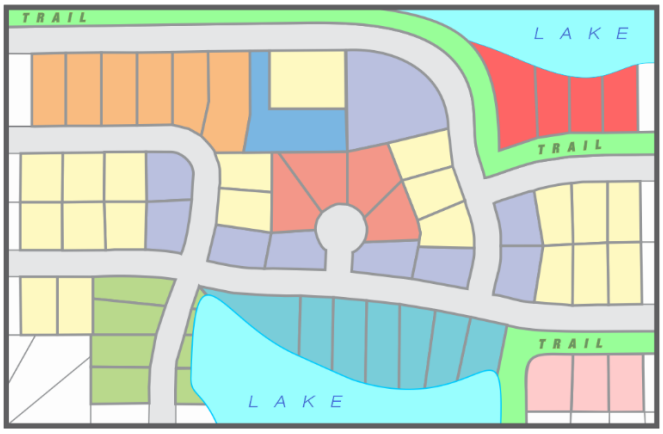
(8) Lake Lot. A lot having frontage on Lake Minnetonka without an intersecting public street.

(9) Lakeshore Lot. A lot bordered on one side by lakeshore, and the opposite side by a right-of-way. Lakeshore lots may also be corner lots.

Figure 2.2.2 (A)

The lots in this figure are color coded to illustrate the various lot types defined by code.

- *Interior Lot*
- *Flag Lot*
- *Landlocked Lot*
- *Lake Lot*
- *Lakeshore Lot*
- *Bisected Lot*
- *Cul-de-Sac Lot*
- *Corner Lot*
- *Double Frontage Lot*
- *Public Right-of-Way (ROW)*



B. Lot Lines and Yards (see Figure 2.2.2(B))

(1) Front Lot Line. The boundary of a lot that abuts a street, road or lane. In the case of a corner lot, it shall be the boundary with the shortest dimension on the street, lane, or road. In the case of a lake lot, it shall be the boundary abutting the ordinary high water mark.

(2) Side Lot Line. The side lot lines are the lot lines connecting the front and rear lot lines regardless of their orientation, or whether they abut a right-of-way or another lot line.

(3) Corner Side Lot Line. The corner side lot line is a side lot line that abuts a street or other right-of- way.

(4) Rear Lot Line. The boundary of a lot opposite of the front lot line or the Ordinary High Water Level.

(5) Front Yard. A yard extending between side lot lines across the front of a lot between the front lot line and the front building line.

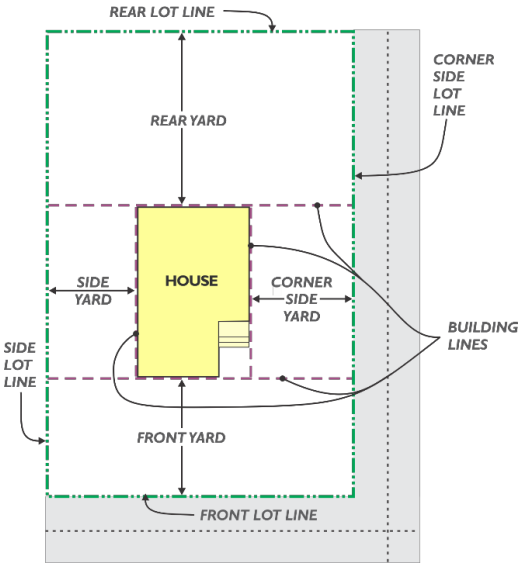
(6) Side Yard. A yard extending from the front building line to rear building line. In the case of double frontage lots, the side yard extends from the front building line to the opposing building line associated with the other yard.

(7) Corner Side Yard. A side yard extending between the front and rear lot lines parallel to an abutting street or right-of-way.

(8) Rear Yard. A yard extending across the rear of the lot between the rear lot line and the rear building line. In the case of double frontage lots, there is no rear yard, and the requirements for the front yard shall apply to the front and rear.

Figure 2.2.2(B)

Lot Lines and Yards



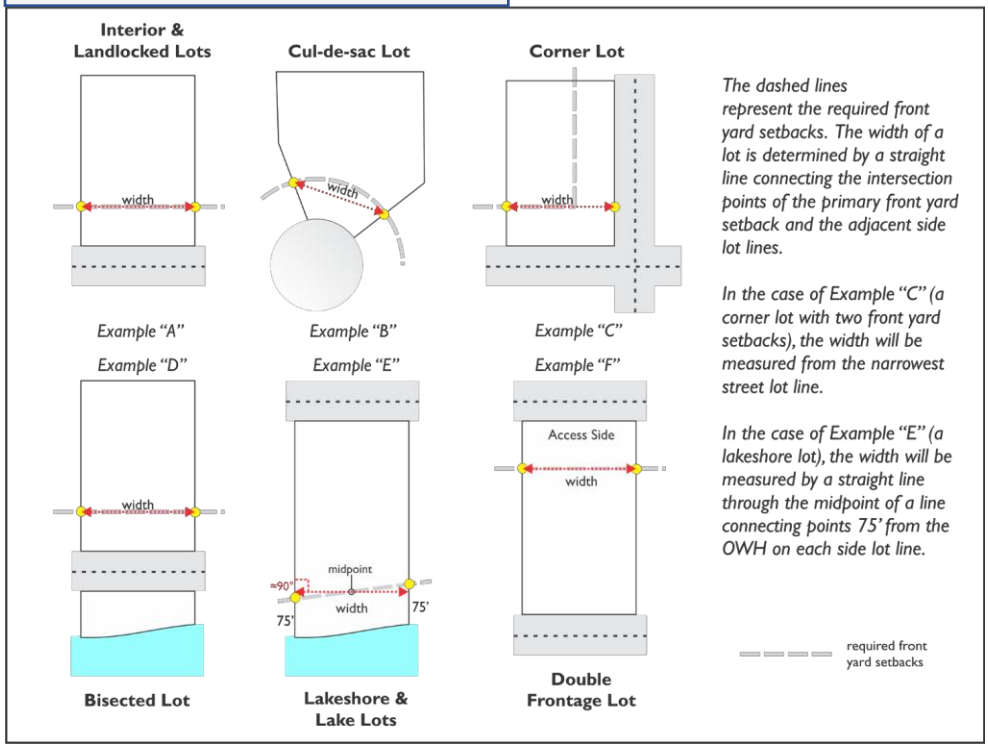
C. Definitions/Measurement

(1) Lot Width (see Figure 2.2.2(C)(1)

(a) Lot width shall be determined by a straight line connecting the endpoints determined by the intersection of the side lot lines and the minimum front yard setback.

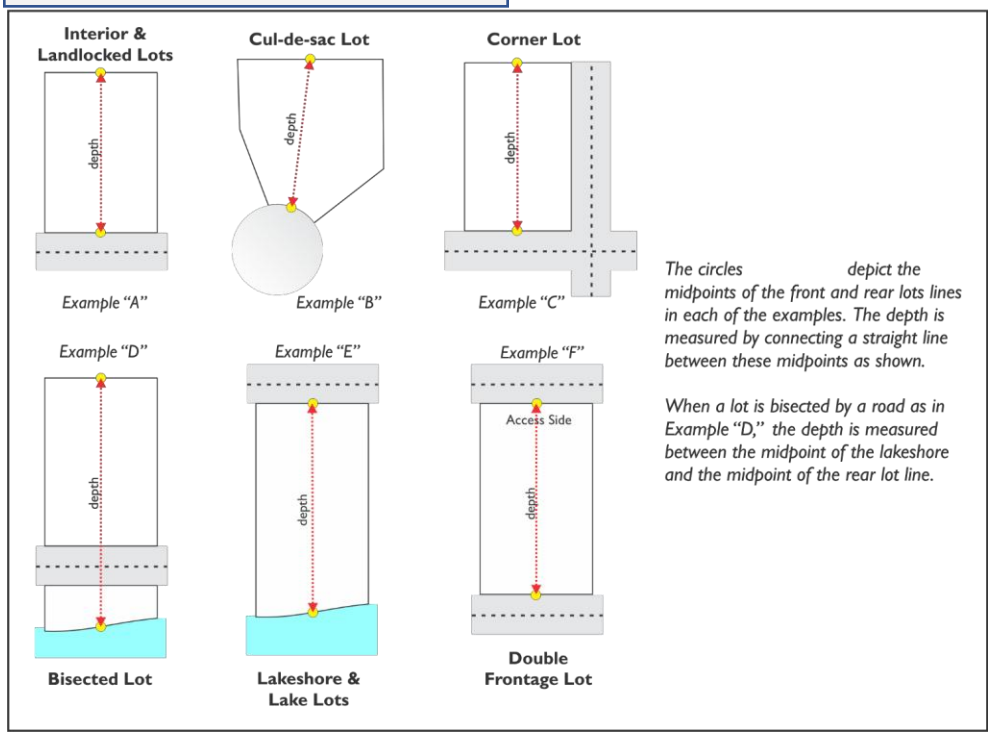
(b) The width of a corner lot shall be calculated from the side with the least frontage on a right-of-way.

Figure 2.2.2(C)(1): Measuring Width



(2) Lot Depth (see Figure 2.2.2(C)(2). Lot depth shall be determined by a straight line connecting the midpoint of the front lot line to the midpoint of the rear lot line (see Figure 2.2.2(C)(2) for examples).

Figure 2.2.2(C)(2): Measuring Depth



(3) Lot Area (see Figure 2.2.2(C)(3)). The amount of land area, measured horizontally, included within the lines of a lot. Lands located within any private easements shall be included within the lot area. Public rights-of-way and areas below the ordinary high-water level (OHWL) of Lake Minnetonka are not to be included in calculating lot area, except where specifically allowed by this ordinance. The terms "lot size" and "lot area" shall be interchangeable.

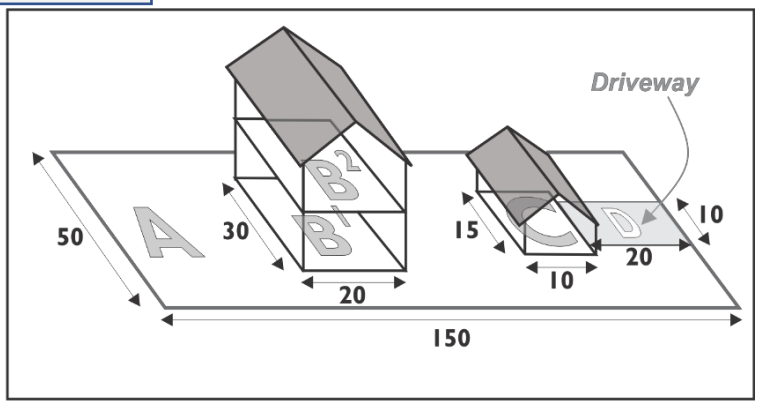
Figure 2.2.2(C)(3) **Coverage & Area Measurements**

Lot Area = Area of "A" *(150 x 50 = 7500)*

Building Coverage = Area of B^1 + C
[(30x20)+(15x10)] = 750

Impervious Surface Coverage = Area of B^1 + C + D
[(30x20)+(15x10)+(20x10)] = 950

Gross Floor Area = Area of B^1 + B^2 + C
[(30x20)+(30x20)+(15x10)] = 1350



(4) Building Line (see Figure 2.2.2(B)). A line formed by the outward most face or support structure for a building which is used to establish the yards around a building or structure.

(5) Setback Line. The minimum distance prescribed by this ordinance between any property line and the closest point of the foundation or any supporting post or pillar of a building or structure. Portions of a building, (e.g., an overhang, eave, entry stairs, bay windows, foundation planters, etc.) may encroach into a required yard as outlined in Table 6.1.8, Allowable Yard Encroachments.

(6) Yard. A required open area unoccupied and unobstructed by any building or by any structure or portion of a structure except as allowed by this ordinance.

(7) Lot or Street Frontage

(a) In the case of a building lot abutting upon only one street, the frontage line is the line parallel to and common with the right-of-way.

(b) In the case of a corner lot, that part of the building lot having the narrowest frontage on any street shall be considered the frontage line.

(c) For the purpose of determining yard requirements on corner lots, the frontage line shall provide a front yard, and the corner side yard shall provide a side yard as required in this ordinance.

(d) For the purpose of determining yard requirements on double frontage lots other than corner lots, both sides of the lot adjacent to streets shall be considered frontage, and yards shall be provided as required in this ordinance.

(8) Right-of-Way (ROW). Land dedicated, deeded, used, or intended to be used for a street, road, alley, pedestrian way, crosswalk, bikeway, utilities, drainage facility, or other public uses.

D. Height

(1) Definitions/Measurement

(a) Building Height. The vertical distance between the lowest ground level of the building and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

(b) Building Story. That portion of the building included between the surface of any floor and the surface of the next floor above it or if there is no floor above it, the space between the floor and the ceiling next above it.

(c) Fence and Wall Height.

(i) Fence height shall be measured as the vertical distance between the finished grade at the base of the fence to the top edge of the fence material.

(ii) The height of fencing atop a wall shall be measured from the base of the wall (see figure 2.2.2(D)).

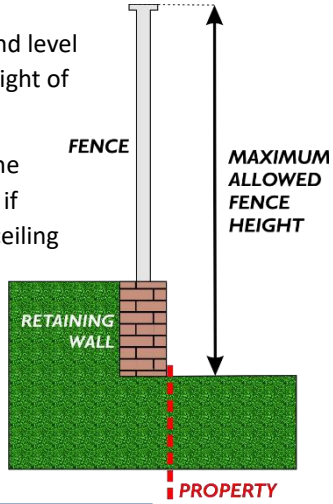


Figure 2.2.2(D)
Fence on Top of Wall Height

E. Bulk and Coverage; Definitions & Measurements

(1) Building Coverage. Building coverage is a measure of intensity of a use of land that represents the portion of a site that is covered by building footprint, as well as attached porches, decks, and balconies. Building coverage does not include driveways, streets, sidewalks, and any other areas covered by an impervious surface material, including areas of outdoor storage (see Figure 2.2.2(C)(3)).

(2) Floor Area. The sum of gross horizontal area of the several floors of a building measured from the exterior walls, including basements and attached accessory buildings.

(3) Impervious Surface Coverage

(a) Impervious surface coverage shall be calculated as the total horizontal surface area of all impervious surfaces on a given lot (see Figure 2.2.2(C)(3).

(b) For properties encumbered by a roadway easement as opposed to fronting on a dedicated right-of-way, impervious surface coverage shall be calculated as the total horizontal surface area of all impervious surfaces on the net area of the lot, with the net area calculated as the gross lot area less the area of the roadway easement.

(4) Floor Area Ratio. The total floor area of all buildings or structures on a lot divided by the lot area (see Figure 2.2.2(C)(3)).

2.3 Glossary of Abbreviations

APC - Air Pollution Code

ADA - American Disability Act

ASTM - American Society of Testing and Materials

BMP - Best Management Practice

CC - City Council

CUP - Conditional Use Permit

DNR - Department of Natural Resources

EAW - Environmental Assessment Worksheet

EIS - Environmental Impact Statement

EQB - Environmental Quality Board

FAA - Federal Aviation Administration

FCC - Federal Communications Commission

FEMA - Federal Emergency Management Agency

HSG - Hydrologic Soil Groups

ID - Identification

IUP - Interim Use Permit

MCS - Micro-generation Certification Scheme

MCWD - Minnehaha Creek Watershed District

MEP - Maximum Extent Practicable

MPCA - Minnesota Pollution Control Agency

MS4 - Municipal Separate Storm Sewer System

MN - Minnesota

NABCEP - North American Board of Certified Energy Professional

NPDES - National Pollution Discharge Elimination System

OHW/OHWL - Ordinary High Water/Ordinary High Water Level

PC - Planning Commission

RLUIPA - Religious Land Use and Institutionalized Persons Act

ROW - Right of Way

SQFT - Square Feet

SWECS - Wind Energy Conversion System, Small

SWPPP - Storm Water Pollution Prevention Program

USDA - United States Department of Agriculture

TR - Technical Release

WECS - Wind Energy Conversion System

2.4 Definitions

ACCESSIBILITY IMPROVEMENTS. Any special property improvements such as sidewalks, ramps, lifts, etc., that may be needed to ensure accessibility for people with disabilities.

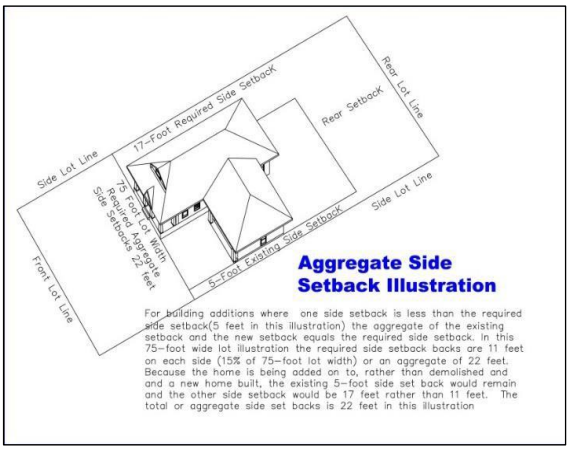
ACCESSORY BUILDING - MAJOR. A building which is accessory to a principal structure and is required to be constructed with a building permit per MN Rule 1300.0120.

ACCESSORY BUILDING - MINOR. A building which is accessory to a principal structure and exempt from a building permit per MN Rule 1300.0120.

ACCESSORY USE OR STRUCTURE. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, and serving the principal use or structure. An accessory use or structure shall not be used as a temporary or permanent dwelling unit.

AGGREGATE OF BOTH SIDE SETBACKS. The side setback aggregate is formed by total of both side setbacks. The purpose is to provide an adequate side setback on lots where the existing non-conforming structure is set closer to one side of the lot line than on the other. The aggregate would only apply when an existing non-conforming home is increased in volume and expanded into the conforming side setback.

Illustration of Side Setback Aggregate



AIR CONDITIONING UNIT. The portion of residential air conditioning equipment located outside of a dwelling which contains a fan and/or compressor unit.

ALLEY. A public or private right-of-way not greater than twenty-four (24) feet in width which affords a secondary means of access to abutting property.

ALTERNATIVE SUPPORT STRUCTURE. A building, public owned light pole, Lafayette Club Clubhouse, City Hall, etc.

ANTENNA, PRIVATE AMATEUR RADIO. Equipment, including antennae, antennae support structures, and other related material, necessary to conduct Ham and Short Wave Radio reception and transmissions, only for use by those persons properly licensed by the Federal Communications Commission for such reception and transmissions, and who are in full compliance with all licensing requirements.

ANTENNA, PRIVATE RECEIVING. Television and other electronic reception antennae for private use.

ANTENNA, TELECOMMUNICATION. A device used for the transmission and/or reception of wireless communications, usually arranged on an antenna support structure or building, and consisting of a wire, a set of wires, or electromagnetically reflective or conductive rods, elements, arrays, or surfaces, inclusive of the following: Private Amateur Radio Antenna(s), Private Receiving Antenna(s), Commercial Transmission And Reception Antenna(s), and Wireless Telecommunications Service Antenna(s).

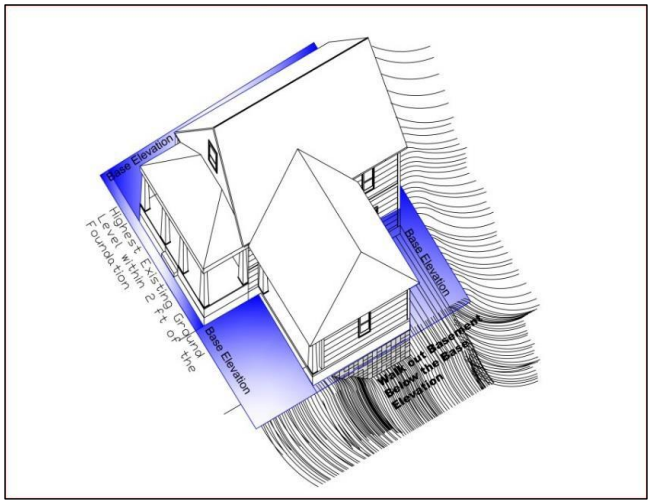
ANTENNA, WIRELESS TELECOMMUNICATIONS SERVICE. Shall mean any equipment necessary to provide or support all types of wireless electronic communications, including, but not necessarily limited to, wireless "cellular" telephone, radio, and internet transmission and reception communications between mobile communications providers and users, including public safety communications.

ANTENNA SUPPORT STRUCTURE. Any pole, telescoping mast, tower, tripod, or other structure which supports an antenna. Such structure may be freestanding or attached to a building or other device that conforms to this ordinance.

BARBEQUE, PERMANENT. A fixture such as a grill, spit, or fireplace for cooking meat, vegetables, or other food over an open fire or heat source. Portable units attached to permanent gas lines shall be considered permanent.

BASE ELEVATION. The highest existing ground elevation within two feet of the foundation of the Principal Use for the Principal Uses and within two feet of a Detached Garage for the Detached Garage.

Illustration of Base Elevation



BASE FLOOD. A flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION. The elevation of the "regional flood." The term "base flood elevation" is used in the flood insurance survey.

BASEMENT. Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

BEST MANAGEMENT PRACTICES (BMPs). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

BIO-STABILIZATION. The use of erosion control materials such as erosion mats, filter fabrics, and/or rocks, combined with native plantings for the purpose of stabilizing upland slopes, and shorelines. Guidelines on bio-stabilization can be obtained at the Minnehaha Creek Watershed District.

BLOCK. The enclosed area within the perimeter of roads, property lines or boundaries of the subdivision.

BLUFF. A topographic feature such as a hill, cliff, or embankment having the following characteristics:

A. Part or all of the feature is located in a shoreland area;

B. The slope must drain toward the waterbody;

C. The slope rises at least 25 feet above the ordinary high water level; and

D. 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 (see Figure 1), except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff (see Figure 2).

Figure 1. Illustration of Bluff

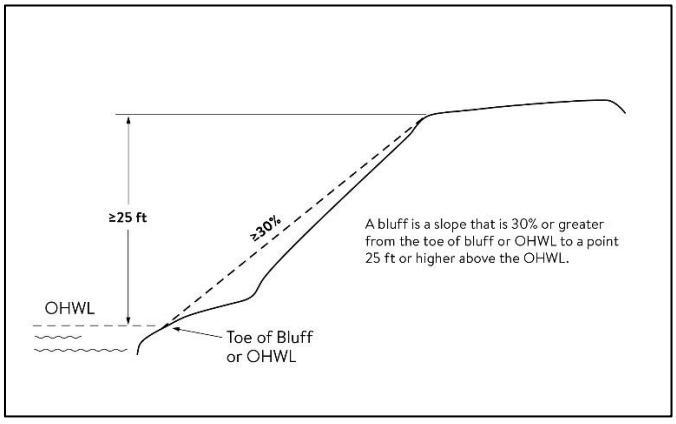
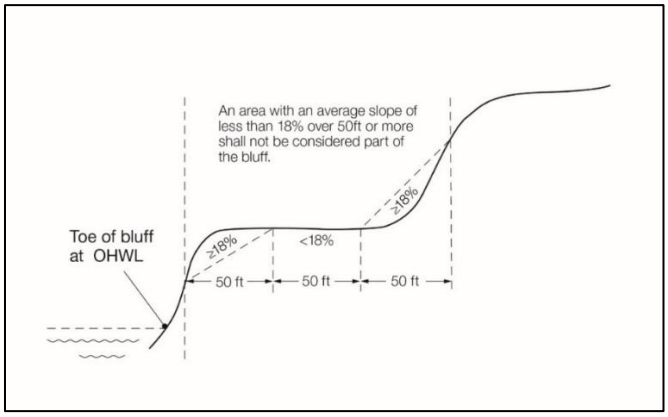


Figure 2. Exception to Bluff

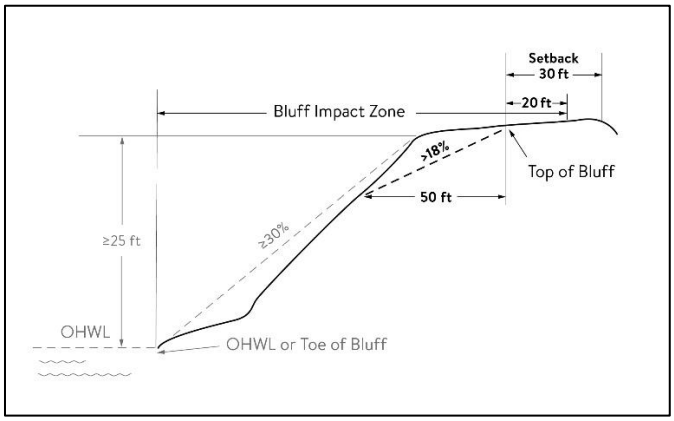


BLUFF, TOE OF. The lower point of a 50-foot segment with an average slope exceeding 18 percent or the ordinary high water level, whichever is higher.

BLUFF, TOP OF. For the purposes of measuring setbacks, bluff impact zone, and administering vegetation management standards, the higher point of a 50-foot segment with an average slope exceeding 18 percent. See Figure 3.

BLUFF IMPACT ZONE. A bluff and land located within twenty (20) feet from the top of a bluff. See Figure 3

Figure 3. Bluff Impact Zone and Top of Bluff



BOATHOUSE. A structure designed and used solely for the storage of boats or boating equipment.

BUILDABLE AREA. The space remaining on a lot after the minimum required principal use setbacks have been met.

BUILDABLE LOT. Any platted lot or parcel of land which is entitled to a building permit under this Ordinance.

BUILDING PERMIT. See Building Regulations, Section 512. All structures require a permit from the City.

CAREGIVER. Persons employed or contracted by the owner-occupant to provide Activities for Daily Living (ADL), Instrumental Activities of Daily Living (IADL), or medical services to the residing owner-occupant or residing family member of the owner-occupant. Such persons shall be an Activities of

Daily Living Provider; medical personnel licensed by the State of Minnesota or a family member to provide such ADL and IADL services or medical services. Such services may include the basic ADL services including: memory loss assistance, eating, bathing, dressing, toileting, transferring (walking) and continence; basic IADL services including: finding and utilizing resources, driving or arranging travel, preparing meals, shopping, doing housework, managing medication, managing finances, and may include nursing aid and care by a physician.

CENTRAL WATER AND SEWER SYSTEM. A sewer or water system serving a group of buildings, lots, or an area of the City.

CLEAN WATER ACT. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

COMMISSIONER. The Commissioner of the Department of Natural Resources.

COMMON OPEN SPACE. Land in a Planned Unit Development held perpetually in common by all of the Homeowners in the Planned Unit Development Overlay Zoning District, maintained, and managed by a Homeowners Association.

CONDITIONAL USE. A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that certain conditions as detailed in the zoning ordinance exist, that the structure and/or land use conforms to the comprehensive plan, and that the structure and/or land use is compatible with the existing neighborhood.

CONSTRUCTION ACTIVITY. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

CONSTRUCTION USES AND STRUCTURES. Construction and/or landscaping materials or equipment being used on the premises for a permitted activity.

COUNTRY CLUB. A land area and buildings containing recreational facilities, clubhouse and usual accessory uses, open only to members and their guests for a membership fee and used:

- For the operation and maintenance of a private club with clubhouse and grounds for the use and enjoyment by guests of members of the club of the sports of golf, tennis, boating, swimming, ice skating, cross country skiing, paddle tennis and other games, sports and forms of entertainment usually participated in by the members of a country club or golf club; and

- For the furnishing of meals, refreshments and lodging to members and guests of members of the club.

CRITICAL FACILITIES. Facilities necessary to a community's public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

DECK. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site, which is no more than 5 feet above the ground, including railings.

DEVELOPMENT. Any activity that substantially moves soils or substantially alters the pre- existing vegetated or manmade cover of any land. This includes, but is not limited to, buildings or other structures, grading, digging, cutting, scraping, stockpiling or excavating of soil, placement of fill materials, paving, pavement removal, exterior construction, substantial removal of vegetation where soils are disturbed including but not limited to removal by clearing or grubbing, or any activity which bares soil or rock or involves streambed alterations or the diversion or piping of any watercourse. Development does not include routine maintenance to maintain original line and grade, hydraulic capacity, or the original purpose of the facility, nor does it include emergency construction activities required to protect public health and safety.

DETACHED GARAGE. A detached major accessory building used primarily for parking or storing a motor vehicle and separated from the principal structure on the Lot.

DIRECTLY CONNECTED IMPERVIOUS AREA (DCIA). The area covered by a building, impermeable pavement, and/or other impervious surfaces, which drains directly into the stormwater conveyance system without first flowing across permeable vegetated land area designed to infiltrate stormwater and abstract pollutants.

DOMESTIC HELP. Persons employed by the owner-occupant to provide personal services to only the owner-occupant or residing family of the owner-occupant. Such personal services include but are not limited to cleaning, cooking, yard and home maintenance, nanny care and secretarial services not related to a home occupation.

DRIVEWAY. A private paved or gravel road leading from a public street easement or public street right-of-way to a house, garage or other vehicle storage area or to a parking lot or parking area.

DWELLING. A building or part thereof which is designed or used exclusively for human habitation.

DWELLING, SINGLE-FAMILY. A detached building containing one (1) dwelling unit designed for occupancy by one (1) family.

DWELLING, TWO-FAMILY. A detached building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.

DWELLING SITE. A designated location for residential use.

DWELLING UNIT. One room, or rooms connected together, constituting a separate, independent dwelling for owner occupancy, rental or lease, physically separated from any other room or dwelling unit which may be in the same structure, and containing independent cooking, sleeping and sanitary facilities, but not including hotels, motels, boarding or rooming houses, tourist homes, mobile homes, travel trailers or tents.

DWELLING UNIT, ACCESSORY. A subordinate dwelling unit added to or created within a single-family dwelling unit ("principal unit") all on the same lot and under the same ownership as the principal unit.

END ISLAND. A landscaped island at the end of a row of parking spaces and at ingress and egress driveways.

EASEMENT, PUBLIC UTILITY. A limited ownership interest in land enabling the construction and maintenance of public services and utilities thereon including, but not limited to, sanitary sewers, water mains, electrical lines, gas lines, telephone lines, cable TV, and storm sewer or storm drainage facilities.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

ESSENTIAL SERVICES. Overhead or underground electrical, gas, steam or water transmission or distribution systems and structures for collection, communication, supply or disposal systems and structures used by public utilities, or governmental departments or commissions, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories used in conjunction therewith.

FAMILY. An individual, or two (2) or more persons each related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of not more than four (4) persons not so related, maintaining a common household.

FENCE. A constructed barrier of wood, masonry, stone, wire, metal, or other manufactured material or combination of materials erected to enclose, screen, or separate areas.

FIRE PIT. A pit dug into the ground or a freestanding metal vessel, in which a contained outdoor fire is made. Portable freestanding fire pits attached to permanent gas lines shall be considered permanent.

FLOOD. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE. The portion of the Special Flood Hazard Area (one percent annual chance flood) located outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Hennepin County, Minnesota.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

FLOOD INSURANCE STUDY (FIS). The study referenced in Section 10.2.1, which is an examination, evaluation and determination of flood hazards, and if appropriate, corresponding surface elevations, or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOOD PRONE AREA. Any land susceptible to being inundated by water from any source (see "Flood").

FLOODPLAIN. The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

FLOODPROOFING. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

FLOODWAY. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

GARAGE, PRIVATE. An accessory building of the type historically used for storage of self-propelled vehicles and tools and equipment maintained as incidental to a conforming use of the premises.

GENERATOR. An external energy system that provides standby or backup electricity to a building when the primary power source is unavailable.

GREEN ROOF. Also referred to as vegetated roofs, eco roofs, and roof gardens, these systems are layered platforms of living vegetation that are installed on the tops of buildings. They are often used to mitigate effects of traditional roofs - including but not limited to reducing water runoff and insulation from heat and cold.

HANDICAPPED ACCESS FACILITIES. A sidewalk, ramp, lift or similar feature which provides wheelchair or similar access to a building.

HARDCOVER (see IMPERVIOUS SURFACE)

HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

HEAT PUMP. A machine that transfers heat from one space to another that is used to heat and cool a building.

HEDGE. A fence or boundary formed by closely growing bushes, shrubs or trees.

HOME OCCUPATION. A service business without retail sales, beauty or barer chairs or stations, conducted entirely within a Home Occupation Accessory Use only by members of a family residing full-time on the property which use is clearly incidental and secondary to the use of the dwelling or residential lot for residential purposes, and does not change the lot's residential character.

HOME OCCUPATION ACCESSORY USE. A subordinate use added to or created within the principal unit, attached to another conforming accessory unit or created in a separate detached unit from the principal unit, all on the same lot and under the same ownership as the principal unit.

HOMEOWNERS ASSOCIATION. The governing body of a Planned Unit Development organized under the Statutes of the State of Minnesota and consisting exclusively of all the landowners in the Planned Unit Development.

HOT TUB. An artificial container of water with a liquid capacity greater than 100 gallons and designed with a mechanical air injection system and/or recirculating device. These devices may filter and/or disinfect the water for reuse and are not intended to be drained between uses. Also referred to as spas or jacuzzis.

HOTEL. Any building or portion thereof where lodging is offered to transient guests for compensation and in which there are more than five (5) sleeping rooms with no cooking facilities in individual dwelling units. For the purposes of this Ordinance, a "hotel" includes, but is not limited to, a non-owner occupied dwelling which is used or intended to be used to accommodate guests of the owners or any other person, whether or not such accommodation is furnished for consideration.

ILLICIT DISCHARGE. Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in this ordinance;

ILLICIT CONNECTIONS. An illicit connection is defined as either of the following:

- Any drain or conveyance, whether on the surface or subsurface that allows an illegal discharge to enter the storm drain system including but not limited to any conveyances that allow any non-

stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or,

- Any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an authorized by the director of public works.

IMPERVIOUS SURFACE (HARD COVER). A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops; decks' sidewalks; patios; swimming pools; parking lots; concrete; asphalt; gravel driveways and pathways, or permeable pavers; and other surfaces. Retaining walls are considered impervious unless in the opinion of the city engineer, they are the minimum necessary to control an erosion problem. Individual isolated boulders are not counted as hardcover if they conform with typical landscaping use of boulders. Riprap is not counted as hardcover if it is consistent with what is required on a given lot to protect shoreline.

INFILTRATION. The downward entry of water into the surface of the soil through plants that are able to adequately produce evapotranspiration.

INTERIM USE. A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

INTENSIVE VEGETATION CLEARING. The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

JUNKYARD. Land or buildings where waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled, including but not limited to scrap metal, rags, paper, rubber products, glass products, lumber products, and products resulting from the wrecking of automobiles or other machinery. The storage of three (3) or more inoperative motor vehicles for a period in excess of three (3) months shall also be considered a junkyard.

LAKE ACCESSORY USES. Uses such as storage of boats, ice boats and other water craft and their related lifts or racks and trailers, riprap, seawalls, docks, irrigation pumps, boat houses, water platforms, snowmobiles, all-terrain vehicles and other similar uses incidental to principal use in the R-1 District.

LAKE MINNETONKA. The naturally occurring lake shown on all the official maps, including all bays, channels, inlets, lagoons, marshlands and other water-connected portions thereof, whether naturally occurring or artificially created, having the following characteristics:

- Ordinary High Water Level (OHWL) of 929.4 feet above mean sea level.

- Flood Plain Boundary of 931.5 feet above mean sea level.

    - The "floodway" boundary for Lake Minnetonka is the area at or below the OHWL.

    - The "flood fringe" for Lake Minnetonka is the area above the OHWL.

LANDSCAPING. The finishing and adornment of unpaved yard areas. Materials and treatment generally include naturally growing elements such as grass, trees, shrubs, and flowers. This treatment may also include the use of logs, rocks, fountains, water features, and contouring of the earth.

LOT. The basic unit of land into which land is divided for uses. An area with fixed boundary lines, not including easements for publicly dedicated or accepted rights-of-way.

LOT TYPES [see Section 2.2.2]

LOT OF RECORD. Any lot on file in the office of the county recorder on September 1, 2011.

LOT, OTHER. All other lots or parcels of land which are not entitled to a building permit and are not, therefore, buildable under this Ordinance.

LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.

MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle."

MATERIAL STORAGE AREAS. On site locations where raw materials, products, final products, byproducts, or waste materials are stored.

MAXIMUM EXTENT PRACTICABLE (MEP). The technology-based standard established by Congress in the Clean Water Act 402(p)(3)(B)(iii) for stormwater discharges that construction site operators must meet. MEP is generally the result of emphasizing pollution prevention and source control best management practices (BMPs) primarily (as a first line of defense) and in combination with treatment methods serving as backup (additional line of defense). The MEP approach is an ever evolving, flexible and advanced concept, which considers technical and economic feasibility. As knowledge about controlling urban runoff continues to evolve, so does what constitutes MEP.

MAYOR. Mayor of the City of the Village of Minnetonka Beach

MOBILE HOME. A factory-built single-family detached dwelling unit, equipped with necessary service connections, which is movable as a unit and designed for year-round occupancy with or without a permanent foundation. A travel trailer is not a mobile home.

MOTOR VEHICLE. Any self-propelled vehicle designed primarily for transportation of persons or goods along public streets or alleys, or other public ways.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the and designed or used for collecting or conveying stormwater, and that is not used for collecting or conveying sewage.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT. Means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

NEW CONSTRUCTION. Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance as identified in Section 1.5.

NONCONFORMING USE or **NONCONFORMITY.** The use of a structure, land or both lawfully in existence on the effective date of this Ordinance which does not conform to the requirements applicable thereto contained in this Ordinance and as subsequently amended.

OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

ONE HUNDRED YEAR FLOODPLAIN. Lands inundated by the "Regional Flood." (see definition).

OPACITY. The measurement of the screening effectiveness of landscaping, a fence or wall, expressed as the percent of vision the screen blocks.

ORDINARY HIGH WATER LEVEL (OHWL). A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water level is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. The OHWL for Lake Minnetonka can be found on the LMCD website and as of January 2024 was 929.4 feet above sea level.

OUT BUILDING. An Accessory Structure, not including a detached garage, not attached to the principal use, such as greenhouses, gazebos, sheds, shelters or similar uses.

OUTDOOR STORAGE. Any materials stored outside for more than 24 hours and that are accessory to the use of the property, but are not for sale or lease.

OWNER-OCCUPANT. An owner of a principal unit who has legal residency on the same lot as the accessory unit and who resides in the principal unit or accessory unit at least five and one half (5 1/2) months of the year.

PARCEL. See definition for "lot."

PARKING AREA/LOT. A paved area outside of the public right-of-way where motor vehicles may be parked.

PARKING SPACE. A space to park a motor vehicle which is not less than ten (10) feet wide and twenty (20) feet in length.

PATIO. An uncovered level surface area that is typically adjacent to a principal building; usually made of concrete, brick, or other masonry material; which does not project more than twelve (12) inches above ground level at any given point.

PERMITTED USE. A use authorized by right.

PERSON. Any individual, firm, partnership, corporation, company, association, joint stock association, or other legal entity or body politic including any trustee, receiver, assignee, or other similar representative thereof.

PERVIOUS PAVEMENT. A pavement system that allows runoff to pass through it to the soil below.

PERVIOUS SURFACE. A surface material that allows runoff to pass through it to the soil below.

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non- hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution;

floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coli form and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

POST-CONSTRUCTION RUNOFF MANAGEMENT BMPS. Site design features, source control features, and treatment control BMPs that become a permanent part of a project's design and remain functioning throughout the "use" phase of a project site. (See the definitions for site design, source control and treatment control BMPs).

PUD - PLANNED UNIT DEVELOPMENT. A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel; whether for sale, rent, or lease; and also usually involving clustering of these units or sites to provide areas of common open space.

PLAT. The map or plan of a subdivision showing the property boundaries, layout, dimensions, and legal descriptions of all lots, blocks, and rights-of-way.

PREMISES. A lot, together with all buildings and structures thereon.

PRINCIPAL USE. The main use of land or buildings as distinguished from subordinate or accessory uses and structures.

PRIVATE AMATEUR RADIO. Equipment, including antennae, antennae support structures, and other related material, necessary to conduct Ham and Short Wave Radio reception and transmissions, only for use by those persons properly licensed by the Federal Communications Commission for such reception and transmissions, and who are in full compliance with all licensing requirements.

PRIVATE RECEIVING ANTENNAE AND ANTENNA SUPPORT STRUCTURES. Television and other electronic reception antennae for private use.

PRIVATE RECREATIONAL FACILITIY. A private park overseen, managed, and maintained by a homeowners association.

PROCESSING AREAS. Outdoor process equipment operations such as rock grinding or crushing, painting or coating, grinding or sanding, degreasing or parts cleaning, landfills, waste piles, wastewater and solid waste treatment and disposal, and others operations may contribute a variety of toxic compounds, oil and grease, heavy metals, nutrients, suspended solids, and other pollutants to the storm conveyance system.

PUBLIC INFRASTRUCTURE. The construction, installation or maintenance of:
(1) City Streets and County collector or arterial roads;
(2) Public recreational trails;
(3) Stormwater, water, sewer and any other utility infrastructure;
(4) Any essential service or public improvement;
(5) Parks;
(6) City property.

PUBLIC WATERS. Any waters as defined in Minnesota Statutes, Section 103G.005, Subdivisions 14 and 15, as amended.

REACH. A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

RECEIVING WATERS. Lake Minnetonka and designated Wetlands.

RECREATIONAL EQUIPMENT. Equipment, temporary or permanent, such as private playground equipment, tennis or other play courts, skating rinks, play areas, and other similar uses incidental to principal use of the R-1 District used for the recreational enjoyment and entertainment of the principal use's occupant or their guests.

RECREATIONAL VEHICLE. A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this ordinance, the term recreational vehicle is synonymous with the term "travel trailer/travel vehicle."

REGIONAL FLOOD. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study. This elevation can be found on the link here to the online FEMA map for Minnetonka Beach. As of January 2024, the elevation was 931.1 feet above sea level.

REGULATORY FLOOD PROTECTION ELEVATION (RFPE). The regulatory flood protection elevation shall be an elevation no lower than one foot above the regional flood elevation plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway. As of January 2024, one foot above the Regional Flood elevation is 932.1 feet above sea level.

REMODELING. Any maintenance, repair, alteration or addition to all or any portion of a building or structure.

REPETITIVE LOSS. Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

RETENTION. The storage of stormwater to prevent it from leaving the development site; may be temporary or permanent.

RUN-ON. Stormwater surface flow or other surface flow which enters property other than that where it originated.

SATELLITE DISH. A device incorporating a reflective surface that is solid, open mesh or bar configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition shall include but not be limited to what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), Direct Satellite Systems (D.S.S.) and satellite microwave antennas.

SEA LEVEL. Sea level vertical datum NGVD29.

SECONDARY CONTAINMENT. Dikes or berms, surrounding tanks or other storage containers and designed to catch spilled material from the storage containers.

SETBACK. See the definition for "setback line" in Section 2.2.2(C)(5).

SETBACK AREA. The area between the lot line and principal use or accessory use setback.

SETBACK, MINIMUM FRONT. The minimum required distance between the front lot line and the closest point of a principal or accessory structure.

SETBACK, MINIMUM LAKE. The minimum required distance between the Ordinary High Water Level (OHWL) of Lake Minnetonka and the closest point of a principal or accessory structure.

SETBACK, MINIMUM REAR. The minimum required distance between the rear lot line and the closest point of a principal or accessory structure.

SETBACK, MINIMUM SIDE. The minimum required distance between a side lot line and the closest point of a principal or accessory structure.

SEWER SYSTEM. Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

SHORE IMPACT ZONE. The area of land located inland from the Ordinary High Water Level (OHWL) to 75 feet from the OHWL.

SHORELAND. Land located within the following distances from public waters: one thousand (1,000) feet from the ordinary high water level of a lake, pond, or flowage; and three hundred (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. All lands within the City of the Village of Minnetonka Beach shall be considered "shoreland" for the purposes of this Ordinance.

SHORELINE STABILIZATION. Riprap, retaining wall, seawall and bioengineered vegetation installation designed to prevent erosion and maintain the shoreline.

SIGN. A name, identification, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public and which directs attention to a product, place, activity, purpose, institution or business.

SIGN, ADVERTISING. A sign which directs attention to a business, commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such a sign is located.

SIGN, BUSINESS. A sign which directs attention to a business or profession or a commodity, service or entertainment sold or offered upon the premises where such a sign is located.

SIGN, NAMEPLATE. Any sign which states the name or address or both of the occupant of the lot where the sign is placed.

SIGN, SURFACE AREA OF. The entire area within a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-faced or V-type sign structure shall be used in computing total surface area.

SIGN, TEMPORARY. A sign which may be utilized for a limited period of time as determined by the City.

SITE DESIGN BMP. Any project design feature that reduces the creation or severity of potential pollutant sources or reduces the alteration of the project site's natural flow regime.

SITE PLAN. Site plans are required for various purposes in the Code, with specific information requirements for such plans described in various sections depending on their use and circumstances.

SITE, SIGNIFICANT HISTORIC. 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 Historical Sites, or is determined to be an un-platted 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 un-platted cemeteries are automatically considered to be significant historic sites.

SOLAR COLLECTOR. A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

SOURCE CONTROL BMP. Any schedules of activities, prohibitions of practices, maintenance procedures, managerial practices or operational practices that aim to prevent stormwater pollution by reducing the potential for contamination at the source of pollution.

SPECIAL FLOOD HAZARD AREA. A term used for flood insurance purposes synonymous with "One Hundred Year Floodplain."

STAIRWAY. Steps, including handrails, providing access to a building, a different level of land, or to Lake Minnetonka.

START OF CONSTRUCTION. Includes substantial improvement, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit's expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STEEP SLOPE. Lands having average slopes over twelve percent (12%), as measured over horizontal distances of fifty feet or more, that are not bluffs.

STORAGE SHED. An out building used for storage.

STORM EVENT. As defined in United States Department of Agriculture (USDA) Natural Resources Conservation Service's Technical Release 55, "Urban Hydrology for Small Watersheds" (commonly known as TR-55).

STORMWATER. Surface water runoff and drainage associated with rain or snow storm events.

STORMWATER DISCHARGE. Any discharge to the storm drain system that is composed entirely of stormwater or melting snow and ice any other discharge into the stormwater system is considered stormwater discharge.

STORMWATER CONVEYANCE SYSTEM. Those artificial and natural facilities whether publicly or privately owned, by which stormwater may be conveyed to Lake Minnetonka or designated Wetlands, including any roads with drainage systems, streets, catch basins, natural and artificial

channels, stream beds, gullies, curbs, gutters, ditches, and natural and artificial channels or storm drains.

STREET. A public right-of-way or public roadway easement which affords a primary means of access to abutting property.

STRUCTURE. Anything constructed or erected on the ground or attached to the ground or on- site utilities, including, but not limited to, buildings, sheds, detached garages, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 10.8.2(B) of this ordinance and other similar items.

STRUCTURAL ALTERATION. Any change or addition, other than incidental repairs to the supporting members of a building, such as bearing walls, columns, beams, girders or foundations, which would prolong the building's life.

STRUCTURAL BMP. Any structural facility designed and constructed to mitigate the adverse impacts of stormwater and runoff pollution (e.g. canopy, structural enclosure). The category may include both Treatment Control BMPs and Source Control BMPs.

STRUCTURE, PERMANENT USE OR. A structure fixed to the ground with footings, with a permanent non-fabric roof or attached to another structure in a fixed position, and intended to, or remaining in place for more than two (2) weeks. A permanent use allowed by this ordinance.

STRUCTURE, PRINCIPAL. A permanent structure use to accommodate the allowed principal use.

SUBDIVISION. The division or separation by plat or otherwise of an area, parcel, or tract of land into two or more lots; or any separation or division of land necessitating the creation of a new public street, lane or alley. The term shall include lot line rearrangement, re-subdivisions, and consolidation of lots, licenses or the like.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure where the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

- Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this ordinance, "historic structure" is as defined in 44 Code of Federal Regulations, Part 59.1.

SWIMMING POOL. A structure, whether above or below grade level, designed to hold water more than 30 inches deep to be used for recreational purposes. Hot Tubs or similar uses are considered swimming pools.

TELECOMMUNICATIONS ANTENNAE. An exterior transmitting or receiving device mounted on a telecommunications tower, a building, utility pole or structure and used in telecommunications that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies

(excluding radar signals), wireless telecommunications signals or other telecommunications signals (including those exclusively designed to provide Internet services); a device designed to transmit and receive signals as authorized by the FCC.

TELECOMMUNICATIONS CO-LOCATION. The location of transmitting facilities from a number of different service providers together on the same structure or on the same towers or mono-poles. It also includes the use of the same tower or pole for a number of different telecommunications services.

TELECOMMUNICATIONS TOWER. Any structure that is designed and constructed primarily for the purpose of supporting one or more telecommunications antennae for telephone, radio, and similar telecommunications purposes but excluding FCC licensed ham radio operators who reside in the building, including without limitation, self-supporting lattice tower, guyed towers, or mono-pole towers. The term includes radio and television transmission towers, microwave towers, common carrier towers, cellular towers, alternative tower structures and similar facilities. The term includes the structure and support facilities accessory to the Telecommunication tower.

TELECOMMUNICATION TOWER AND ANTENNA HEIGHT. The vertical distance measured from the existing average elevation within a fifty-foot radius of the base of the proposed telecommunications tower, antenna or to the highest point of the tower or antenna; or the distance measured from the ground elevation of an alternative support structure to its highest point including the antenna, whichever is greater.

TEMPORARY TELECOMMUNICATIONS TOWER. Any telecommunications tower constructed and operated in conjunction with emergency operations or temporary testing.

TEMPORARY STRUCTURE. See the definition for "structure."

TERRACE. A covered or uncovered level surface area directly typically adjacent to a principal building; usually made of concrete, brick, or other masonry material; which projects more than 12 inches above ground level at any given point.

TRAFFIC VISIBILITY TRIANGLE. An open area on or adjacent to a corner lot measured along the intersecting edges of the public street's paved surface closest to the lot line.

TREATMENT CONTROL BMP. Any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media adsorption or any other physical, biological, or chemical process.

TREE, HAZARD. A tree that in the opinion of the City Forester, a certified arborist with a Tree Risk Assessment Qualification or City Tree Inspector, is structurally unstable and poses a risk to people or permanent structures. Removal of parts of Hazard Trees, such as broken limbs, that does not cause the tree to become diseased or die, is considered tree trimming and not removal.

TREE, HAZARD (EMERGENCY). A hazard tree is an emergency when it is reasonably impractical to obtain a Tree Removal Permit prior to removal, when the structural instability and risk to people or permanent structures is caused by weather factors, storm or other act of God.

TREE, HEALTHY. The average or better condition and vitality of a tree for the area as determined by the City Forester or City Tree Inspector. A Healthy Tree does not include Hazard Trees or Noxious Trees.

TREE, HERITAGE. A tree, except Cottonwood, that is 30 inches or greater in DBH.

TREE, MINIMUM TREE DENSITY. One Healthy Protected Tree per 2,500 square feet of property, or fraction thereof; provided that the trees in a Hedge do not count towards Minimum Tree Density. When the trunk of a Protected Tree at DBH is located on a common property line, all properties on which such trunk is located may count the tree as a Protected Tree for purposes of meeting Minimum Tree Density. Square footage shall be determined from the Hennepin County property tax records for the property at issue or recent professional survey with the approval of the City Administrator. For example, Minimum Tree Density for a 15,000 square foot lot is 6 Protected Trees and Minimum Tree Density for a 16,000 square foot lot is 7 Protected Trees.

TREE, NOXIOUS. Includes, but is not limited to, buckthorn, box elder, Siberian elm, green ash, and white poplar, and other trees that are identified by the Minnesota DNR at (https://www.dnr.state.mn.us/invasives/terrestrialplants/index.html

TREE, NUISANCE. Diseased trees as specified in City Code Section 508, or dead trees, or Hazard trees.

TREE, PROTECTED. Heritage Trees and Significant Trees.

TREE, RAPID GROWTH. A species of tree (excluding Noxious trees) recognized as rapid-growth trees under the definition of Tree Type in this section, or as determined by City Forester for trees that are not listed in the table.

TREE, REPLACEMENT. A tree that is of a species native and indigenous to the site where a tree is to be removed, creates diversity of species, is not planted as a Hedge, and is a minimum trunk diameter of two- and one-half inches measured at four inches above the top of the root flare. A list of recommended species is maintained at City Hall.

TREE, SIGNIFICANT. A Standard Growth Tree that is six inches or greater in DBH but less than 30", or a Rapid Growth Tree that is 10 inches or greater in DBH but less than 30". Cottonwood trees 6 inches or greater, no matter how large, are considered Significant Trees.

TREE, STANDARD GROWTH. A species of tree (excluding Noxious trees) recognized as standard-growth trees in Tree Types definition, or as determined by City Forester for trees that are not listed in the table.

TREE PRESERVATION PLAN. The tree preservation plan established and described in Section 8.4.7.

TREE REMOVAL

(1) Manual, mechanical, chemical, or abiotic or biotic (fire, water, insects or inoculation) methods which results in the physical removal of a tree;
(2) Grading impact, compaction, or other damage up to 40 percent of a tree's Critical Root Zone;
(3) Excessive pruning that severely impacts the long-term survivability of the tree;
(4) Any other impact to a tree that compromises the long-term health or structural stability of a tree.

TREE REMOVAL PERMIT. The permit required to be issued prior to Tree Removal as provided in Section 8.4.5.

TREE TYPE. Determined by referencing this table, or as determined by City Forester for trees that are not listed in the table. Standard growth trees generally have a growth factor (years of growth per inch of diameter in DBH) of greater than 3.5, and Rapid growth trees a growth factor of 3.5 or less.

Standard Growth Trees				Rapid Growth Trees
Ash, American		Ironwood		Apple
Ash, Black		Maple, Black		Basswood (American)
Ash, Green		Maple, Mountain		Birch, River
Ash, Northern Mountain		Maple, Red		Cherry, Pin
Ash, White		Maple, Sugar		Cottonwood/Poplar
Beech, Blue		Oak, Black		Crabapple
Birch, White/Paper		Oak, Bur		Elder, Box
Birch, Yellow		Oak, Chinkapin		Honeylocust
Butternut		Oak, Jack		Kentucky Coffeetree
Elm, American		Oak, Hill		Linden
Elm, Red		Oak, Red		Maple, Silver
Elm, Rock		Oak, Swamp White		Mulberry, Red
Elm, Slippery/Red		Oak, White		Oak, Northern Pin
Cedar (Red or White)		Pine, Jack		Poplar/Balsam
Cherry, Black		Pine, White		Poplar/Bigtooth Aspen
Fir, Balsam		Pine, Red		Poplar/Quaking Aspen
Hackberry		Spruce, Black		Tamarack/Larch, Eastern or American
Hemlock		Spruce, White		Willow (Peachleaf)
Hickory, Bitternut		Walnut (Black)		Willow (Black)
Hickory, Shagbark				

USE. The purpose for which land or premises or a building thereon is designed, arranged or intended, or for which it is occupied or maintained.

VARIANCE. A modification or variation of the provisions of this zoning code as applied to a specific piece of property including but not limited to those described in 44 CFR&59.1 and MN State Statute, Section 462.257, Subd. 6(2) .

VEGETATIVE BUFFER. A strip of land at least 25 feet wide adjacent to the lake or wetland that is heavily planted with plants that will filter stormwater before the water enters the lake or wetland. Such buffers are further defined as "Best Management Practice" by the Minnesota Department of Natural Resources.

WALKWAY. A private surface on a lot; usually made of concrete, brick, or other masonry materials; intended for use by pedestrians to access specific portions of a lot, or to connect yards around a principal structure.

WALL. A constructed solid barrier of concrete, stone, brick, tile, wood, or similar type of material that closes, marks, or borders a field, yard, or lot, and that limits visibility and restricts the flow of air and light.

WASTEWATER. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

WATER QUALITY MANAGEMENT PLAN STORMWATER POLLUTION PREVENTION PROGRAM. A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY. A single small, above ground building or other improvement, except stairways, 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 building setback line. Examples of such structures and facilities allowed in the City include, equipment storage structures and pump houses. Boathouses – given the meaning under Minnesota Statutes, Section 103G.245 are not water-oriented accessory structures.

WETLANDS. Areas that are protected by the Minnesota Wetland Conservation Act MN Statutes 103 F through 103 G, Minnesota Department of Natural Resources (DNR) Rules 8420 and are identified and described in the Comprehensive Plan Water Quality Management Plan.

WECS HEIGHT, TOTAL. The distance between the average ground level at the base of the tower and the highest point reached by a rotor tip or any other part of a wind turbine.

WECS SYSTEM, ACCESSORY. A system designed as a secondary use to existing buildings or facilities, wherein the energy generated is used primarily for on-site consumption.

WETLAND. Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. Wetlands are defined and regulated by the Minnesota Wetland Conservation Act MN Statutes 103 F through 103G Rule 8420 as may be amended from time to time.

WIND ENERGY CONVERSION SYSTEM (WECS). An electrical generating facility that consists of a wind turbine, feeder line(s), associated controls, and may include a tower.

WIND ENERGY CONVERSION SYSTEM, SMALL (SWECS). A WECS of 5,000 kW nameplate generating capacity or less.

WIND TURBINE. Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

YARD. [see Section 2.2.2(B)]

3.0 ADMINISTRATION

3.1 Purpose. The purpose of this chapter is to identify administrative provisions to ensure the ordinance is administered consistent with its purpose.

3.2 Summary of Decision-Making and Review Bodies

3.2.1 Summary Table of Decision-Making and Review Bodies.

A. Table 3.2.1 summarizes the general review and decision-making responsibilities of the entities that have roles in the procedures set forth in this chapter. Other duties and responsibilities of the entities are set forth in subsequent subsections of this ordinance or elsewhere within the City of the Village of Minnetonka Beach City Code.

B. The City may request other boards, commissions, government agencies, and non- government agencies to review some applications as deemed appropriate prior to any final ruling on such applications.

TABLE 3.2.1: SUMMARY OF THE ROLES OF DECISION-MAKING BODIES

H = Hearing (Public Hearing Required)
D = Decision (Responsible for Final Decision)

A = Appeal (Authority toHear/Decide Appeals)

R = Recommendation (Responsible for Review and a Recommendation)

Procedure	Subsection	City Council	Planning Commission	MN Dept of Natural Resources	Board of Adjustment and Appeals	Zoning Administrator
Requirement for All Permits Including a Variance, Conditional Use Permit, Interim Use Permit, or Amendment thereto	3.4.					D
Comp Plan Amendment	3.4.1	D	H - R			R
Zoning Map/Text Amendment	3.4.2	D	H - R	Approve		R
Variance	3.4.3		H - R	R(2)	D	R
Conditional Use	3.4.4	D	H - R	R(2)		R
Interim Use Permit	3.4.5	D	H - R			R
Administrative Appeal	3.4.6				H - D	R
Building Permits	3.4.7				A	D
Certificates of Occupancy	3.4.8				A	D
Grading Permit	3.4.9				A	D
Driveway Permit	3.4.1				A	D
Sign Permit	3.4.1				A	D
Temporary Use Permit	3.4.1				A	D
Planned Unit Development	4.7.7	D	H - R			R
Subdivisions	[1]	D	H - R			R

[1]: Subdivision regulations may be found in Section 202 of the City Code

(2) If action falls under shoreland management controls: City gives DNR notice of public hearing, DNR has option to make recommendation, City gives notice if action is approved.

3.2.2 City Council. In addition to any other authority granted to the City Council by the City Charter, City Code, or state law; the City Council shall have the following powers and duties related to this ordinance:

A. To enact amendments to the Comprehensive Plan, the text of this ordinance, and Zoning Map.

B. To hear, review, and make decisions on all Land Use Applications submitted to the City.

3.2.3 Planning Commission

A. Establishment, Membership, Rules and Procedures. The establishment, membership, rules and procedures for the Planning Commission are established in Chapter 903 of the City Code.

B. Powers and Duties. In addition to any other authority granted to the Planning Commission by the City Charter or City Code, the Planning Commission shall have the following additional powers and duties related to this ordinance:

(1) Comprehensive Plan Amendments, Zoning Map Amendments, and Zoning Text Amendments

(a) To propose amendments to the Comprehensive Plan, the text of this ordinance, the Official Zoning Map (rezoning of property), or other sections of the Minnetonka Beach City Code; and

(b) To hear, review, and make recommendations to the City Council on applications for amendments to the Comprehensive Plan, the text of this ordinance or zoning map amendments.

(2) Land Use Applications. To hear, review, and make recommendations on the following Land Use Applications before the City:

(a) Comprehensive Plan Amendment;

(b) Zoning Map Amendment;

(c) Zoning Chapter Text Amendment;

(d) Variances;

(e) Conditional Use Permit;

(f) Interim Use Permit;

(g) Planned Unit Development; and

(h) Subdivisions.

(3) Other. To exercise such other powers, and perform such other duties, as provided by law.

3.2.4 Department of Natural Resources (DNR). The following administrative actions require notice, review and/or approval from the DNR, as specified by type of action in this chapter:

A. Any amendment to this ordinance;

B. Variances or conditional uses which fall under shoreland management controls;

C. Any request to change the shoreland management classification of public waters within the City of The Village of Minnetonka Beach.

D. Any request to change the designation of all of the City of the Village of Minnetonka Beach as shoreland.

3.2.5 Board of Adjustment and Appeals

A. Establishment. The Board of Adjustment and Appeals is hereby established.

B. Membership. The City Council shall act as a Board of Adjustment and Appeals.

C. Rules

(1) The Board of Adjustment and Appeals may adopt rules for the conduct of business and may exercise all of the powers conferred on such boards by state law.

(2) Three (3) members of the Board shall constitute a quorum.

(3) Staff services for the Board shall be furnished by the Planning and Zoning Administrator, City Clerk, and/or Consultants.

D. Procedures. Unless a special meeting of the Board of Adjustment and Appeals is scheduled, proceedings of the Board of Adjustment and Appeals by the City Council shall be undertaken as a component of scheduled City Council meetings. It shall not be necessary for the City Council to adjourn and reconvene as the Board of Adjustment and Appeals to undertake such proceedings.

E. Powers and Duties. The Board of Adjustment and Appeals shall have the following powers and duties related to this ordinance:

(1) To consider applications for variances; and

(2) To hear appeals of administrative discretionary decisions made by the Zoning Administrator, City Engineer, or other administrative official in carrying out or enforcing any provision of this ordinance.

3.2.6 Zoning Administrator

A. General Authorization. This Ordinance shall be administered and enforced by a Zoning Administrator who shall be appointed by the Council and serve at its discretion.

B. Powers and Duties. In addition to the jurisdiction, authority, and duties that may be conferred upon the Zoning Administrator by other provisions of the City Code, the Zoning Administrator shall have the following jurisdiction, powers, and duties under this ordinance:

(1) Interpretations. Render interpretations of all provisions of this ordinance, including, but not limited to, interpretations of the text of this ordinance; interpretation of the zoning map, and interpretation of the comprehensive plan.

(2) Enforcement. Enforce the provisions of this ordinance.

(3) Administer Ordinance. Review, approve, conditionally approve or deny applications for Building Permits and other administratively reviewed permits or applications as may be required by this ordinance.

(4) Application Tracking and Recommendations. Review, monitor, and provide recommendations on applications requiring approval by the City Council or other governmental bodies as directed by the City Administrator.

(5) Provide Expertise and Technical Assistance. Provide expertise and technical assistance to the City Council and the City's commissions, boards, and other bodies; as well as the public.

(6) Maintain the Zoning Map. Update the City's official zoning map as it may be amended from time to time.

(7) Recommendations on Procedures. Review and provide comments or make recommendations to the appropriate decision-making and review body on the various procedures, requirements or appeals established by this ordinance.

(8) Recommendations on planning issues. Provide recommendations on planning issues and propose amendments and additions to zoning and planning ordinances and the Comprehensive Plan.

C. Absence. In the event the appointed Zoning Administrator is unavailable or the position is vacant, the Mayor is authorized to assign all zoning administrator's duties to another member of City Staff or consultant as deemed appropriate.

3.3 Common Review Procedures and Requirements

3.3.1 Applicability. The requirements of Section 3.3 shall apply to all applications subject to review under this ordinance unless otherwise stated.

3.3.2 Authority to File Applications

A. Unless otherwise specified in this ordinance, applications may be initiated by:

(1) The owner of the property that is the subject of the application; or

(2) The owner's authorized agent; or

(3) The City.

B. When an authorized agent files an application under this ordinance on behalf of a property owner, the agent shall provide a signed authorization from the fee title property owner stating that the property owner agrees to be bound by all decisions, agreements, and related conditions agreed to by such agent.

C. Application by multiple party ownership, at the sole discretion of the City, is acceptable when legally sufficient written consent from all persons and entities with ownership interest is provided at the time of application.

3.3.3 Application Submission Schedule. The schedule for the submission of applications in relation to scheduled meetings of the decision-making bodies shall be maintained by the City Clerk and be made available to the public.

3.3.4 Application Contents

A. Organization and Copies. The organization of applications and the number of copies of required information to be submitted shall be determined by the Zoning Administrator.

B. General Submittal Requirements. All applications shall include:

(1) A completed City of the Village of Minnetonka Beach application form;

(2) Verification of authority to file applications per the requirements of section 3.3.2;

(3) Supporting title information establishing ownership interests in the property (e.g. a title commitment and/or signature of fee title property owner);

(4) All submittal requirements outlined in this ordinance for the specific application type;

(5) Electronic copies of all written narratives and plan sets required by the Zoning Administrator as part of the specific application.

(6) The City may require applicants to submit such technical studies as may be necessary to enable the City to evaluate the application. Such studies may include, but not be limited to, traffic studies, engineering studies, environmental impact assessments, and economic impact reports. The costs of such studies shall be borne by the applicant with the persons or firms preparing the study approved by the City.

C. Submission of Fees. Applications shall be accompanied by a fee as established by the City of the Village of Minnetonka Beach pursuant to the most recently adopted Fee Schedule.

3.3.5 Application Acceptance

A. Complete Application Required. The review and consideration of an application submitted under this section shall only occur if such application includes all items that are required in support of the application and is deemed complete by the Zoning Administrator.

B. Waiver of Application Requirements. Except for the required application form and the associated fee, the Zoning Administrator may waive individual submittal requirements and deem an application complete for review if it is determined that such information will serve no purpose during the review process. However, it is the responsibility of the applicant to supply all information required by this ordinance, and a waiver issued by the Zoning Administrator shall not eliminate the need to provide such information at a later time if it is ultimately deemed necessary to adequately review the application. During the review process, failure of an applicant to supply information in a timely manner may result in denial of the application due to the City's inability to comply with state mandated time deadlines.

3.3.6 Simultaneous Processing of Applications. Whenever two or more forms of review and approval are required under this ordinance (e.g., a proposed rezoning and subdivision application), the applications for those approvals may, at the discretion of the Zoning Administrator, be processed simultaneously, so long as all applicable requirements are satisfied for all applications.

3.3.7 Pre-application Conferences

A. All prospective applicants are encouraged to speak with the Zoning Administrator prior to submitting an application in order to review the proposal and to determine the specific materials to be submitted with the future application.

B. Discussions that occur during a pre-application conference are not binding on the City and do not constitute official assurances, representations or approvals by the City or its officials on any aspects of the plan or application discussed.

3.3.8 Fees

A. Determination of Fees. Fees required to accompany applications submitted under this ordinance shall be in accordance with the approved fee schedule adopted by the City Council.

B. Fees to be Paid.

(1) No application other than building permits shall be accepted until all applicable application fees have been paid.

(2) Upon the termination of an application by approval, denial, withdrawal, or any other means, all consultation expenses incurred shall be immediately payable in full.

(3) No permit or approval shall be issued, and no construction or development shall commence until the total application fee, estimated consultation expenses, and actual staff and consulting time expenses are paid in full.

C. Refund of Application Fee. Application fees are not administratively refundable except when the Zoning Administrator determines that an application was withdrawn prior to any consideration or review of the application.

D. Escrow or Performance Agreement

(1) Application fees may also require payment of an escrow in favor of the City. The required escrow amount shall be in accordance with the approved fee schedule adopted by the City Council.

(2) As an alternative to an escrow, with the City's permission, the applicant may enter into a performance agreement acceptable to the City.

E. Staff and/or Consultant Fee(s). In order to defray the additional cost of processing applications submitted under this ordinance, all applicants shall pay the total cost of staff and/or consulting time spent exclusively in producing materials for the applicant's request and all materials for said request.

(1) "Materials" shall include, but not be limited to, maps, graphs, charts, drawings, etc., and all printing and reproduction of same.

(2) "Staff and/or consulting time" shall include any time spent in either researching for or actual production of materials.

(3) The hourly rate for "staff and/or consulting time" shall be in accordance with the approved fee schedule adopted by the City Council.

3.3.9 Public Notification. Applications requiring public notification shall be noticed in compliance with the following provisions.

A. Content. Notices for public hearings, whether by publication or mailed notice, shall contain at a minimum:

(1) A bold title referring to the content of the notice.

(2) Identification of the address or location of the property or properties subject to the application.

(3) Date, Time, and Place of the Public Hearing.

(4) Nature and Scope of the Application.

(5) Where to View the Application.

(6) Where the Public May be Heard.

(7) Provision for Written Comments. The notice will describe where written comments will be received prior to the public hearing.

B. Timing of the Notice. Unless otherwise expressly provided or required by law, all statutorily or code required notices shall be postmarked or published at least ten (10) calendar days prior to the hearing or meeting at which the application will be considered.

C. Responsibilities

(1) Published notice. When the provisions of this ordinance require that notice be published, the City Clerk shall be responsible for preparing the content of the notice and publishing the notice in the City's official newspaper. The content and form of the published notice shall be consistent with the requirements of Section 3.3.9(A) and state law.

(2) Written (mailed) notice. When the provisions of this ordinance require that written or mailed notice be provided, the City Clerk shall be responsible for preparing and mailing the written notice per the requirements outlined in Table 3.3.9.

TABLE 3.3.9: WRITTEN NOTIFICATION REQUIREMENTS

Application Type:	Written Notice Provided to:
Comprehensive Plan Amendment	▪ For amendments which involve five acres of land or less, written notice shall be provided to all property owners within 350 feet ▪ For text amendments or map amendments which involve more than five acres of land, notice need only be published within the City's official newspaper.
Zoning Map Amendment	▪ For amendments which involve five acres of land or less, written notice shall be provided to all property owners within 350 feet ▪ For text amendments or map amendments which involve more than five acres of land, notice need only be published within the City's official newspaper.
Variance	All property owners within 350 feet
Conditional Use Permit	All property owners within 350 feet
Interim Use Permit (new and renewal)	All property owners within 350 feet
Appeal of Administrative Decision	All property owners within 350 feet
CUP/IUP Revocation	Permittee/Landowner Only
Planned Unit Developments	All property owners within 500 feet
If the application type not listed above	All property owners within 350 feet

D. Notice Procedures.

(1) The City Clerk may use property tax records to determine the names and addresses of affected property owners. A copy of the notice and a list of the owners and addresses to which the notice was sent must be attested to by the City Clerk and must be made a part of the records of the proceedings.

(2) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a good faith attempt has been made to comply with applicable notice requirements. Minor defects in notice are errors that do not affect the substance of the

notice (e.g., errors in a legal description, typographical or grammatical errors, errors of actual acreage or dimensions, etc.). Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the notification requirements and information specifying the time, date, and place of a hearing shall be strictly construed.

(3) When the records of the City document the publication, mailing, and posting of notices as required by this subsection, it shall be presumed that notice of a public hearing was given as required by this subsection.

3.3.10 Continuation of Public Hearings. A public hearing for which proper notice was given may be continued during the course of such hearing to a later date without again complying with the written notice requirements of this chapter, provided that the continuance date is announced at the meeting.

3.3.11 Withdrawal of an Application. A request for withdrawal of an application shall be submitted in writing with a signature to the Zoning Administrator.

3.3.12 Required Action Deadline

A. All applications for land use approvals shall be approved or denied within timeframes required by applicable laws, regulation and the provisions of this ordinance in effect on the date the application was submitted.

B. For applications that require recommendation by the Planning Commission, the Zoning Administrator may forward such applications to the City Council or Board of Adjustment and Appeals without a recommendation when it is deemed necessary to ensure compliance with state mandated deadlines for application review.

3.3.13 Mitigation

A. In evaluating all variances, conditional uses, zoning and building permit applications, the zoning authority shall require the property owner to address, when appropriate, the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:

(1) Advanced storm water runoff management treatment;

(2) Reducing impervious surfaces;

(3) Increasing setbacks from the ordinary high water level;

(4) Restoration of wetlands;

(5) Limiting vegetation removal and/or riparian vegetation restoration;

(6) Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and

(7) Other conditions the zoning authority deems necessary.

B. In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.

3.3.14 Environmental Review. An Environmental Assessment Worksheet consistent with Minnesota Rules, Chapter 4410 must be prepared for projects meeting the thresholds of Minnesota Rules, part 4410.4300, Subparts 19a, 20a, 25, 27, 28, 29, and 36a.Environmental reviews (EAWs and EISs) shall

be conducted as early as practical in the processing of a development project. No decision on granting of a permit or other approval required may be issued until the EAW/EIS process is completed.

3.3.15 Certificate or Letter of Zoning Compliance. The Zoning Administrator shall issue a certificate or letter of zoning compliance for each activity requiring a permit or variance as specified in Chapter 3.0 of this ordinance. This certificate or letter 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 1.13 of this ordinance.

3.3.16 Reconsideration of Land Use Approval Applications. No application for land use approval which has been denied by the City Council, in whole or in part, shall be reconsidered for a period of six (6) months from the date of City Council action on the application, except where there is substantial new evidence or proof of a change in conditions with respect to such application. Before any such reconsideration, the City may require the submission of the appropriate application fee and the application may be considered as a new application.

3.4 Specific Review Procedures & Requirements

3.4.1 Comprehensive Plan Amendments

A. Purpose and Scope. This section sets out the procedure to follow when considering a change to the Comprehensive Plan.

B. Initiation of Proceedings. Proceedings for the amendment of the Comprehensive Plan shall be initiated by one of the following:

(1) An owner of property or an authorized representative of an owner pursuant to Section 3.3.2, Authority to File Applications;

(2) Recommendation of the Planning Commission; or

(3) Action of the City Council.

C. Application

(1) All applications to amend the Comprehensive Plan shall be in accordance with Section 3.3, Common Review Procedures & Requirements.

(2) In addition to the common review requirements, applications for Comprehensive Plan amendments shall also include the following:

(a) The name of the applicant;

(b) A narrative explaining the requested change and the reasons why the Comprehensive Plan should be amended per the request;

(c) The legal description of all real property proposed for change (if applicable);

(d) The existing and proposed land use and zoning designations for all properties proposed to change (if applicable);

(e) A map of the properties to be modified to a different land use category, showing the addresses and land uses for adjacent properties (if applicable);

(f) The proposed text and/or maps to be added, amended, or deleted from the Comprehensive Plan along with documentation as to the location of the text changes in the Comprehensive Plan, if applicable.

D. Review

(1) Planning Commission

(a) Before any amendment is adopted, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 3.3.9.

(b) Following the hearing, the Planning Commission shall adopt findings and recommendations on the proposed amendment as soon as practical.

(2) City Council

(a) The City Council may receive comments on the amendment if they deem such necessary prior to taking action on the proposed change.

(b) After consideration of the Zoning Administrator recommendation, the Planning Commission recommendation, and the comments received at the public hearing, the City Council may adopt the amendment or any part thereof in such form as it deems advisable.

(c) In accordance with statutory requirements, approval of an amendment shall require a two-thirds super-majority vote of all Council members eligible to vote.

***Advisory Note on Comprehensive Plan Voting:** State statutes require a two-thirds super-majority vote of all council members eligible to vote. As the City Charter states the Mayor is only eligible to vote in the case of a tie, a minimum of three out of four Council members must vote to approve a proposed comprehensive plan amendment before it can go into effect. A tie vote for a comprehensive plan amendment cannot be broken by the Mayor as his or her "eligibility" to vote would in turn require four approval votes in order to meet the statutory 2/3 requirement.*

E. Approval Criteria. Recommendations and decisions on Comprehensive Plan amendments shall be based on consideration of the following criteria:

(1) Whether the proposed amendment corrects an error or addresses something resulting from some changing condition, trend, or fact arising since the adoption of the Comprehensive Plan;

(2) Whether the proposed amendment is consistent with the guiding principles of the Comprehensive Plan;

(3) The extent to which the proposed amendment addresses a demonstrated community need;

(4) Whether the proposed amendment will protect the health, safety, morals, and general welfare of the public;

(5) The impacts on the natural and built environments, including air, water, noise, stormwater management, wildlife habitat, water quality, vegetation, drainage, streets, and other engineering design or environmental factors;

(6) Whether the proposed amendment is compatible with existing and proposed uses surrounding the subject property; whether the proposed design and land uses are appropriate for the land; and whether the proposed amendment will maintain or improve compatibility among uses and ensure efficient development within the City;

(7) Whether the proposed amendment will result in a logical, orderly and predictable development pattern; and

(8) Whether the proposed amendment is consistent with the purpose of this ordinance.

(9) Such other considerations as the Planning Commission and City Council deem reasonable and proper.

3.4.2 Zoning Ordinance Text and Zoning Map Amendments

A. Purpose and Scope. This section sets out the procedures to be followed in reviewing and considering a text change to this ordinance or an amendment to the zoning map.

B. Initiation of Proceedings. Proceedings for the amendment of the text of this ordinance or the zoning map shall be initiated by one of the following:

(1) An owner of property or an authorized representative of an owner pursuant to Section 3.3.2, Authority to File Applications;

(2) Recommendation of City staff and officials, including the Zoning Administrator, City Engineer, City Administrator and City Attorney.

(3) Action of the Planning Commission; or

(4) Action of the City Council.

C. Application.

(1) All applications to amend the text of this ordinance or the zoning map shall be in accordance with Section 3.3, Common Review Procedures & Requirements

(2) In addition to the common review requirements, applications for changes to the text of this ordinance or the Zoning Map shall also include the following:

(a) The name of the applicant;

(b) A narrative explaining the requested modification and the reasons why the changes are supported by the Comprehensive Plan;

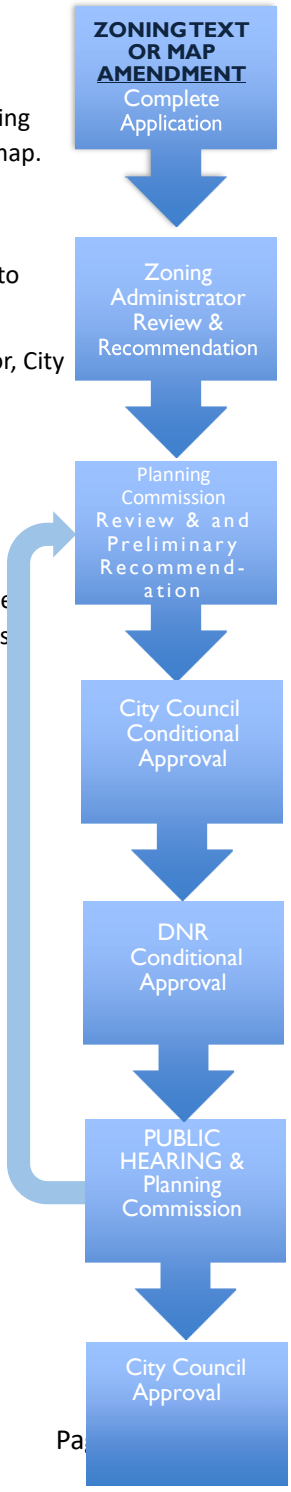
(c) The legal description of all real property proposed for change, if applicable;

(d) The existing and proposed land use and zoning designations for all properties proposed for change, if applicable;

(e) A map of the properties to be modified to a different zoning designation, showing the addresses and zoning designations for the subject properties and the adjacent properties, if applicable;

(f) The location of the proposed text to be added, amended, or deleted in this ordinance, if applicable.

D. Review



(1) Notification to the Department of Natural Resources (DNR)

(a) All amendments to this ordinance must be submitted to the DNR for review and approval for compliance with the statewide shoreland management rules. The City of the Village of Minnetonka Beach will submit the proposed ordinance amendments to the commissioner or the commissioner's designated representative at least 30 days before any scheduled public hearings.

(b) All notices of public hearings to consider ordinance amendments must be

sent to the commissioner or the commissioner's designated representative at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

(c) Approved ordinance amendments and subdivisions/plats, and final decisions must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action.

(d) Any request to change the shoreland management classification of public waters within the City of the Village of Minnetonka Beach must be sent to the commissioner or the commissioner's designated representative for approval, and must include a resolution and supporting data as required by Minnesota Rules, part 6120.3000, subp.4.

(e) Any request to reduce the boundaries of shorelands of public waters to any interpretation other than the whole of the City of the Village of Minnetonka Beach must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.

(2) Planning Commission

(a) Before any amendment is adopted, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 3.3.9.

(b) Following the hearing, the Planning Commission shall adopt findings and recommendations on the proposed amendment as soon as practical.

(c) The Zoning Administrator may forward an application to the City Council without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review.

(3) City Council

(a) The City Council may receive comments on the amendment if they deem such necessary prior to taking action on the proposed change.

(b) After consideration of the Zoning Administrator recommendation, the Planning Commission recommendation, and the comments received at the public hearing, the City Council may adopt the amendment or any part thereof in such form as it deems advisable.

(c) Approval of an amendment shall require a majority vote of all members of the City Council.

E. Approval Criteria. Recommendations and decisions on zoning amendments shall include consideration of the following criteria:

(1) Whether the proposed amendment corrects an error in the original text or map; or

(2) Whether the proposed amendment addresses needs arising from a changing condition, trend, or fact affecting the subject property and surrounding area.

(3) Whether the proposed amendment is consistent with achieving the goals and objectives outlined in the comprehensive plan.

(4) Whether the proposed amendment addresses concerns or problems recognized by the Zoning Commission or City Council.

3.4.3 Variances

A. Purpose and Scope. The Variance process is intended to provide limited relief from the strict requirements of this ordinance in those cases where strict application of a particular requirement will create practical difficulties due to circumstances unique to the individual property under consideration. It is not intended that Variances be granted to allow a use not permitted by the underlying zoning district, nor to merely remove inconveniences or financial burdens that the requirements of this ordinance may impose on property owners in general. Variances are intended to address extraordinary, exceptional, or unique situations that were not caused by the applicant's act or omission. A variance may not circumvent the general purposes and intent of this ordinance

B. Initiation of Proceedings. Variances shall be initiated by an owner of property or an authorized representative of an owner pursuant to Section 3.3.2, Authority to File Applications.

C. Application

(1) All applications for a Variance shall be in accordance with Section 3.3, Common Review Procedures & Requirements.

(2) In addition to the common review requirements, applications for a Variance shall also include the following:

(a) A written narrative demonstrating that the criteria for a variance as set out in Section 3.4.3(D)(1) have been met.

(b) An up-to-date survey of the property showing all information necessary to allow the City to determine conformance with all zoning provisions, and to calculate the specific variance being requested. Information shall include but not be limited to:

(i) Property and structure dimensions;

(ii) Setback dimensions/measurements;

(iii) Parking and access locations and dimensions.

D. Review

(1) Variance Criteria. Approval of a Variance requires that the City find that all of the following criteria are satisfied, as they may be modified from time to time by statute or interpretative court decisions:

(a) The request is in harmony with the general purposes and intent of this ordinance.

(b) The variances is consistent with the comprehensive plan.

(c) The applicant can establish there are "practical difficulties" in complying with the zoning ordinance based on the following:

(i) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.

(ii) The plight of the landowner is due to circumstances unique to the property not created by the landowner.

(iii) A Variance, if granted, will not alter the essential character of the locality.

(iv) The conditions of 3.3.13: Mitigation and 3.3.14:Environmental Review are met.

(2) Practical Difficulties and Variance Guidelines

(a) Economic considerations alone shall not constitute a sufficient basis for granting a Variance if reasonable use for the property exists under the terms of the ordinance.

(b) Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(c) Variances shall be granted for earth sheltered construction, as defined by State Statute, when in harmony with the ordinance.

(d) A variance to permit a use that is not otherwise allowed by this ordinance is prohibited.

(e) Variances may be granted to permit the temporary use of a one-family dwelling as a two-family dwelling.

(3) Department of Natural Resources

(a) All notices of public hearings to consider variances under shoreland management controls must be sent to the commissioner or the commissioner’s designated representative at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

(b) All final decisions approving variances under shoreland management controls must be sent to the commissioner or the commissioner’s designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(4) Planning Commission

(a) Before any variance is considered by the Board of Adjustments and Appeals, the Planning Commission shall review the request and take public input as it deems appropriate.

(b) Following discussion, the Planning Commission shall adopt findings and recommendations on the proposed variance for consideration by the Board of Adjustment and Appeals.

(c) The Zoning Administrator may forward an application to the Board of Adjustment and Appeals without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review.

(5) Board of Adjustment and Appeals

(a) Before any variance is adopted, the Board of Adjustment and Appeals shall hold at least one public hearing after proper notice has been issued in accordance with Section 3.3.9.

(b) Following the hearing, the Board of Adjustment and Appeals shall adopt findings of fact and recommendations on the proposed variance as soon as practical.

(c) Approval or denial of a Variance shall require a majority vote of the Board of Adjustment and Appeals.

(i) In approving a variance, the Board of Adjustment and Appeals may impose conditions on the approval as deemed appropriate to ensure compliance with the approval and to protect adjacent properties. Any conditions must be directly related to and must bear a rough proportionality to the impact created by the variance.

(ii) Denial of any request shall be accompanied by findings of fact as to how the request did not meet one or more of the review criteria.

E. Effect of a Variance

(1) The issuance of a Variance shall authorize only the particular variation that is approved by the Board of Adjustment and Appeals.

(2) A Variance, including any conditions, shall run with the land and shall not be affected by a change in ownership.

F. Subsequent Development. Development authorized by the Variance shall not be carried out until the applicant has secured all other approvals required by this ordinance or any other applicable chapters or regulations. The granting of a Variance does not constitute, imply, or guarantee the granting of any other such required approval (e.g.: a building permit).

G. Time Limit

(1) Unless otherwise specified in the Variance, if a Building Permit has not been secured within one (1) year of the date of the Variance approval, the Variance shall become invalid. Permitted timeframes do not change with successive owners.

(2) Upon written request, extensions of one (1) year may, but need not, be granted by the City Council if the applicant can show good cause.

H. Amendment

(1) A Variance may be amended, extended, or modified only in accordance with the procedures and standards established for originally securing the variance.

(2) A request for a change in the conditions of approval of a Variance shall be considered an amendment and subject to the full review procedure set forth in this subsection.

(3) An additional application fee may be required before consideration of the amendment request.

3.4.4 Conditional Use Permits

A. Purpose and Scope. The Conditional Use Permit process is intended to provide the City with an opportunity to review a use in order to establish reasonable conditions necessary to ensure compatibility between the proposed use and surrounding properties. Approval of a conditional use at a location within a zoning classification does not mean the same conditional use can be conducted on any other parcel with the same specific zoning classification. Every application for a CUP will be individually reviewed on its own merits, and the facts surrounding the subject property will determine the appropriateness of the proposed use.

B. Initiation of Proceedings. A request for a Conditional Use Permit shall be initiated by an owner of property or an authorized representative of an owner pursuant to Section 3.3.2, Authority to File Applications.

C. Application

(1) All applications for a Conditional Use Permit shall be in accordance with Section 3.3, Common Review Requirements.

(2) In addition to general review requirements, applications for a Conditional Use Permit shall also include the following:

(a) A written narrative which includes:

(i) A description of the proposed conditional use, how it will function on the property, hours of operation (if applicable), and any other information necessary to fully describe the request; and

(ii) An explanation of how the proposed conditional use will meet each of the criteria set forth in Section 3.4.4(D)(1), as well as any additional criteria that may apply for the specific use as listed in Chapter 5.

(b) A location map showing the general location of the proposed use within the community and the principal land uses surrounding the parcel on which the conditional use is proposed;

(c) Development plans for the proposed use showing all information deemed necessary by the Zoning Administrator to ensure that the City can determine whether the proposed use will conform to all City Code standards. Such information may include, but shall not be limited to, the following:

(i) Site plan drawn to scale showing parcel and existing topography;

(ii) Location of all existing and proposed buildings and the size of each (including square footage);

(iii) Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;

(iv) Natural features such as woodlands, wetlands, shorelines, etc;

(v) Landscaping and screening plans, including species and size of trees and shrubs proposed;

(vi) Proposed finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated;

(vii) Type of business or activity and proposed number of employees (if applicable);

(viii) Proposed floor plan and elevations of any building with use indicated;

(ix) Proposed outdoor storage spaces (if applicable);

(x) Signage plan.

(d) If deemed necessary by the Zoning Administrator, a survey may be required to be submitted with the application in addition to or in lieu of a site plan.

(e) Color profile elevation drawings of new structures to illustrate the proposed visual appearance of new construction.

(f) Any other information that may be reasonably required by the City to evaluate the application.

D. Review

(1) Conditional Use Permit Criteria. Approval of a Conditional Use Permit application requires that the City find that conditions can be established to ensure that all of the following criteria will always be met:

(a) The conditional use will not be detrimental to the health, safety, morals, or welfare of persons residing or working near the use;

(b) The conditional use will not impede the normal and orderly development of surrounding property for permitted uses predominant in the area;

(c) The conditional use will not pose an undue burden on public utilities or roads, and adequate sanitary facilities are provided;

(d) The conditional use can provide adequate parking and loading spaces, and all storage on the site can be done in conformance with City code requirements;

(e) The conditional use will not result in any nuisance including but not limited to odor, noise, or sight pollution;

(f) The conditional use will not unnecessarily impact natural features such as woodlands, wetlands, and shorelines; and all erosion will be properly controlled;

(g) The conditional use will adhere to any applicable additional criteria outlined in Chapter 5 for the proposed use.

(h) A thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions ensures:

(i) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

(ii) The visibility of structures and other facilities as viewed from public waters is limited as appropriate for the type of structure or facility;

(iii) There is adequate water supply and sewage treatment; and

(iv) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.

(i) The conditions of 3.3.13: Mitigation and 3.3.14:Environmental Review are met.

(2) Department of Natural Resources

(a) All notices of public hearings to consider conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least ten (10) days before the hearings.

(b) All final decisions approving conditional uses under shoreland management controls as defined in Section 2.4 must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action.

(3) Planning Commission

(a) Before any conditional use permit is approved the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 3.3.9.

(b) Following the hearing and subsequent discussion on the merits of the proposal, the Planning Commission shall adopt findings and recommendations on the general conditional use permit review criteria outlined in Section 3.4.4(D)(1) and any specific criteria outlined for the specific use in Chapter 5.

(c) Recommendations for approval may include such conditions as are deemed necessary to ensure compliance with each of the Conditional Use Permit review criteria, and shall be supported by findings of fact as to why the permit request should be approved.

(d) Denial recommendations shall be supported by findings of fact as to why the permit request was denied.

(4) City Council

(a) The City Council shall consider the Zoning Administrator recommendation, the Planning Commission recommendation, and the comments received at the public hearing against the Conditional Use Permit review criteria outlined in Section 3.4.4(D)(1) and take action on the request(s).

(b) Approval of a Conditional Use Permit shall require a majority vote of the City Council.

(i) In approving a Conditional Use Permit, the City Council may impose conditions on the approval as are deemed appropriate to ensure compliance with each of the Conditional Use Permit review criteria and shall be supported by findings of fact as to why the permit request should be approved.

(ii) Denial of any request shall be accompanied by findings of fact as to why the requested permit cannot be approved.

E. Reasonable Conditions. In approving a Conditional Use Permit, the City may adopt and impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the Conditional Use Permit review criteria.

F. Effect of a Conditional Use Permit Approval

(1) The issuance of a Conditional Use Permit shall authorize only the improvements approved by the City Council.

(2) A Conditional Use Permit, including any conditions, shall run with the land and shall not be affected by a change in ownership.

G. Subsequent Development. Development authorized by the Conditional Use Permit shall not be carried out until the applicant has secured all other approvals required by this ordinance or any other applicable ordinances or regulations. The granting of a Conditional Use Permit does not constitute, imply, or guarantee the granting of any other such required approval (i.e. a building permit).

H. Time Limit

(1) Unless a multi-year deadline is specifically included as part of a Conditional Use Permit approval, the operation of the use and/or issuance of building permits for permitted structures shall begin within one (1) year of the date of the Conditional Use Permit approval. Failure to do so will invalidate the Conditional Use Permit. Permitted timeframes do not change with successive owners.

(2) If the operation of the use and/or issuance of building permits has not commenced within one (1) year of the date of approval, the applicant may petition for an extension of time in which to commence the work that has been granted by the Conditional Use Permit. Such extension shall be requested in writing and filed with the City at least thirty (30) days before the expiration of the one (1) year period. The request for extension shall state facts supporting good cause for extension of the Conditional Use Permit. Such petition shall be presented to the City Council for a decision.

(3) If a use operating pursuant to an approved Conditional Use Permit is discontinued for a period of at least one (1) year, any further use of the property shall conform to the requirements of this ordinance. A discontinued conditional use shall not begin operations again without first obtaining approval of a new conditional use permit.

I. Revocation. In the event that any of the conditions set forth in the permit are violated, the City Council shall have the authority to revoke the Conditional Use Permit. Before the revocation is considered, the City Council shall hold at least one (1) public hearing after proper written notice has been issued in accordance with Section 3.3.9. Following the hearing and subsequent discussion, the City Council may revoke the CUP by adopting findings of fact showing there has not been substantial compliance with the required conditions.

J. Amendments

(1) A Conditional Use Permit may be amended or modified only in accordance with the procedures and standards established when originally securing the Conditional Use Permit.

(2) A change to a physical feature, use or other characteristic of a property on which there is a Conditional Use Permit shall require an amendment to the Conditional Use Permit if such feature, use or other characteristic is within the scope of this ordinance.

(3) A request for a change in the conditions of approval of a Conditional Use Permit shall be considered an amendment and subject to the full review procedure set forth in this subsection.

(4) An additional application fee may be required before the consideration of the amendment request.

3.4.5 Interim Use Permits

A. Purpose and Scope. The purpose and intent of allowing interim uses is:

(1) To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction; or

(2) To allow a use that is presently judged acceptable by the City Council but that, with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district; or

(3) To allow a use which is reflective of anticipated long-range change to an area and which is in compliance with the comprehensive plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

B. Initiation of Proceedings. A request for an Interim Use Permit shall be initiated by an owner of property or an authorized representative of an owner pursuant to Section 3.3.2, Authority to File Applications.

C. Application

(1) All applications for an Interim Use Permit shall be in accordance with Section 3.3, Common Review Requirements.

(2) In addition to general review requirements, applications for an Interim Use Permit shall also include the following:

(a) A letter from the applicant explaining the proposal and stating the date or event that will terminate the use;

(b) A location map showing the general location of the proposed use within the community and the principal land uses surrounding the parcel on which the interim use is proposed;

(c) Development plans for the proposed use showing all information deemed necessary by the Zoning Administrator to ensure that the City can determine whether the proposed use will conform to all City Code standards. Such information may include, but shall not be limited to, the following:

(i) Site plan drawn to scale showing parcel and existing topography;

(ii) Location of all buildings and the size of each, including square footage;

(iii) Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;

(iv) Natural features such as woodlands, wetlands, shorelines, etc;

(v) Landscaping and screening plans, including species and size of trees and shrubs proposed;

(vi) Proposed finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated;

(vii) Type of business or activity and proposed number of employees;

(viii) Proposed floor plan and elevations of any building with use indicated;

(ix) Proposed outdoor storage spaces (if applicable);

(x) Signage plan.

(d) If deemed necessary by the Zoning Administrator, a survey may be required to be submitted with the application in addition to or in lieu of a site plan.

(e) A signed consent agreement, provided by the City of the Village of Minnetonka Beach, agreeing:

(i) That the applicant, owner, operator, tenant and/or user has no entitlement to future re-approval of the Interim Use Permit;

(ii) That the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future; and

(iii) That the applicant, owner, operator, tenant and/or user will abide by conditions of approval that the City Council attaches to the Interim Use Permit.

(f) Any other information that may be reasonably required by the City to evaluate the application.

D. Review

(1) Interim Use Permit Criteria. Approval of an Interim Use Permit application requires that the City find that conditions can be established to ensure all of the following criteria will always be met:

(a) The use is allowed as an interim use in the respective zoning district and conforms to standard zoning regulations.

(b) The use will not adversely impact nearby properties through nuisance, noise, traffic, dust, odor, or unsightliness and will not otherwise adversely impact the health, safety, and welfare of the community.

(c) The use will not adversely impact implementation of the comprehensive plan.

(d) The date, event, or change in circumstances that will terminate the use is identified with certainty.

(e) The applicant has signed a consent agreement stating that the applicant, owner, operator, tenant and/or user has no entitlement to future re- approval of the Interim Use Permit as well as agreeing that the interim use will not impose additional costs on the public if it is necessary for the public to fully or partially take the property in the future.

(f) The applicant agrees to all conditions that the City Council deems appropriate to allow the use including the requirement of appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

(g) There are no delinquent property taxes, special assessments, interest, or City utility fees due upon the subject parcel.

(h) The interim use will adhere to any applicable additional criteria outlined in Chapter 5 for the proposed use.

(i) The conditions of 3.3.13: Mitigation and 3.3.14:Environmental Review are met.

(2) Planning Commission

(a) Before any Interim Use Permit is considered, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 3.3.9.

(b) Following the hearing and subsequent discussion on the merits of the proposal, the Planning Commission shall adopt findings and recommendations on the general Interim Use Permit review criteria outlined in Section 3.4.5(D)(1) and any specific criteria outlined for the specific use in Chapter 5.

(i) Recommendations for approval may include such conditions as are deemed necessary to ensure compliance with each of the Interim Use Permit review criteria and shall be supported by findings of fact as to why the permit request should be approved.

(ii) Denial recommendations shall be supported by findings of fact as to why the permit request was denied.

(3) City Council

(a) The City Council shall consider the Zoning Administrator recommendation, the Planning Commission recommendation, and the comments received at the public hearing against the Interim Use Permit review criteria outlined in Section 3.4.5.(D)(1) and take action on the request(s).

(b) Approval of an Interim Use Permit shall require a majority vote of the City Council.

(i) In approving an Interim Use Permit, the City Council may impose conditions on the approval as are deemed appropriate to ensure compliance with each of the Interim Use Permit review criteria and shall be supported by findings of fact as to why the permit request should be approved.

(ii) Denial of any request shall be accompanied by findings of fact as to why the requested permit cannot be approved.

E. Reasonable Conditions. In approving an Interim Use Permit, the City may adopt and impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the Interim Use Permit review criteria.

F. Effect of an Interim Use Permit Approval

(1) The issuance of an Interim Use Permit shall authorize only the improvements and use approved by the City Council as an interim use over the specified timeframe.

G. Termination. An interim use shall be terminated and removed for any of the following reasons, whichever occurs first:

(1) The date, event or circumstances stated in the permit.

(2) Upon violation of conditions under which the permit was issued.

(3) Upon change in the City's zoning regulations which renders the use nonconforming.

(4) The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

H. Revocation. The City Council may revoke an Interim Use Permit upon finding that any of the conditions set forth in the permit are violated. Before the revocation is considered, the City Council shall hold at least one public hearing after proper written notice has been issued in accordance with Section 3.3.9. Following the hearing and subsequent discussion, the City Council may revoke the IUP by adopting findings of fact showing there has not been substantial compliance with the required conditions.

I. Amendments. All requested amendments to an existing interim use permit shall be processed in the same manner as a new application.

J. Renewal. All renewals of an existing interim use permit shall be processed in the same manner as a new application.

3.4.6 Appeal of Administrative Decisions

A. Purpose and Scope. This subsection sets out the procedure to follow when a person claims to have been aggrieved or affected by an administrative decision made under this ordinance.

B. Initiation of Proceedings. Appeals shall be initiated by the person aggrieved or affected by any order, decision, determination, or interpretation made by the Zoning Administrator, City Engineer, or other administrative official of the City charged with the administration or enforcement of this ordinance.

C. Procedure

(1) Submission of Appeal (Application)

(a) An Appeal pursuant to this subsection shall be initiated by filing a written appeal of the administrative decision or determination on an official form provided by City Hall.

(b) All applications for an appeal shall be in accordance with Section 3.3, Common Review Requirements.

(c) All appeals shall be submitted within one of the following timeframes to be valid:

(i) Within thirty (30) business days of the date the appellant was notified of the order, decision, determination, or interpretation they intend to appeal.

(ii) If the appellant was not notified of the order, decision, determination, or interpretation they intend to appeal; then within thirty (30) business days of the initiation of activity which either alerted or could have alerted the appellant to the matter they wish to appeal.

(iii) If the appellant was not notified of the order, decision, determination, or interpretation they intend to appeal; and no household members were present in the community during the initiation of activity which could have alerted the appellant to the matter they wish to appeal (i.e. due to business trips or relocation during the winter months), then the appellant will have ten (10) business days from the date a household member returned to the property.

(2) Review by the Board of Adjustment and Appeals

(a) Upon receiving the written appeal of the administrative decision or determination, the City Clerk shall promptly place the matter on the agenda of the Board of Adjustment and Appeals, and shall notice a public hearing for the review in accordance with Section 3.3.9.

(b) A report prepared by the Zoning Administrator which is accompanied by all relevant papers, documents, and other materials relating to the order, decision, determination, or interpretation shall be provided to the Board of Adjustment and Appeals prior to the meeting. These materials shall be a part of the record of the appeal.

(c) The City Attorney may also submit materials in connection with any appeal considered by the Board of Adjustment and Appeals.

(d) Following reports by the Zoning Administrator and appellant(s), the Board of Adjustment and Appeals shall hold the scheduled public hearing.

(e) Following the hearing and subsequent discussion on the appeal, the Board of Adjustment and Appeals shall adopt findings of fact and make a decision on the appeal.

(3) Records

(a) The City Clerk shall keep a record of the Board's proceedings which shall include minutes of meetings, findings, and the action taken on an appeal or variance, including the Board's final order and any conditions established in connection therewith.

(b) The City Clerk shall transmit the final decision to the appellant or Applicant by mail.

D. Review Criteria. An order, decision, determination, or interpretation shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the order, decision, determination, or interpretation fails to comply with either the procedural requirements, substantive requirements, or intent of this ordinance or state law.

E. Conditions. The Board of Adjustment and Appeals may impose conditions upon their decision to ensure that the requirements and purposes of this ordinance are followed.

F. Effect of the Board of Adjustment and Appeals Decision

(1) Decisions of the Board of Adjustment and Appeals are final.

(2) Requests for reconsideration of decisions of the Board of Adjustment and Appeals shall not extend any statutory deadline for any request that a court modify, reverse, or enjoin the effectiveness of any decision of the Board of Adjustment and Appeals.

(3) Determinations made by the Board of Adjustment and Appeals shall inform the Zoning Administrator, City Engineer, or other administrative officials on the exact meaning of zoning language or process being questioned, and such direction shall be implemented thereafter until/unless the zoning language in question or procedure is amended by the City Council.

3.4.7 Building Permits

A. Purpose. This section establishes when obtaining a building permit is required, how it will be reviewed, what surveys may be required to track construction, and how unauthorized work will be handled.

B. In General

(1) No person, firm, or corporation shall erect, alter, construct, enlarge, expand, repair, move, improve, convert, demolish, equip, use, occupy, or

maintain any building, structure, or portion thereof, within the City of the Village of Minnetonka Beach until proper permits have been issued by the City and partnering agencies.

(2) No building permit or other permit pertaining to the use of land or buildings shall be issued unless such building is designed and arranged to conform to the provisions of this ordinance.

(3) Building permits shall not be required for those structures and improvements specifically exempted by the adopted building code as may be amended.

C. Surveys Required

(1) Every application for building permit shall be accompanied by a certified site survey (excluding interior remodels, re-roofs, re-siding and general maintenance) at a scale and in quantities deemed necessary by the Zoning Administrator. Because the survey will be used to determine an application's conformance with City Code, it shall be the responsibility of the applicant to ensure information provided on the survey corresponds to submitted building plans (including existing and proposed topography). An issued building permit shall authorize only land alterations identified on the survey. Surveys shall include all information as deemed necessary by the Zoning Administrator to provide for the enforcement of this ordinance.

(2) All new structures shall provide to the City an as-built foundation survey upon completion of work to the foundation unless exempted by the Zoning Administrator. The as-built foundation survey shall certify both the final setbacks of the structure being built, and the elevations at which the new structure exists. Failure to provide a foundation survey upon foundation completion will result in the builder continuing with construction at their own risk. Expenditures incurred beyond the construction of the foundation will not be considered in determining the actions required to bring the building back into conformance if not built to approved plans. The foundation survey shall be on-site before the framing inspection is done and approved by the building official.

(3) All new structures shall provide to the City an as-built grading survey upon completion of work unless exempted by the Zoning Administrator. The as- built grading survey shall certify the final topography of the site and verify the drainage patterns existing upon completion of work. The City reserves the right to withhold the Certificate of Occupancy for a dwelling until final grading addresses all problems that may be detrimental to adjacent properties.

D. Review. The Zoning Administrator shall review all building permit applications for conformance to ordinance requirements, including the provisions of 3.3.13: Mitigation and 3.3.14: Environmental Review.

E. Unauthorized Work. Work done without the authorization of a permit and/or found to be out of conformance with approved plans shall be immediately halted and subject to the remedies and penalties described in Section 1.13.6 of this ordinance. Structures being built out of conformance shall be brought into conformance.

3.4.8 Certificates of Occupancy

A. Purpose. This section establishes the requirement for City approval prior to the use or occupation of new buildings or structures, or prior to a change in use within an existing structure. Issuance of a certificate of occupancy signifies that the building or structure complies with all code requirements.

B. Required

(1) No building or structure hereafter erected or moved, or that portion of an existing structure or building erected or moved, shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy has been issued by the City stating that the building or structure complies with all provisions of this ordinance.

(2) No change in use of an existing building or structure shall occur until a certificate of occupancy has been issued by the City stating that the building or structure complies with all provisions of this ordinance.

C. Application. A certificate of occupancy shall be applied for coincident with an application for a building permit or prior to a proposed change in use.

D. Issuance. A certificate of occupancy will be issued within ten (10) days after City Staff have completed a final inspection and found the building or structure conforming to all code requirements.

3.4.9 Grading Permits

A. Purpose. This section establishes when a grading permit is required, how it will be reviewed, information required with the application, and how unauthorized work will be handled. Requiring a Grading Permit enables the City to protect the public by ensuring resulting drainage works as intended, potential erosion issues are addressed to protect Lake Minnetonka and guard against unnecessary extra maintenance of sewers and ditches and/or the dredging of lakes and ponds. A Grading Permit promotes the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City of the Village of Minnetonka Beach.

B. In General. A Grading Permit shall be required when triggered by the provisions of this ordinance.

C. Exceptions

(1) No Grading Permit is required for land disturbances necessary for the following activities:

(a) Any emergency activity that is immediately necessary for the protection of life, property or natural resources.

(b) General lawn maintenance as authorized by the City Engineer.

(2) Grading specific to and in conjunction with a single Building Permit shall not require a separate grading permit provided the proposed grading is approved by the City Engineer as part of the building permit review process.

D. Application

(1) All applications for a Grading Permit shall be in accordance with Section 3.3, Common Review Requirements.

(2) In addition to general review requirements, applications for a Grading Permit shall also include all information as required by the provisions of shoreland management controls.

E. Review

(1) Grading Permit Review Criteria. Approval of a Grading Permit shall be based on the following criteria:

(a) Whether the proposed Grading Permit is consistent with all the requirements of Section 8.1.3 and any other City Code requirements;

(b) Whether the proposed Grading Permit is in compliance with all engineering standards adopted by the City;

(c) Whether the proposed Grading Permit is in compliance with any previous approvals for the property (e.g. grading required as a condition of approval for a variance).

(d) The conditions of 3.3.13: Mitigation and 3.3.14: Environmental Review are met.

(2) Grading Permit Review Process

(a) The City Engineer shall review all Grading Permit applications.

(b) Applications determined to conform with the approval criteria outlined in Section 3.4.9(E)(1) shall be approved by the City Engineer with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.

(c) Applications not conforming with the approval criteria outlined in Section 3.4.9(E)(1) shall be denied by the City Engineer. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

F. Reasonable Conditions. In approving a Grading Permit, the City Engineer may impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the Grading Permit review criteria and other city ordinances.

G. Effect of Grading Permit Approval. The issuance of a Grading Permit shall authorize only the changes approved by the City Engineer as depicted by the application materials.

H. Time Limit

(1) Failure to complete the authorized grading within six (6) months of the date of approval will invalidate the permit.

(2) Upon written request, one extension of six (6) months may, but need not, be granted by the City Engineer if the applicant can show good cause.

I. Amendments. All requested amendments to an existing Grading Permit shall be processed in the same manner as a new application.

J. Unauthorized Work. Work done without the authorization of a permit and/or found to be out of conformance with approved plans shall be immediately halted and subject to the remedies and penalties described in Section 1.13.6 of this ordinance. Driveways or parking lots being built out of conformance shall be brought into conformance.

K. Appeal. The applicant for a Grading Permit may appeal the decision of the City Engineer to the Board of Adjustment and Appeals per Section 3.4.6.

3.4.10 Driveway Permits

A. Purpose. This section establishes when a driveway permit is required, how it will be reviewed, information required with the application, and how unauthorized work will be handled. Requiring a driveway permit enables the City to inspect work done within the right-of-way, protects the public by setting and enforcing construction standards, and ensures proper pavement construction.

B. Initiation of Proceedings. A request for a driveway permit shall be initiated by application of the property owner or other person having authority to file an application pursuant to Section 3.3.2, Authority to File Applications.

C. In General

(1) A driveway permit shall be required for new driveway installation or the expansion/reconfiguration of an existing driveway or parking lot if the work is not being reviewed and completed as a component of another permit (i.e. a building permit).

(2) A driveway permit is specifically not required for sealing, patchwork, or general maintenance that does not result in expansion of the existing driveway surface.

(3) A driveway permit shall only be issued after the City Engineer determines the proposed plan sets adhere to the City's adopted engineering standards.

D. Application

(1) All applications for a driveway permit shall be in accordance with Section 3.3, Common Review Requirements.

(2) In addition to general review requirements, applications for a driveway permit shall also include at least the following to be considered complete (except as exempted by the Zoning Administrator):

(a) A written narrative providing the following information:

(i) The legal description, address, and owners name of the premises involved;

(ii) The date on which the proposed improvement is proposed to be commenced;

(iii) The name, address, and contact information for the contractor being hired to complete the proposed improvements.

(b) A site plan (or certified site survey if required by the Zoning Administrator) at a scale and in quantities deemed necessary by the Zoning Administrator showing:

(i) Lot dimensions;

(ii) Lot area in square feet;

(iii) Location of all existing buildings, landscaping, screening and natural features as directed by the Zoning Administrator (including but not limited to woodlands, wetlands, shorelines, and individual trees which may be impacted by the proposed driveway or parking lot construction);

(iv) Location of the existing driveway (if applicable), the proposed driveway and the square footage of each;

(v) Location of existing public sidewalks and trails;

(vi) Calculation of the existing and proposed impervious surface coverage on the lot;

(vii) Identify existing and proposed curb types specifically calling out proposed changes to existing facilities.

(c) For new construction and expansions, an erosion control plan shall be submitted.

E. Review

(1) Driveway Permit Review Criteria. Approval of a driveway permit shall be based on the following criteria:

(a) Whether the proposed driveway permit is consistent with all the requirements of this ordinance and any other City Code requirements;

(b) Whether the proposed driveway permit is in compliance with all engineering standards adopted by the City;

(c) Whether the proposed driveway permit is in compliance with any previous approvals for the facility (e.g. adding parking as previously approved by a conditional use permit).

(d) The conditions of 3.3.13: Mitigation and 3.3.14: Environmental Review are met.

(2) Driveway Permit Review Process

(a) The City Engineer shall review all driveway permit applications.

(b) Applications determined to conform with the approval criteria outlined in Section 3.4.10(E)(1) shall be approved by the City Engineer with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.

(c) Applications not conforming with the approval criteria outlined in Section 3.4.10(E)(1) shall be denied by the City Engineer. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

F. Reasonable Conditions. In approving a driveway permit, the City Engineer may impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the driveway permit review criteria.

G. Effect of Driveway Permit Approval. The issuance of a Driveway Permit shall authorize only the changes approved by the City Engineer as depicted by the application materials.

H. Time Limit

(1) Failure to complete driveway or parking lot improvements within one (1) year of the date of approval will invalidate the permit.

(2) Upon written request, one extension of one (1) year may, but need not, be granted by the City Engineer if the applicant can show good cause.

I. Amendments. All requested amendments to an existing driveway permit shall be processed in the same manner as a new application.

J. Unauthorized Work. Work done without the authorization of a permit and/or found to be out of conformance with approved plans shall be immediately halted and subject to the remedies and penalties described in Section 1.13.6 of this ordinance. Driveways or parking lots being built out of conformance shall be brought into conformance.

K. Appeal. The applicant for a Driveway Permit my appeal the decision of the City Engineer to the Board of Adjustment and Appeals per Section 3.4.6.

3.4.11 Sign Permits

A. Purpose and Scope. This subsection sets out the procedures to follow when requesting a sign permit.

B. Initiation of Proceedings. A request for a Sign Permit shall be initiated by application of the property owner or other person having authority to file an application pursuant to Section 3.3.2, Authority to File Applications.

C. In General. A sign permit shall be required for specific sign types as identified in Section 7.3 Signs.

D. Application

(1) All applications for a Sign Permit shall be in accordance with Section 3.3, Common Review Requirements.

(2) In addition to general review requirements, applications for a Sign Permit shall also include at least the following to be considered complete (except as exempted by the Zoning Administrator):

(a) Names and addresses of the applicant, owners of the sign and lot.

(b) The address(es) at which the sign(s) are to be erected.

(c) The lot, block and addition at which the signs are to be erected and the street on which they are to front.

(d) Type and size of sign.

(e) A site plan (or survey if required by the Zoning Administrator) which is to scale showing the location of lot lines, building structures, parking areas, existing and proposed signs and any other physical features.

(f) Plans, location and specifications and method of construction and attachment to the buildings or placement method on the ground.

(g) Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and ordinances of the City, if required.

(h) Written consent of the owner or lessee of any site on which the sign is to be erected.

(i) Any electrical permit required and issued for the sign.

(j) A detailed description of any electronic or electrical components that are proposed to be added to the sign.

(k) Other information to demonstrate compliance with this and all other ordinances of the City.

E. Review

(1) Sign Review Criteria. Approval of a Sign Permit application shall be based on the following criteria:

(a) Whether the proposed sign is consistent with all the requirements of this ordinance and any other City Code requirements;

(b) Whether the proposed sign is in compliance with underlying and overlay zoning district regulations; and

(c) Whether the proposed sign meets all the requirements or conditions of any applicable development approvals or agreements.

(d) The conditions of 3.3.13: Mitigation and 3.3.14: Environmental Review are met.

(2) Sign Review Process

(a) The Zoning Administrator will review all sign permit requests.

(b) Applications determined to conform with the approval criteria outlined in Section 3.4.11(E)(1) shall be approved by the Zoning Administrator with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.

(c) Applications not conforming with the approval criteria outlined in Section 3.4.11(E)(1) shall be denied by the Zoning Administrator. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

F. Reasonable Conditions. In approving a sign permit, the Zoning Administrator may impose such reasonable conditions and requirements as deemed necessary and appropriate to ensure continued compliance with the sign permit review criteria.

G. Effect of a Sign Permit Approval.

(1) The issuance of a Sign Permit shall authorize only the installation or replacement of signage approved by the Zoning Administrator.

(2) A Sign Permit, including any conditions, shall run with the land and shall not be affected by a change in ownership.

H. Time Limit

(1) Failure to install the approved signage within six months of the date of approval will invalidate the permit.

(2) Upon written request, one extension of six months may be granted by the Zoning Administrator if the applicant can show good cause.

(3) All sign permits are valid during the year the permit was acquired plus eighteen (18) months. All permits must be renewed by July 1st during the year of expiration.

I. Amendments. All requested amendments to an existing sign permit shall be processed in the same manner as a new application.

J. Renewal

(1) Requests for a sign permit renewal received before expiration, where no changes to the sign are proposed, may be initiated by application with no requirement for additional plan sets. In response to a renewal request, the City will conduct a site inspection to ensure the

permitted sign has been maintained in accordance with the original approval. Maintenance, if needed, may be a condition of the renewal approval.

(2) Failure of a sign owner to apply for sign permit renewal by the July 1st deadline, or a request to make changes to the sign, shall be processed in the same manner as a new application.

K. Appeal. The applicant for a Sign Permit may appeal the decision of the Zoning Administrator to the Board of Adjustment and Appeals per Section 3.4.6.

3.4.12 Temporary Use Permits

A. Purpose and Scope. This subsection sets out the procedures to follow when requesting a Temporary Use permit.

B. Initiation of Proceedings. A request for a Temporary Use Permit shall be initiated by application of the property owner or other person having authority to file an application pursuant to Section 3.3.2, Authority to File Applications.

C. Application

(1) All applications for a Temporary Use Permit shall be in accordance with Section 3.3, Common Review Requirements.

(2) In addition to general review requirements, applications for a Temporary Use Permit shall also include at least the following to be considered complete (except as exempted by the Zoning Administrator):

(a) A written narrative which includes:

(i) A description of the proposed temporary use, how it will function on the property, hours and dates of operation, and any other information necessary to fully describe the request; and

(ii) An explanation of how the proposed temporary use will meet each of the criteria set forth in Section 3.4.12(D)(1), as well as any additional criteria that may apply for the specific use as listed in Chapter 5.0.

(b) A site plan of the property showing all information necessary to accurately depict how the proposed use will function on the site. Information required on the site plan shall include but not be limited to:

(i) The location of all existing and proposed structures;

(ii) Driveways and parking areas;

(iii) Proposed storage spaces;

(iv) Natural features such as woodlands, wetlands, shorelines, etc;

(v) Proposed number of parking spaces (if applicable).

(c) Any other information that may be reasonably required by the Zoning Administrator to evaluate the application.

D. Review

(1) Temporary Use Permit Review Criteria. Approval of a Temporary Use Permit shall only be granted once the Zoning Administrator has determined the use shall:

(a) Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;

(b) Be compatible with the principal use on the site;

(c) Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;

(d) Not include permanent alterations to the site;

(e) Not maintain temporary signs associated with the use or structure after the activity ends;

(f) Not violate the applicable conditions of approval that apply to the site;

(g) Not interfere with the normal operations of the permanent use located on the property; and

(h) Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement associated with the temporary use, without disturbing environmentally sensitive lands such as wetlands, shore impact zones and bluffs.

(i) Meet the conditions of 3.3.13: Mitigation and 3.3.14: Environmental Review.

(2) Temporary Use Permit Review Process

(a) The Zoning Administrator will review all Temporary Use Permit applications.

(b) Applications determined to conform with the approval criteria outlined in Section 3.4.12(D)(1) shall be approved by the Zoning Administrator with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.

(c) Applications not conforming with the approval criteria outlined in Section 3.4.12(D)(1) shall be denied by the Zoning Administrator. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

E. Reasonable Conditions. In approving a Temporary Use Permit, the Zoning Administrator may impose such reasonable conditions and requirements as deemed necessary and appropriate to ensure continued compliance with ordinance requirements.

F. Effect of a Temporary Use Permit Approval

(1) The issuance of a Temporary Use Permit shall authorize only the specific temporary use approved by the Zoning Administrator over the specified timeframe.

(2) A minimum of ninety (90) days shall be required between the expiration of a Temporary Use Permit and the issuance of another Temporary Use Permit on the same site for an identical or similar use as determined by the Zoning Administrator.

G. Time Limit. No permit shall authorize a temporary use for more than the allowable duration specified in Table 5.5.4 for the specific temporary use.

H. Amendments and Withdrawals

(1) All requested amendments to a Temporary Use Permit shall be processed in the same manner as a new application.

(2) Approved temporary use permits may be withdrawn by the applicant prior to the temporary use beginning to avoid the ninety (90) day between temporary uses requirement in Section 3.4.12.(F)(2).

(3) Approved permits for temporary uses that have already begun cannot be withdrawn.

I. Appeals. The applicant for a Temporary Use Permit may appeal the decision of the Zoning Administrator to the Board of Adjustment and Appeals per Section 3.4.6.

4.0 ZONING DISTRICTS

4.1 General Provisions

4.1.1 Adoption of Zoning Map

A. The map entitled City of the Village of Minnetonka Beach Zoning Map, dated 3/8/2016 and as may be amended, hereinafter referred to as the "zoning map," and all explanatory matters thereon, is hereby adopted and made a part of this ordinance.

B. Questions concerning a zoning designation or boundaries of a zoning district shown on the zoning map shall be resolved by referring back to the originally adopted map and any subsequent ordinances amending the districts and boundaries.

4.1.2 Types of Zoning Districts. Land within the City is generally classified by this ordinance to be within a specific base zoning district. Land within any base zoning district may also be classified into one or more overlay zoning districts, in which case regulations governing development in the overlay district shall apply in addition to the regulations governing development in the underlying base zoning district, unless expressly stated otherwise.

4.1.3 District Boundaries

A. The boundaries of each district are established as shown on the zoning map. Unless otherwise indicated on the zoning map, the district boundaries are parcel lines or the corporate limit lines as they existed at the time of the enactment of this ordinance.

B. New base district lines or rezoning lines shall follow parcel lines.

4.1.4 Zoning Classifications for Newly Annexed Property. Any land annexed to the City in the future shall initially be placed in the R-1 Single Family Residential District, unless placed in another district by action of the City Council after recommendation of the Planning Commission.

4.2 Districts Established

4.2.1 Establishment of Base Districts. Table 4.2.1, Base Zoning Districts, sets out the base districts established by this ordinance.

TABLE 4.2.1: BASE ZONING DISTRICTS

Abbreviation	District Name
R-1	Single Family Residential District
P-1	Public Facilities District

4.2.2 Establishment of Overlay Districts. Table 4.2.2, Overlay Zoning Districts, sets out the overlay zoning districts established by this ordinance.

TABLE 4.2.2: OVERLAY ZONING DISTRICTS

Abbreviation	District Name
FP	Flood Plain Overlay District
W	Wetland Overlay District
T	Telecommunications Overlay District
SH	Shoreland Overlay District

PUD	Planned Unit Development Overlay District

4.2.3 Classification of Districts. Land shall be classified or reclassified into a base or overlay zoning district only in accordance with the procedures and requirements set forth in Section 3.4.2, Zoning Ordinance Text and Zoning Map Amendments.

4.3 Business Base Zoning Districts. There are no commercial or industrial zoned properties within the City of the Village of Minnetonka Beach.

4.4 Overlay Zoning Districts.

4.4.1 General Purpose. Overlay zoning districts are superimposed over portions of one or more base zoning districts in order to introduce additional zoning requirements necessary to address a specific issue.

4.4.2 Relationship to Base Zoning Districts

A. Regulations governing development in an overlay zoning district shall apply in addition to the regulations governing development in the underlying base zoning district unless expressly stated otherwise in these regulations.

B. Conflicts between overlay district standards and other standards in this ordinance shall be resolved as outlined in Section 1.10.3.

5.0 LAND USE STANDARDS

5.1 Purpose. To identify land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality.

5.2 Use Tables: Explanation of Use Table Structure. Chapter 5 utilizes "use tables" to identify the principal and accessory uses that may be established within the City of the Village of Minnetonka Beach. Section 5.2 explains how to read these tables.

5.2.1 Organization of Use Tables

A. Table 5.3.1: Principal Uses. Table 5.3.1 organizes all principal uses by Use Classifications and Use Types.

(1) Use Classifications. The Use Classifications within the City of the Village of Minnetonka Beach are: Residential Uses and Civic & Institutional Uses.

(2) Use Types. The Use Types identify specific uses that fall within characteristics of each use Classification.

B. Table 5.4.2: Accessory Uses. Table 5.4.2 provides a single listing of accessory uses that may be sought within the City.

5.2.2 Symbols used in Use Tables

A. Permitted Uses = P. A "P" indicates that a use is permitted by right, subject to compliance with all other applicable provisions of this ordinance. Uses may be subject to special regulations as referenced in the "Additional Requirements" column.

B. Conditionally Permitted Uses = C. A "C" indicates that a use is permitted provided the City can establish conditions necessary to ensure the use is compatible to the proposed location and surrounding properties. Inability of the City to establish conditions to adequately control anticipated impacts is justification for denial of a conditionally permitted use. Conditional Uses may also be subject to special regulations as referenced in the "Additional Requirements" column.

C. Interim Permitted Uses = I. An "I" indicates that a use may be permitted for a brief period of time provided certain conditions are met, and a specific event or date can be established for discontinuance of the use. Inability of the City to establish conditions to adequately control anticipated impacts is justification for denial of an interim permitted use. Interim Permitted Uses may also be subject to special regulations as referenced in the "Additional Requirements" column.

D. Prohibited Uses = Shaded Cells. A shaded cell indicates that the listed use is prohibited in the respective base zoning district.

E. Unlisted Uses. Any landowner may request a use determination for uses not expressly listed in Table 5.3.1, or which involves more than one type of permitted use. An application for a use determination shall be submitted to the City Clerk and referred to the Planning Commission for recommendation and the Council for decision. Use determinations shall be based on substantial similarity to existing use classifications, become of future binding force and effect, and be maintained on file by the City Clerk. If no similar use determination can be made, the use will be considered prohibited in which case an amendment to the ordinance text would need to be initiated to clarify if, where, and how a proposed use could be established.

5.3 General Regulations for All Uses

5.3.1 Nuisances Prohibited for All Uses. In addition to any nuisance provisions within City code, the following shall apply:

A. Refuse and Garbage

(1) In all districts, all refuse, rubbish, or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such a purpose.

(2) The owner of vacant land shall be responsible for keeping the land free of refuse, rubbish, or garbage.

B. Glare

(1) Any lighting used to illuminate off-street parking area, sign, or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets.

(2) Direct or sky-reflected glare, where from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property.

(3) The source of lights shall be hooded or controlled in some manner so as not to cast light on adjacent property.

(4) Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way.

(5) Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the center line of said street.

(6) Any light or combination of lights which cast light on residential property shall not exceed 0.4 foot candles (meter reading) as measured from said property.

C. Smoke. The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15.

D. Dust and Other Particulate Matter. The emission of dust, fly ash, or other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15.

E. Noise. Noises emanating from any use shall be in compliance with and regulated by the State of Minnesota pollution control standards and rules.

5.3.2 Structure Location. All structures shall be located on lots so as to provide safe and convenient access from adjacent public streets and sidewalks for servicing/ maintenance, fire protection, and the accommodation of required off-street parking.

5.4 Principal Uses

5.4.1 Principal Uses by Zoning District

TABLE 5.4.1: PRINCIPAL USES BY DISTRICT			
Use Types "P" = Permitted "C" = Conditionally Permitted "I" = Interim Permitted	Base Zoning Districts		Additional Requirements
	R-1	P-1	
Residential Uses			
Single Family Detached Dwelling	**P**		5.4.2(A)
Private Recreational Facility	**C**		5.4.2(B)
Civic & Institutional Uses			
Country Club	**C**		5.4.3(A)
Essential Services	**P**	**P**	5.4.3(B)
Public Parks & Playgrounds	**P**		None
Places of Public Assembly	**C**		5.4.3(C)
Public Buildings or Uses – non-utility related	**P**		None
Public Buildings or Uses – utility related	**C**		None
Regional Trail		**P**	4.5 & 5.4.3(D)

5.4.2 Regulations for Residential Uses

A. General Regulations for All Dwellings. All dwellings located in any residence district shall conform to the following minimum requirements:

(1) All dwellings shall be placed on a permanent foundation which complies with the Minnesota State Building Code, and which are solid for the complete circumference of the dwelling.

(2) All dwellings shall be served by public sanitary sewer and water.

(3) Direct vehicular access to residential units from arterial or collector roadways shall be prohibited unless no other reasonable alternative exists as determined by the Zoning Administrator.

(4) In addition to standards applicable to all houses in residential districts, manufactured homes, as defined by Minnesota Statutes, shall be built in compliance with the Minnesota Manufactured Homes Building Code and all statutory requirements.

(5) No cellar, basement, garage, tent, trailer, motor vehicle or accessory building shall at any time be used as an independent residence, either temporarily or permanently, unless authorized by the City as an accessory dwelling unit; tents, play houses or similar structures may be used for play or recreational purposes.

(6) For dwellings with a Green Roof, all materials including but not limited to vegetative materials, must be maintained in such a way that they do not negatively detract from the aesthetics of said dwelling, or create a nuisance to neighboring properties.

B. Private Recreational Facilities. Private park facilities must be operated only for the enjoyment and convenience of the associated residents and their guests.

C. Opt-Out of Minnesota Statutes, Section 462.3593. Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of the Village of Minnetonka Beach opted-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings.

5.4.3 Regulations for Civic & Institutional Uses

A. Country Club

(1) Country Clubs established after the effective date of this ordinance, as denoted in Section 1.5, shall be located on a property or contiguous properties under the same ownership of 40 acres or more.

(2) Country Clubs established before the effective date of this ordinance, as denoted in Section 1.5, may be located on properties of less than 40 acres if authorized as an amendment to the conditional use permit governing the use.

(3) Alongside lot lines, buildings shall be set back from an adjoining residential district a distance no less than double the adjoining residential side yard setback.

(4) Adequate off-street parking and access shall be provided as required by Section 7.5, Parking.

(5) Adequate off-street loading and service entrances are considered and satisfactorily provided.

B. Essential Services

(1) Essential services are not subject to the prohibition of Section 6.2.6 limiting principal uses to one per lot.

(2) Essential services may be located in any district subject to compliance with all applicable laws, regulations, and ordinances.

(3) Prior to the commencement of construction, installation, or condemnation of essential services, plans for the proposed essential service activity shall be submitted to and reviewed by the City Engineer.

(4) The City may require that the location and construction of essential services be made compatible with the existing and planned development including- without limitation-roads, parks, schools, and buildings.

C. Places of Public Assembly

(1) Places of Public Assembly shall only be established on parcels-or a group of parcels under the same ownership-that exceed one (1) acre in size

(2) Along side lot lines, buildings shall be set back from an adjoining residential district a distance no less than double the adjoining residential side yard setback.

(3) Adequate off-street parking and access shall be provided as required by Section 7.5, Parking.

(4) Adequate off-street loading and service entrances are considered and satisfactorily provided.

D. Regional Trail

(1) Recreational use of the Regional Trail may include pedestrian uses such as walking or running, and non-motorized devices such as bicycles, tricycles, roller blades, roller skates, small wagons, strollers, wheelchairs, and non- motorized scooters.

(2) Motorized vehicles, except for motorized wheel chairs or similar accessibility devices, are prohibited.

5.5 Accessory Use Standards

5.5.1 General Standards and Limitations for Accessory Uses

A. Compliance with Ordinance Requirements. All accessory uses and accessory structures shall conform to all applicable requirements of this Ordinance. The provisions of this Section establish additional standards and restrictions for particular accessory uses and structures.

B. General Standards. All accessory uses and accessory structures shall meet the following standards:

(1) Directly serve the principal use or structure;

(2) Be customarily accessory and clearly incidental and subordinate to the principal use and structure;

(3) Be subordinate in area, extent, and purpose to the principal use or structure;

(4) Be owned or operated by the same person as the principal use or structure;

(5) Be located on the same lot as the principal use or structure;

(6) It is necessary to have an allowed Principal Use on the same lot in order to have one or more accessory uses on the lot;

(7) Together with the principal use or structure, not violate any standards of this Ordinance;

(8) Not be located within platted or recorded easements or over underground public utilities unless specifically allowed by this Ordinance or authorized via an encroachment agreement with the City;

(9) An accessory building shall be considered an integral part of the principal building if it is connected to the principal building either directly or by an enclosed passageway. Such accessory buildings shall adhere to requirements for the principal building.

(10) If a principal building is proposed to be removed with no immediate replacement, all accessory structures shall also be removed.

C. Maximum Number of Accessory Structures. There is no maximum number of accessory structures that can be erected on a lot.

5.5.2 Table of Permitted Accessory Uses

TABLE 5.5.2: PERMITTED ACCESSORY USES P = Permitted, C = Conditional, Shaded = Not Permitted, I=Interim			
Accessory Use or Structure	Base Zoning Districts		Additional Requirements [1]
	R-1	P-1	
Accessory Dwelling Unit - within principal unit	**P**		5.5.4(A)
Accessory Dwelling Unit – detached	**I**		5.5.4(A)
Accessory Building – minor	**P**		5.5.4(B)
Accessory Building – major	**P**		5.5.4(C)
Air Conditioning Units and Heat Pumps	**P**		5.5.4(D)
Barbeque, Permanent	**P**		5.5.4(E)
Co-located Wireless Telecommunication Antennae	**C**		12.0
Driveways	**P**		5.5.4(F)
Fences or Walls	**P**	**P**	7.1
Fire Pit	**P**		5.5.4(G)
Generators	**P**		5.5.4 (W)
Home Occupations	**P**		5.5.4(H)
Lake Accessory Uses	**P**		5.5.4(I)
Landscaping	**P**	**P**	5.5.4(J)
Motor Vehicles	**P**		5.5.4(K)
Parking Spaces, Off-street	**P**		7.5
Patio	**P**		N/A
Outdoor Storage	**P**		5.5.4(L)
Park Facility Buildings & Structures (public)	**P**		5.5.4(M)
Private Amateur Radio Antenna	**C**		5.5.4(N)
Private Receiving Antennae and Antenna Support Structures	**C**		5.5.4(O)
Recreational Equipment	**P**		5.5.4(P)
Shelters (Storm or Fallout)	**P**		5.5.4(Q)
Sign(s)	**P**	**P**	7.3
Solar Energy System	**P**		5.5.4(R)
Stairways	**P**	**P**	6.2.5
Swimming Pool (above ground)	**P**		5.5.4(S)
Swimming Pool (below ground)	**P**		5.5.4(T)
Terrace	**P**		5.5.4(U)

Walkways	**P**	**P**	N/A
Wind Energy Conversion System, Small (SWECS)	**C**		5.5.4(V)
Wireless Telecommunications Support Structures	**C**		12.0
[1]: Consult Table 6.1.8(B) for additional regulations on setbacks			

5.5.3 Procedures for Accessory Uses

A. Establishment of accessory uses may be reviewed and approved concurrently with the applicable permits for establishment of the principal structure.

B. In the event a detached accessory structure is permitted as a component of a permit to build a principal structure, the principal structure shall be substantially complete prior to construction of the accessory structure beginning.

5.5.4 Additional Specific Standards for Certain Accessory Uses

A. Accessory Dwelling Unit. All accessory dwelling units shall meet the following performance standards in addition to any other more restrictive standards of the City Code

(1) All accessory dwelling units may only be occupied by the owner-occupant, family of the owner-occupant, domestic help or caregivers.

(2) Accessory dwelling units must be located within the principal unit.

(3) The principal unit must meet all setback, height and other residential development requirements.

(4) One accessory dwelling unit is allowed on a lot with the principal use.

(5) No detached accessory dwelling units are permitted.

(6) Additions to a principal unit to accommodate accessory dwelling units shall be designed and maintained so as to be consistent with the architectural design, style, appearance, and character of the principal unit. Such design and maintenance shall be consistent with the principal unit's facade, roof pitch, siding and roof material, windows, entryways, and doors.

(7) If the entrance to the accessory dwelling unit is not the same as the entrance to the principal unit, the following conditions must be met:

(a) A riparian lot must be a minimum area of 26,000 square feet and 135 feet wide,

(b) A nonriparian lot must be a minimum of 17,500 square feet and 135 feet wide,

(c) Any exterior entrance to the accessory dwelling unit, including any stairways, shall be located in such a manner as to not be visible at any time from a street or Lake Minnetonka,

(d) Under all circumstances, accessory dwelling units shall have interior access between the accessory dwelling unit and the principal unit, and

(e) The orientation of the accessory dwelling unit shall, to the maximum extent practicable, maintain the privacy of the residents in the adjoining dwelling units not located on the same lot as the accessory dwelling unit by such elements as landscaping, fencing, window and door placement or the design of the accessory dwelling unit.

(8) At least one off-street parking space shall be provided for an accessory dwelling unit.

(9) Additional driveways from a street may not be constructed for access to the accessory dwelling unit or for access to the accessory dwelling unit's parking space.

(10) All utilities to the accessory dwelling unit including but not limited to water, sewer, electric, cable, and telephone will be provided underground from their source to the accessory dwelling unit. Water and sanitary sewer lines to the accessory dwelling unit are required to be connected on the lot of the principal unit and may not be connected directly to the public water or public sanitary sewer system located in the street. All water and electrical service must be metered through the meter located in the principal unit.

(11) Deed restrictions. Before issuing a building permit for a new accessory dwelling unit, the owner occupant shall record with Hennepin County, against the title of the subject property, a deed restriction running in favor of the City limiting the occupancy of the accessory dwelling unit as provided for in this ordinance.

(12) Right of Entry. Before a Building Permit is issued for an accessory dwelling unit, the Owner shall for its self, heirs and assigns enter into an agreement with the City to allow the City reasonable rights of entry for the purpose of performing inspections of the accessory dwelling unit.

(13) The Deed Restriction and Right of Entry Agreement shall be recorded with Hennepin County with the title of the property

(14) Notwithstanding anything herein to the contrary, detached accessory dwelling units are allowed by interim use permit on any property on which the principal structure is registered with the National Historical Trust so long as the requirements of subsections (1), (4), (8), (9), (10), (11), (12), and (13) of this section A are met.

B. Accessory Building - minor

(1) Minor accessory buildings do not require a building permit, but shall comply with all applicable zoning regulations.

(2) Minor accessory buildings shall be limited to a height of fifteen (15) feet.

(3) Minor accessory buildings shall be finished in a similar appearance as the principal structure.

C. Accessory Building - major

(1) Materials and Appearance. Major accessory buildings shall be constructed to be similar to the principal building in architectural style and building materials.

(2) Private Garages

(a) The maximum height of a detached private garage shall not exceed one- half of the height of the principal structure, or one story, whichever is greater, but in no case taller than the principal structure.

(b) Private garages shall only be used by the family or families residing upon the premises.

D. Air Conditioning Units and Heat Pumps.

(1) For ground mounted units, the top of any unit shall not be more than eight feet above the ground directly below the unit.

E. Barbeque, Permanent. Permanent barbeques shall be limited to a height of ten (10) feet.

F. Driveways. Driveways may not exceed one foot in height at any point.

G. Fire Pit, Permanent

(1) Free-standing or in-ground fire pits shall comply with the following:

(a) The fire pit opening shall not exceed a diameter of three (3) feet.

(b) Materials burned in the fire pit shall be limited to wood, coal, natural gas, charcoal or brush.

(2) If permanent, the fire pit structure shall be limited to a height of two (2) feet above ground level.

H. Home Occupations.

(1) Home occupations shall not include retail sales or beauty/barber chairs.

(2) Home occupations shall be conducted entirely within a Home Occupation Accessory Use only by members of a family residing full-time on the property

(3) Home occupations shall be clearly incidental and secondary to the use of the dwelling or residential lot for residential purposes, and may not change a lot's residential character.

I. Lake Accessory Uses. Temporary winter storage from September 15th through June 1st is allowed in the lake setback and front setback area on Double Frontage lots.

J. Landscaping. Free standing flag poles shall be limited to 40 feet in height.

K. Motor Vehicle

(1) Motor vehicles may not be used for human or animal habitation while stored on the property.

(2) Motor vehicles shall be located on paved driveways or parking lots.

L. Outdoor Storage. All materials and equipment, except as specifically denoted in this ordinance, shall be stored within a building or fully screened so as not to be visible from adjoining properties except for the following:

(1) Clothes line pole and wire.

(2) Construction and landscaping material currently being used on the premises.

(3) Off-street parking of licensed and operable passenger vehicles, emergency vehicles, and/or small commercial vehicles unless otherwise required to be screened by this ordinance.

(4) Recreational vehicles or non-stationary pieces of recreational equipment as regulated by this ordinance.

(5) Items normally associated with outdoor residential uses (e.g. lawn furniture, grills, etc).

(6) Recycling and trash containers as regulated by City Code.

(7) Propane tanks, fuel oil tanks, and other similar residential heating fuel storage tanks which do not exceed 500 gallons in capacity and shall not be located within five (5) feet of any property line.

(8) Wood piles in which wood is stored for fuel provided that not more than five cords shall be stored on any property.

(a) A cord shall be 4'x4'x8'.

(b) All wood piles shall be five (5) feet or more from the rear and side yard property lines and shall be stored behind the appropriate setback line in front yards.

M. Park Facility Buildings & Structures (public). Limitations on number and size for accessory buildings and structures shall not apply to active or passive public park facilities.

N. Private Amateur Radio Antenna (private Ham Radio Towers)

(1) One (1) antenna and associated antenna support structure shall be a permitted accessory use provided that:

(a) The owner/operator has current versions of all required licenses to operate said equipment.

(b) All equipment shall be installed in accordance with manufacturer's specifications and pursuant to valid building and electrical permits and any other applicable permit requirements.

(c) No antenna or antenna support structure shall exceed a height of ten (10) feet.

(d) Except as allowed by Section 5.5.4(O), no freestanding antenna or antenna support structure shall be located within any required yard other than the rear yard of any parcel.

(e) An antenna and its support structure may be located within the buildable area of a lot if mounted directly to the principal structure.

(2) Any private amateur radio antenna or antenna support structure which is no longer in use, or for which the owner of property no longer has valid licenses, or which has fallen into disrepair to the extent that it can no longer serve its intended purpose, or which constitutes a hazard or nuisance, shall be considered a violation of the zoning ordinance and shall be removed.

O. Private Receiving Antennae and Antenna Support Structures (TV antennas and satellite dishes)

(1) Private antennae less than one (1) meter in width and related support structures shall be a permitted accessory use in all zoning districts, provided that:

(a) An antenna and its support structure may be located within the buildable area of a lot if mounted directly to the principal structure.

(b) The antenna and/or antenna support structure shall be placed on a structure in a manner that will not exceed the allowable height limits of the applicable zoning district in which it is located.

(2) Any private antenna or antenna support structure which is no longer in use, or which has fallen into disrepair to the extent that it can no longer serve its intended purpose, or which constitutes a hazard or nuisance, shall be considered a violation of the zoning ordinance, and shall be removed.

P. Recreational Equipment

(1) Exterior lighting of recreational equipment shall comply with the provisions of Section 7.2 of this ordinance.

(2) Recreational equipment shall not be illuminated between the hours of 10:00 PM and 7:00 AM or at other times when not in use.

(3) Light fixtures shall not be mounted to a height greater than fifteen feet (15') and shall be downcast with a 90 degree horizontal cut-off.

(4) All electrical wiring for the recreational equipment shall be located underground.

Q. Shelters (storm or fallout). Storm and fallout shelters shall not alter the character of the premises and shall blend into a principal or accessory structure, or be non-visible from any adjacent property, right-of-way, or the lake.

R. Solar Energy Systems. All Solar Energy Systems shall adhere to the following standards:

(1) All solar energy systems shall be operable and maintained in good repair.

(2) Solar energy systems shall meet all required setbacks and height requirements as required by this ordinance.

(3) Solar energy systems shall be an integral part of the structure to which they are attached.

(4) As a means of evidencing existing solar access conditions prior to installation, the owner of a solar energy system may file notarized photographs of the subject area with the Zoning Administrator prior to installation of said system.

(5) Solar energy systems shall be allowed on roofs of principal and accessory buildings provided all other requirements of this section are met.

(6) Solar energy systems shall be designed to minimize glare with adequate screening and/or coatings, as appropriate.

(7) Solar energy systems shall be located in such a way as to be screened from visibility of the public right of way, or shall be harmonious with the architectural features of the home in as much as possible.

(8) Ground-mounted solar energy systems shall be located only in the rear yard of residential property, and shall not occupy an area more than 20% of the size of the perimeter foundation of the principal building.

S. Swimming Pool (above ground)

(1) The maximum height for an above ground swimming pool is eight (8) feet measured from the average ground level to the top of the pool railing.

(2) The maximum height for pool equipment shall be five (5) feet above the proposed grade.

(3) All pool equipment shall be located in an inconspicuous location and be screened from adjacent property.

(4) All above-ground swimming pools shall adhere to the following safety standards:

(a) The pool shall be equipped with an automatically retractable type ladder, a retractable ladder, a removable ladder, or shall be fenced in accordance with the requirements for a below-ground swimming pool as outlined in Section 5.5.4(T).

(b) If a ladder is used for safety purposes, the ladder must be removed or retracted when the pool is not being attended.

(c) If access to the pool is via a deck or porch, then no access from the ground is permitted to the deck area unless the property or the ground access to the deck is fenced in accordance with the requirements for a below-ground swimming pool as outlined in Section 5.5.4(T).

(5) It shall be the responsibility of the property owner to maintain all implemented safety devices in good operating condition. Failure to maintain safety devices, fences, failure to have gates closed or failure to remove or retract the ladder access to the pool when unattended shall constitute a violation of the Zoning Ordinance and is subject to the remedies and penalties outlined in Section 1.13.5 of this ordinance.

T. Swimming Pool (below ground)

(1) The maximum height for a below ground swimming pool is one (1) foot above the proposed grade.

(2) The maximum height for pool equipment shall be five (5) feet above the proposed grade.

(3) All pool equipment shall be located in an inconspicuous location and be screened from adjacent property.

(4) Walkways around below ground swimming pools shall be limited to four (4) feet in width.

(5) All below ground swimming pools shall include one of the following safety barriers:

(a) Safety fence. The swimming pool shall be completely enclosed by a non-climbable type fence. All fence openings or points of entry into the pool area shall be equipped with gates. The fence and gates shall be at least four (4) feet in height and shall be constructed of a minimum number eleven gauge woven wire mesh corrosion-resistant material or other material approved by the building official. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate or otherwise be inaccessible to small children. All fence posts shall be decay or corrosion resistant and shall be set in concrete bases or other suitable protection. The openings between the bottom of the fence and the ground or other surface shall not be more than four (4) inches. Fences shall be identified on the survey or site plan submitted with the building permit application.

(b) Automatic (powered) safety pool cover. Automatic pool covers shall meet the standards of F1346-91 of the American Society of Testing and Materials (ASTM), as such standards may be modified, superseded or replaced by ASTM. Manually assembled or positioned safety pool covers shall not suffice as a required pool barrier. It shall be the responsibility of the building permit applicant and property owner to submit materials ensuring compliance with the ASTM standards for an automatic pool cover prior to the issuance of a building permit. Compliance with the ASTM standards shall be shown with the building permit application for the pool.

(6) It shall be the responsibility of the property owner to maintain all pool covers, fences, gates and closure devices in good operating condition. Failure to maintain pool covers, fences, or failure to have gates closed shall constitute a violation of the Zoning Ordinance and is subject to the remedies and penalties outlined in Section 1.13.5 of this ordinance.

U. Terrace. The maximum height of a terrace shall be determined by the height of the principal building's floor adjacent to the terrace or three (3) feet above grade, whichever is less.

V. Wind Energy Conversion System, Small (SWECS)

(1) Purpose and Intent. The purpose and intent of this Section is to establish standards and procedures by which the installation and operation of Wind Energy Conversion Systems (WECS) and Small Wind Energy Conversion Systems (SWECS) shall be governed within the City. The City finds that it is in the public interest to only allow SWECS in locations that are

viable for the production of energy, and that do not have an adverse impact on the livability and aesthetics of the community.

(2) Objectives

(a) To encourage alternative energy development only in locations where the wind resource is viable and causes no environmental, economic or social impacts.

(b) To preserve views of the lake throughout the community as supported by the City's Comprehensive Plan.

(c) To preserve the character of existing neighborhoods by addressing ancillary impacts of SWECS such as removal of trees.

(d) To protect adjacent properties from the potential nuisances and/or hazards created with the placement of a SWECS.

(3) Conditionally Permitted. Small Wind Energy Conversion Systems (SWECS) may be allowed as a conditional permitted accessory use on lots of 1.0 acres or more within the R- 1 Single Family Residential District.

(4) Standards for Small Wind Energy Conversion Systems

(a) Number. No more than one SWECS is permitted per parcel.

(b) Height. A maximum total height of 40 feet is permitted.

(c) Blade Length. A maximum blade length of 15 feet is permitted.

(d) Clearance. The minimum distance from the ground for the lowest point of a blade or any other moving part shall be 12 feet.

(e) Roof Mounting. Roof or wall mounted SWECS are prohibited.

(f) Location and Setbacks.

(i) SWECS shall adhere to the specific setback requirements for such units outlined in Table 6.1.8(B).

(ii) SWECS shall be setback a distance at least equal to the total height of the SWECS from all above-ground structures.

(iii) SWECS shall be placed at equivalent or greater setbacks from all side lot lines when compared to the principal structure to which the SWECS is accessory.

(iv) No SWECS shall be allowed within a Shore Impact Zone or Bluff Impact Zone.

(v) SWECS shall be setback a distance at least equal to the height of the SWECS from a floodplain, pond or wetland.

(g) Easements. SWECS shall not be located within a public drainage, utility, roadway, or trail easement.

(h) Noise. SWECS shall comply with Minnesota Pollution Control Agency standards for noise outlined in Minnesota Rules Chapter 7030 at all property lines.

(i) Screening. SWECS are exempt from screening requirements as may otherwise be applicable.

(j) Viability. SWECS shall only be permitted following certification by a certified wind energy installer or site assessor (North American Board of Certified Energy Professional,

NABCEP, or equivalent) that concludes the proposed location and height can access a viable wind resource based on measured data & estimates of wind speed at turbine height, estimated annual energy production, and compliance with the turbine manufacturer's design wind speed.

(k) Design Standards.

(i) Turbine Certification. All SWECS turbines shall be certified or in the process of being certified by the Small Wind Certification Council (SWCC) Micro-generation Certification Scheme (MCS), or must be listed by the Interstate Turbine Advisory Council.

(ii) Appearance, Color and Finish.

- All portions of the SWECS shall be a non-reflective surface, subject to the approval of the Zoning Administrator or his/her designee.
- The wind turbine and tower shall remain painted and finished the color or finish that was originally applied by the manufacturer, unless otherwise approved as part of the conditional use permit.
- The appearance of the turbine, tower and any other related components shall be maintained throughout the life of the SWECS pursuant to industry standards.

(iii) Tower. Only monopole towers which do not require the use of guy wires are permitted.

(iv) Rotor Design. The blade design and materials are to be designed and constructed to ensure safe operation in an urban area.

(v) Rotor Safety. All SWECS shall be equipped with both a manual and automatic braking device capable of stopping SWECS operation in high wind or in conditions of imbalance.

(vi) Lightning Protection. Each SWECS shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the City.

(vii) Signage.

- Systems shall not be used for displaying any advertising.
- SWECS shall have one sign, not to exceed two (2) square feet, at the base of the tower containing the following information:
  - ◊ Warning high voltage;
  - ◊ Manufacturer's name;
  - ◊ Emergency phone number; and
  - ◊ Emergency shutdown procedures.

(viii) Complementary Uses.

- SWECS towers shall not be used for other uses, including, but not limited to: cell phone antennas, flags, ham radio antennas, etc.

- No components unnecessary to the operation of the SWECS shall be allowed.

(ix) Illumination. SWECS shall not be illuminated, nor shall they include any affixed or attached lights, reflectors, flashers, etc.

(l) Feeder lines. The electrical collection system shall be placed underground within the interior of each parcel.

(m) Energy Storage. Batteries or other energy storage devices shall be designed consistent with the National Electrical Code, the Minnesota State Fire Code, and the City Fire Code.

(n) Vibration. No wind energy conversion system shall produce vibrations through the ground that are perceptible beyond the property on which the SWECS is located.

(o) Building Code. SWECS shall be designed in compliance with the structural design provisions of the State Building Code as adopted by the City.

(p) Electrical Code. SWECS electrical equipment and connections shall be designed and installed in adherence to the National Electrical Code as adopted by the City.

(q) Urban Forest Protection. Installation and siting of a SWECS shall not include the clearing of trees whose dripline falls outside of a twenty (20) foot buffer around the base of the SWECS.

(5) Application Information. All applications for a SWECS conditional accessory use permit shall be accompanied by detailed plans and specifications including, but not limited to, the following information:

(a) A Site Plan showing:

(i) Lot lines and dimensions;

(ii) Location and height of all buildings, structures, above ground utilities, and trees on the lot, including both existing and proposed structures;

(iii) Locations and height of all adjacent buildings, structures, above ground utilities and trees located within twenty-five (25) feet of the exterior boundaries of the property in questions;

(iv) Existing and proposed setbacks of all structures located on the property in question;

(v) Distance from the proposed SWECS to the nearest structure.

(b) Scaled drawings accurately depicting the proposed location of the WECS and its relationship to structures on the subject and adjacent lots.

(c) SWECS specifications including manufacturer and model, rotor diameter, power generation capabilities, engineering analysis and certification of the tower and data pertaining to the tower's safety and stability.

(d) Soil analysis documentation from the manufacturer or a professional engineer that the site's soil conditions meet minimum standards as specified by the manufacturer.

(e) Standard drawings of the structural components of the wind energy conversion system and support structures, including base and footings, shall be provided along with the engineering data and calculations to demonstrate compliance with the structural design

provisions of the State Building Code especially with regards to wind and icing loads. Drawings and engineering calculations shall be certified by a registered engineer.

(6) Review. Applications for a SWECS conditional accessory use permit shall be processed in accordance with the process for such applications outlined in Section 3.4.4.

(7) Specific Review Criteria. In addition to the standard review criteria for conditional use permits, the standards and procedures of this Section 5.5.4(V) shall be met.

(8) Building Permit Required. A building permit shall be required for the installation of all conditionally permitted SWECS in the City.

(9) Inspection.

(a) As a condition of approval, an applicant must consent to allowing the City to inspect the premises on which the SWECS is located.

(b) If a SWECS in not maintained in operational condition and poses a potential safety hazard, the owner shall upon written notice from the City, take expeditious action to correct the situation.

(10) Abandonment. Any SWECS which is nonfunctional or inoperative for six (6) successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner within three (3) months of receiving a written notice from the City. Removal includes the entire structure including foundations to below natural grade and transmission equipment.

(11) Power Distribution. The power produced from a SWECS shall only be used for on-site consumption. Storage of energy for on-site consumption shall be consistent with the provisions of this Section.

W. Generators.

(1) The generator shall be used only during periods of emergency for the duration that the primary power source is unavailable, or for periodic testing and necessary maintenance operations.
(2) The footprint of a generator, including the pad and cover, shall not exceed 15 square feet.
(3) The maximum height of a generator, from the ground to the top of the generator, shall not exceed four (4) feet.

5.6 Temporary Uses

5.6.1 Purpose. This section allows for the establishment of certain temporary uses of limited duration and special events, provided that such uses comply with the standards in this subsection and are discontinued upon the expiration of a set time period. Temporary uses and special events shall not involve the construction or alteration of any permanent building or structure.

5.6.2 Permit Required. Temporary uses and structures that require a permit shall be reviewed in accordance with the process outlined in Section 3.4.12, Temporary Use Permits; and if a building permit is also necessary, in accordance with Section 3.4.7, Building Permits.

5.6.3 General Standards for Temporary Uses. Temporary uses, structures, or events shall comply with the following:

A. Obtain the appropriate permits (as required);

B. Not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare;

C. Be compatible with the principal uses taking place on the site;

D. Not have substantial adverse effects or noise impacts on nearby residential neighborhoods;

E. Not include permanent alterations to the site;

F. Meet all the setbacks of the underlying base and overlay zoning districts, unless expressly stated otherwise in this ordinance.

G. Temporary signs permitted under the Code and associated with the use or structure shall be removed when the temporary activity ceases.

H. Not violate the applicable conditions of approval that apply to a site or use on the site;

I. Not interfere with the normal operations of any permanent use located on the property; and

J. Contain sufficient land area to allow the temporary use, structure, or special event to occur, as well as adequate land to accommodate the parking and traffic movement associated with the temporary use, without disturbing the surrounding neighborhood.

5.6.4 Table of Allowed Temporary Uses and Structures. Table 5.6.4 summarizes allowed temporary uses and structures and any general or specific standards that apply. Temporary uses or structures not listed in the table are prohibited.

TABLE 5.6.4: TEMPORARY USES & STRUCTURES

Temporary Use or Structure	Allowable Duration (per site)	Permit Required	Additional Requirements
Temporary Structure			
Accessibility Improvements	Until sunset of an approved IUP	Interim Use Permit	3.4.5
Construction Dumpster	Until issuance of certificate of occupancy for new homes, or three (3) days following completion work for other permitted projects.	No	5.6.5(A)
Construction Trailer		Building Permit	5.6.5(B)
Recreational Vehicles & Travel Trailers (in use)	Two (2) weeks	Yes	5.5.5(C)
Real Estate Office / Model Sales Home	Until 85% occupancy of the phase is reached	Building Permit	5.6.5(D)
Temporary Storage in a Portable Container	30 days from the date of notice to remove from the City, or from the date of an official complaint being received	No	5.6.5(E)

Tents, Canopies, Tarp Garages, and Hoop Buildings	30 days per calendar year	No	5.6.5(F)
Temporary Sale			
Garage/Yard Sale	4 days per event; 3 events total per calendar year	No	5.6.5(G)

5.6.5 Specific Standards for Temporary Uses

A. Construction Dumpster

(1) The placement of a temporary construction dumpster or other trash receptacle within a public right-of-way or other site owned by the City shall be subject to standards in the Minnetonka Beach City code as may be applicable.

(2) Temporary trash receptacles or dumpsters located outside public rights-of way are not required to obtain a temporary use permit, but shall comply with the following standards:

(a) Be located to the side or the rear of the site, to the maximum extent practicable;

(b) Be located as far as possible from lots containing existing development;

(c) Not be located within a floodplain or otherwise obstruct drainage flow;

(d) Not be placed within five feet of a fire hydrant;

(e) Be located outside of any required tree protection fencing and the dripline of existing trees; and

B. Construction Trailer

(1) Construction trailers may be permitted on a construction site provided that the trailer is:

(a) Approved by the Zoning Administrator for location, safety, and compatibility with adjacent properties;

(b) Located on the same site as the related construction;

(c) Located outside of any required tree protection fencing and the dripline of existing trees; and

(d) Associated with development for which a valid Building Permit has been or will be issued.

(2) The applicant shall be required to restore the trailer site to its previous condition once removed.

C. Recreational Vehicle Use

(1) A recreational vehicle may be parked on private property containing a permanent dwelling unit for a period not to exceed fourteen (14) days.

(2) The parking location of a recreational vehicle shall adhere to the requirements of Section 7.5, Off-Street Parking.

(3) If located in a floodplain, all applicable provisions of Section Chapter 10, Floodplain Overlay District, shall be met.

D. Real Estate Sales Office/Model Sales Home. One temporary real estate sales office or model sales home per builder or developer shall be permitted in a section or phase of a new residential development provided the office or model home:

(1) Is aesthetically compatible with the character of surrounding development in terms of exterior color, predominant exterior building materials, and landscape;

(2) Complies with the applicable standards in the approved development plan (if applicable);

(3) Is operated by a developer or builder active in the same phase or section where the use is located; and

(4) Is removed or the model home is converted into a permanent residential use once 85 percent occupancy in the section or phase of the development is reached.

(5) Hours of operation shall not begin earlier than 10:00 a.m. nor end past 6:00 p.m. on any day of the week.

E. Temporary Storage in a Portable Shipping Container. Temporary storage in a portable container shall be permitted to serve an existing use subject to the following standards. A portable container shall not be located:

(1) In a required front yard or within ten (10) feet of any lot line or structure unless no such area exists in which case the appropriate location shall be determined by the Zoning Administrator;

(2) In a manner that impedes ingress, egress, or emergency access to the property.

F. Tents, Canopies, Tarp Garages, and Hoop Buildings. Tents, canopies, tarp garages, and hoop buildings or similar membrane structures shall:

(1) Maintain a minimum clearance of 20 feet from all other structures and tents;

(2) Be a minimum of eight (8) feet from all side yards;

(3) Be limited to two (2) on a single parcel;

(4) Not be erected for more than a total of 30 days in any calendar year;

(5) Be limited to a maximum of three (3) occurrences per parcel per year;

(6) Not obstruct emergency vehicle access to adjacent lots; and

(7) The lot or site shall be restored to its original condition within two days of removal of the tent, canopy, tarp garage, or hoop building.

G. Garage/Yard Sales

(1) Garage or yard sales shall:

(a) Be limited to a maximum of three (3) per dwelling per year.

(b) Not exceed a maximum duration of four (4) consecutive days per sale;

(c) Occur only between the hours of 7:00 A.M. and 9:00 P.M.;

(d) Not place items for sale, signs or other advertising within the public right- of-way, or impede the passage of traffic on streets in the area of the sale;

(e) Conduct vehicle parking in accordance with the standards in this ordinance and any other applicable City requirements;

(f) Not negatively affect neighboring properties in terms of noise, trash, parking, or impede the flow of traffic on nearby streets;

(g) Not permit loud or boisterous conduct on the premises; and

(h) Not allow unsold items or other sale-related materials to remain in public view following conclusion of the sale.

(i) Remove all sale related signage immediately upon conclusion of the sale.

(2) The owner and/or tenant of the premises on which a sale is conducted, shall be responsible for the maintenance of good order and decorum on the premises during the hours of the sale.

6.0 DEVELOPMENT STANDARDS

6.1 Purpose. To establish development standards that protect shoreland resources from impacts of development and uphold community character and other objectives laid out in the Comprehensive Plan.

6.2 Common District Requirements. The following regulations shall apply in all base zoning districts.

6.2.1 Building within Public Easements Prohibited. No building or structure shall be placed within an easement dedicated for a public purpose unless expressly authorized by a variance issued in accordance with Section 3.4.3.

6.2.2 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, nor in a manner that is inconsistent with State Historic Preservation Office regulations.

6.2.3 Bluff Impact Zones. Structures or facilities, except stairways and landings to access shore, must not be placed within bluff impact zones.

6.2.4 Steep Slopes. The City Engineer must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions shall be placed on 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.

6.2.5 Outlots. No building permit or grading permit can be issued for a parcel of land designated in a plat as an Outlot unless specifically authorized by the City Council.

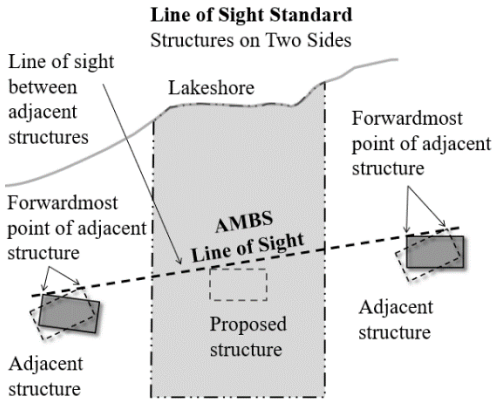
6.2.6 Principal Buildings. Except as may be permitted by an approved planned unit development or conditional use permit, not more than one (1) principal building shall be located on a lot.

6.2.7 Specific Design Criteria for Lakeshore lots.

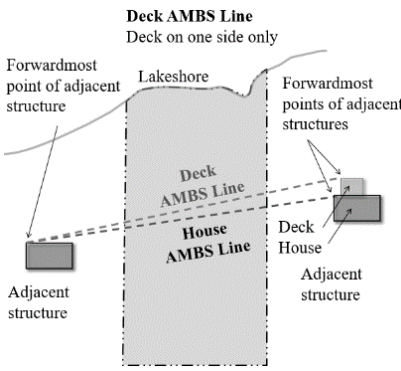
A. Average Minimum Building Setback (AMBS). Principal structures-and accessory structures as may be required by this ordinance-shall be located no closer to the lakeshore than a line derived by the greatest setback required by a combination of the following:

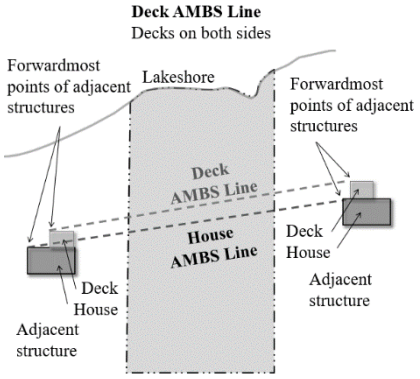
(1) A line drawn 75 feet parallel to the lakeshore;

(2) Line of sight standard. The average minimum building setback line shall be located by connecting a straight line between the forwardmost points toward the lake of the adjacent structures within 150 feet of the lot line of the subject property.

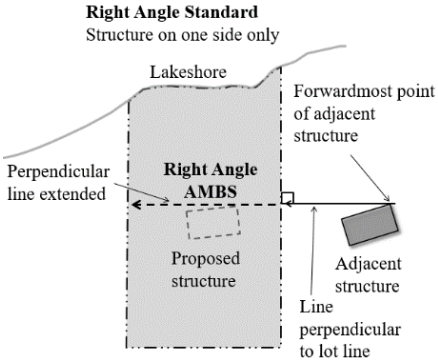


(3) Deck AMBS Line. In the case where either adjacent property has a deck or raised terrace as defined in this chapter, then a second Deck AMBS line shall be located by connecting a straight line between the forwardmost points toward the lake of the adjacent decks, raised terraces, or structures within 150 feet of the lot line of the subject property.





(4) Right Angle Standard. If the lot is adjacent to only one principal structure, or deck located within 150 feet of the lot line of the subject property, that structure will be used to determine the AMBS by extending a line from the forwardmost point toward the lake of the adjacent structure, such line being perpendicular to the lot line of the subject property and extending that line across the subject property.



B. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

(1) Stairways and lifts must not exceed four feet in width;

(2) Landings for stairways and lifts must not exceed 32 square feet in area.

(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 sub-items (1) to (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1341.

C. Water-oriented accessory structures or facilities. Each residential lot may have one water-oriented accessory structure or facility as defined in this code if it complies with the following provisions:

(1) The structure or facility must not exceed four feet in height and cannot occupy an area greater than 20 square feet,

(2) An allowed structure or facility as identified in the definition of a water-oriented accessory structure in this code may be approved via permit and placed within 10 feet of the Ordinary High Water Level.

D. No Impervious Surfaces (hard cover) shall be allowed within protected wetland areas, below the floodplain of Lake Minnetonka, on any lands within twenty-five (25) feet of a wetland, or on any land within seventy-five (750 feet of the Ordinary High Water Level of Lake Minnetonka except as allowed under 6.2.7(B) above.

6.2.8 Common Yard and Height Requirements.

A. In General

(1) Unless otherwise authorized by variance or PUD; no lot or yard shall be reduced in area or dimension so as to make such lot or yard less than the minimum required by this ordinance; or if the existing lot or yard is already less than the minimum required, it shall not be further reduced.

(2) A required yard on one lot shall not be included as part of a yard on an adjacent lot.

B. Yard & Lakeshore Setback Standards for Specific Uses. Table 6.2.8(B) establishes yard/setback requirements for specific uses in all zoning districts.

TABLE 6.2.8(B): R-1 YARD & LAKESHORE SETBACK REQUIREMENTS

A shaded cell indicates that no encroachment is allowed and standard yard/setback requirements must be met	*MINIMUM REQUIRED YARDS (in feet) [1]*				Minimum Lakeshore Setback *[2]*
	Front	Interior Side(s)	Street Side(s)	Rear	
Accessibility Improvements	**0**	**0**	**0**	**0**	**0**
Air Conditioning Units and Heat Pumps		**8**	**8**	**5**	
Amateur Radio Antenna, Private					
Construction Uses & Structures	**0**	**0**	**0**	**0**	**0**
Driveways	**0**	**8**	**8** *[3]*	**8** *[4]*	*[5]*
Fences & Walls	**8**	**0**	**8**	**0** *[6]*	
Generators		**8**	**8**	**5**	
Lake Accessory Uses	*[7]*	**8**	**8**	**5**	**0**
Landscaping	**0**	**0**	**0**	**0**	**0**
Motor Vehicles	**0**	**8**	**8** *[3]*	**8**	
Outbuildings & storage sheds		**8**		**5**	
Outdoor Storage [8]		**8**		**5**	**75**

Parking Areas, & Parking Lots	**0**	**8**		**8** *[3]*	**75**
Patios		**8**	**8**	**5**	**75**
Permanent BBQs & Permanent Fire Pits		**8**	**8**	**5**	
Recreational Equipment		**8**		**5**	**75**
Recreational Vehicles & Travel Trailers	**0**	**0**	**0**	**0**	**0**
Signs	**0**	**8**	**0**	**0**	**0**
Stairways	**0**	**8**	**0**	**0**	**0**
Swimming Pools & Associated Equipment	**50**	**20**	**20**	**10**	*[9]*
Temporary Structures	**0**	**0**	**0**	**0**	**0**
Terraces		**8**	**8**	**5**	
Walkways	**0**	**0**	**0**	**0**	**0**
Wind Energy Conversion System, Small (SWECS)	**50**	**50**	**50**	**50**	

[1]: All features, regardless of special yard requirements, shall adhere to the corner visibility restrictions outlined in Section 6.1.8 (E)

[2]: All uses must adhere to the Lakeshore Setbacks in Section 6.2.7 unless specifically exempted or amended by Table 6.1.8(B).

[3]: The required street side yard may be 0 feet if lot access is gained from the street abutting the side yard.

[4]: On Lake Lots, Lakeshore Lots and Double Frontage Lots (see figure 2.2.2(A)); the required rear yard shall be 0 feet.

[5]: Driveways shall be a minimum of 75 feet from the lakeshore with the following exceptions: Driveways on bisected lots shall be allowed up to the landward side of the bisecting road, and driveways serving lakeshore lots may extend up to the home on the landward side of the home.

[6]: The rear setback for fences on Lakeshore lots shall be eight (8) feet.

[7]: For Lakeshore lots, the minimum setback from the OHW shall be zero feet. For lots without lakeshore, standard front yard setback requirements shall be met.

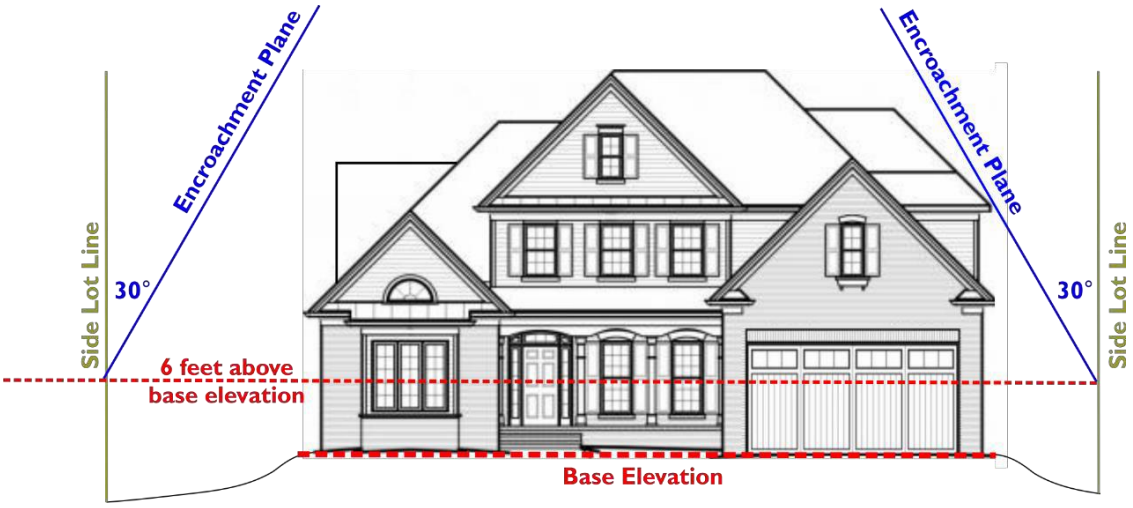
[8]: Lawn furniture, grills, and other portable items typically accessory to a residential use are exempt from setback requirements.

[9]: Below ground swimming pools must adhere to the least restrictive of either the Average Minimum Lakeshore Setback requirement outlined in Section 6.2.7 (F)(4)(a), or a minimum 75' setback from the lake. Above ground pools shall always adhere to the requirements of Section 6.2.7.

C. Side Yard Encroachment Plane. Principal structures and detached garages shall not be located within the side yard encroachment plane except as specifically allowed by this ordinance.

(1) Encroachment Plane Defined. The side yard encroachment plane is an inclined vertical plane sloping inward toward the center of the lot and extending alongside lot lines. The encroachment plane is a sloping 30 degree plane with its axis located on the property line 6 feet above the base elevation.

Figure 6.2.8(C)(1)



(2) Encroachment Plane Allowances. Architectural features listed in Table 4.3.4(C)(2) may project into the encroachment plane as noted.

TABLE 6.2.8 (C)(2): ENCROACHMENT PLANE ALLOWANCES	
Projecting Architectural and/or Other Feature [1]	**Allowed Projection into the Encroachment Plane**
Balconies; Balconettes; Captain's Walks; Belvederes Decks; Parapets and similar architectural features	Maximum depth of 10 feet into the encroachment plane at least 20 feet above the Base Elevation
Dormers, eyebrow window and similar architectural features when projecting from a roof	Maximum depth of 6 feet into the encroachment plane at least 20 feet above the Base Elevation
Eaves/roof overhangs; Storm Water Eve Troughs, Down Spouts, and Conductor Heads; Cornice and supporting Corbels and Ancones; Pediments; Gargoyles, and similar architectural features	Maximum of 36 inches into the encroachment plane at least 10 feet above the Base Elevation
Fireplace and chimneys; Quoins; Jetties; Buttress; Pilaster, and similar architectural features	Chimneys are exempt from the Encroachment Plane, when at least 10 feet above the Base Elevation
Gable, Gambrel, Hexagonal, Conical, Flat, hipped, or mansard Roof End and Similar Roof Ends	Maximum depth of 10 feet into the encroachment plane at least 10 feet above the Base Elevation
Foundations with Foundations Caps; Flues Vents and similar devices used to intake air or extract gases from the Principal Use or Detached Garage	18 Inches

[1] *Architectural Features used in Table III are defined in the Illustrated Architecture Dictionary: www.buffaloah.com/a/DCTNRY/vocab.html*

D. Allowed Yard Encroachments. Architectural features listed in Table 6.1.8(D) may project into required yards as noted.

TABLE 6.2.8 (D) ALLOWED YARD ENCROACHMENTS	
Projecting Architectural and/or Other Feature	**Allowed Projection into a Required Yard**
Bay Windows; Oriel Windows; Bow Windows and similar architectural features including supporting Corbels and similar architectural features	Up to 24 inches into a required yard for a linear distance not to exceed 10 feet for any one window. One such window is allowed for each 30 feet of linear wall on each side of the building.
Eaves/roof overhangs; Storm Water Eve Troughs, Down Spouts, and Conductor Heads; Cornice and supporting Corbels and Ancones; Pediments; Gargoyles, and similar architectural features	Maximum of 24 Inches into a required yard at least 10 feet above the Base Elevation. Setbacks for eaves/roof overhangs shall not apply to permitted additions on legally nonconforming structures which require the continuation of a pre-existing eave provided the new eave/roof overhang maintains consistency with the existing home.
Fireplace and chimneys; Quoins; Jetties; Buttress; Pilaster, and similar architectural features	An encroachment of up to 24 inches is only allowed within required side yards provided the encroachment does not exceed an aggregate maximum length of 10 ft for each architectural feature along the wall from which the feature projects
Uncovered steps, or landings, and similar architectural features attached to the Principal Use and used to gain access to the principal use	36 inches in width, for a maximum length of 4 ft. along the wall of the principal use
Stoops and Porticos to cover steps or landings; window wells and similar architectural features	36 inches in width and not extending more than 6 inches longitudinally beyond the steps or landing
Foundations with Foundations Caps; Flues Vents and similar devices used to intake air or extract gases from the Principal Use or Detached Garage	An encroachment of up to 18 inches is only allowed within required side yards

E. Corner Visibility (see Figure 6.2.8 (E))

(1) Corner lots shall preserve areas necessary for corner visibility by limiting the height of fences, walls, and all other obstructions to a maximum of three feet above grade in the following areas:

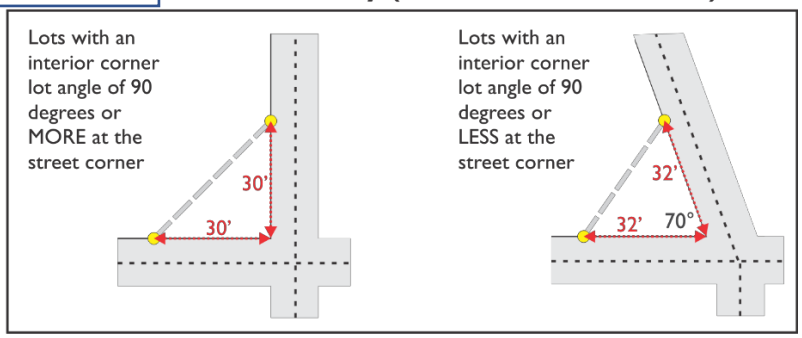
(a) For lots with an interior corner lot angle of 90 degrees or more at a street or railway corner, the protected corner area is defined by a triangle created by the two corner lot lines and an imaginary line between the corner lot lines at 30 feet from the corner on each property lot line.

(b) For lots with an interior angle of less than 90 degrees at a street or railway corner, the protected corner area is defined by a triangle created by the two corner lot lines and drawing an imaginary line between the corner lot lines 30 feet from the corner on each property lot line plus one foot for every ten degrees or fraction thereof less than 90 degrees.

Figure 6.2.8 (E) **Corner Visibility (Protected Corner Area)**

The dashed lines represent the hypotenuse of the protected corner area at street intersections. The protected corner area increases as the angle between the intersecting streets decreases.

Line defining the protected corner area



(2) Corner visibility standards do not apply to United States mailboxes, police and fire alarm boxes, public utility poles, street name markers, official traffic signs and control devices, and fire hydrants.

F. Height Requirements

(1) In general. The total height of any structure shall not exceed the maximum height limit established for the applicable zoning district unless expressly stated otherwise in this ordinance.

(2) Exceptions. Height limits shall not apply to cupolas, flagpoles, chimneys, spires, flag poles, antennas, rooftop dish antennas, skylights, water towers, heating and ventilation equipment, fire escapes or roof access stairways, mechanical equipment required to operate and maintain a building, parapet walls extending not more than three (3) feet above the limiting height of the building, or similar appurtenances, provided:

(a) The appurtenance does not interfere with Federal Aviation Regulations, Part 77, Objects Affecting Navigable Airspace;

(b) The appurtenance does not extend more than five (5) feet above the maximum permitted building height, except as specifically allowed by this ordinance;

(c) The appurtenance is not constructed for the purpose of providing additional floor area in the building; and

(d) The appurtenance complies with any screening requirements that may be required by this ordinance.

G. No Septic Systems. Septic systems are not allowed in the City of Minnetonka Beach.

6.2.9 Building and Structure Elevations

A. Lowest floor. The lowest floor, as defined, of any new or substantially improved residential structure, must be at or above the Regulatory Flood Protection Elevation (932.1 as of January 2024) or 932.5, whichever is higher.

B. Service utilities. In addition to the lowest floor, all service utilities must be elevated or water-tight to the elevation determined in 6.2.9(A).

C. Structure elevation. No structures or uses except as specifically called out in this ordinance shall be allowed below the Regional Flood Elevation (931.1 as of January 2024) or 931.5, whichever is higher.

D. Structure below Regional Flood Elevation. Any foundation or part of a structure below the Regional Flood Elevation shall be Flood Proofed and watertight at least up to the regional flood elevation by meeting the following standards:

(1) Walls shall be substantially impermeable to the passage of water and utilize structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy as specified by the building code Section 512;

(2) A registered professional engineer or architect shall develop and/or review structural design, specifications including the elevation to which the structure is flood proofed, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions Section 512 Minnesota State Building Code, Demolition and Other Building Regulations;

(3) A record of certificates prepared by the registered professional engineer of architect which includes the specific elevation to which such structures are flood proofed shall be maintained by the City Clerk;

(4) The Building Official shall use a special use permit to approve the professional engineers or architects structural design and specification that conform to building code Section 512;

6.2.10 Stormwater Management. No person shall make substantial improvements on any land in the City without having provided stormwater management measures that control or manage stormwater runoff from developments or redevelopments in accord with this ordinance.

6.2.11 New Controlled Access or Recreational Lots. New lots created after the effective date of this ordinance, as denoted in Section 1.5, that are intended as controlled accesses to public waters, or for recreational use areas for use by non-riparian lots within a subdivision, must meet or exceed the underlying zoning district requirements for minimum lot size.

6.2.12 Water Supply and Sewage Treatment

A. 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.

B. Sewage treatment. Any premises used for human occupancy must be connected to a publicly-owned sewer system.

6.2.13 Placement and Design of Roads, Driveways, Parking Areas, and Other Improvements

A. Placement. 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 Engineer 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.

B. Bluff and Shore Impact Zones. Roads, driveways, and parking areas 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.

C. Watercraft Access. Public 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. Private watercraft access ramps, approach roads, and access-related parking areas are prohibited.

D. Other. Except for minor utilities designed to provide electric power to boats, boat lifts, irrigation pumps, and dock lights or similar uses; no utilities, roads, bituminous trails, highways, or earth shall be constructed within 100 feet of the Ordinary High Water Level of Lake Minnetonka, or in a way that will interfere with the view of the Lake by riparian property owners.

6.3 R-1 Single Family Residential District

6.3.1 General Purpose. The R-1 single family residential zoning district is intended to provide for single-family homes within a comfortable, healthy, safe, and pleasant environment so residents may live and recreate at a neighborhood level. More specifically, it is intended to:

A. Build upon and sustain the Community's long-standing character;

B. Maintain residential tranquility;

C. Promote strong residential cohesiveness and a sense of community;

D. Foster citizen involvement in the community and interaction between neighbors;

E. Facilitate improvements to existing properties so as not to encourage tear-down rebuilds;

F. Preserve and enhance the aesthetic quality of the community;

G. Support home occupations if the business enhances the residential character of the community;

H. Provide for accessory dwelling units to accommodate residents at various stages of their (or their family member's) life cycle;

I. Encourage energy efficient housing and protection of solar access;

J. Boost private efforts to reclaim, preserve, and enhance historic sites and structures within the City; and

K. Implement the standards set forth in the Comprehensive Plan.

6.3.2 R-1: Single Family Residential District Minimum Lot Standards

A. Minimum Lot Width. All lots shall have at least 150 feet of frontage on a Public Street measured at the minimum Front Yard setback, or in the case of Lake Lots, at the minimum Rear Yard setback and at the Ordinary High Water Level.

B. Minimum Lot Size. Lots shall be a minimum of one (1) acre in size.

6.3.3 R-1: Single Family Residential District Development Standards. Table 6.2.3 details the minimum development standards applicable in the R-1 zoning district:

TABLE 6.3.3: R-1 DEVELOPMENT STANDARDS

	MINIMUM REQUIRED YARDS (in feet)				Minimum Lakeshore Setback	Maximum Height	Maximum Impervious Surface Coverage [5]
	Front [1] [2]	Sides	Aggregate Side Yards [4]	Rear			
Lot with a width less than 102 feet	50	15% of the lot width [3]	22% of the lot width	40	See Section 6.2.7	40 feet	30%
Lot with a width of 102 feet or greater	50	20	30% of the lot width	40			

[1]: For non-lake lots, where the average depth of at least two (2) existing front yards for buildings within 150 feet of the lot in question (along the same street frontage) are greater than or less than the minimum front yard depth, the required front yard along the same street frontage shall not be less than the average depth of such existing front yards.

[2]: Bisected lots shall maintain the required front yard from the right-of-way. This yard will overlap with the required lakeshore setback as dictated by Section 6.2.7

[3]: The resulting required side yard setback shall be rounded to the nearest whole number, and shall be provided from each side lot line.

[4]: Only applicable when an existing non-conforming home is increased in volume and expanded into the conforming side setback. See the definition for "Aggregate of Both Side Setbacks."

Accessory Structures	▪ See Section 5.4.1 for all general standards and limitations on accessory structures. ▪ Accessory Uses are listed in Table 5.4.2 ▪ Temporary Uses are listed in Table 5.6.4

Other Regulations to Consult (not all inclusive)	▪ Section 6.2, Common District Requirements Section 6.2.7, Specific Design Criteria for Lakeshore Lots ▪ Section 7.1, Fences & Walls ▪ Section 7.2, Exterior Lighting	▪ Section 7.5, Parking ▪ Section 1.11, Nonconformities

6.3.4 Access Easements. The City may maintain access easements to allow non-riparian property owners access to boat docking facilities. Private easements between property providing access to boat docking and mooring facilities to non-riparian property owners are prohibited.

6.4 Public Facilities District

6.4.1 General Purpose. The P-1 public facilities zoning district is intended to govern the area in and around the Dakota Regional trail to ensure its compatibility with surrounding land uses. More specifically, it is intended to:

A. Govern the recreational uses that may occur on and around the regional trail;

B. Establish regulations for landscaping and open space around the regional trail;

C. Limit accessory uses that may accommodate the regional trail;

D. Ensure trail crossings are appropriately located and designed;

E. Outline design standards for erosion control, stormwater management, vegetation protection, etc that must be met when work on the regional trail is proposed.

6.4.2 P-1: Public Facilities District Minimum Lot Standards.

A. Minimum Lot Width. There shall be no minimum lot width for parcels in the P-1 Public Facilities District.

B. Minimum Lot Size. There shall be no minimum lot size for parcels in the P-1 Public Facilities District.

6.4.3 P-1: Public Facilities District Development Standards. The following performance standards shall govern the design, construction, and maintenance of improvements within the P-1 zoning district.

A. General Design and Construction

(1) The improvements will be constructed, improved, monitored and maintained in accord with the Policies and Strategies of the Comprehensive Plan, the Site Plan approved by the City Council, and this ordinance.

(2) Where the Site Plan and the standards of this ordinance conflict, the standards of the P-1 zoning district in the ordinance shall prevail.

B. Design and Construction Performance Standards. Any public trail constructed within the P-1 zoning district must comply with the following specific design and construction performance standards:

(1) One public trail, designed and built for safe pedestrian use, may be built within the P-1 Zoning District;

(2) The public trail may not exceed ten feet in width.

(3) If the public trail is paved, its surface must be approved by the City as consistent with the standards set forth in this ordinance and the Comprehensive Plan.

(4) Fencing, bridges and storm water facilities must be approved by the City as consistent with the standards set forth in this ordinance and the Comprehensive Plan.

(5) The public trail shall be designed and constructed to meander for the purpose of maintaining community character and reduce user speed, with the specific design to be approved by the City as consistent with the standards set forth in this ordinance.

(6) Trail Crossings must be approved by the City as consistent with standards set forth in this ordinance, and shall include the following:

(a) Trail crossings at public streets and private drives shall be constructed and maintained colored, stamped paving material in the traveled portion of the driveway and street, and for a distance of 50 feet on either side of the driveway or street; and

(b) City pedestrian easements crossing the public trail shall be marked and maintained with patterned white marking.

(c) The public access to Crystal Bay and all existing City easements within P- 1 Zoning District shall be preserved and protected.

(7) Parking: no parking lots shall be constructed in the P-1 district.

(8) Signage: The following signs will be allowed within the P-1 Zoning District:

(a) Stop Signs and warnings:

(i) Standard stop signs (18") and "stop ahead" signs shall be installed and maintained at all public roadway crossings.

(ii) Stop signs (12") shall be installed and maintained at all private roadway crossings.

(iii) Stop ahead warnings shall be clearly marked and maintained on the trail surface in advance of all private driveways.

(b) Two signs will be erected and maintained welcoming Regional Trail users to Minnetonka Beach and advising them of the residential character of the community and the multiple public and private roadway crossings that lie ahead;

(c) Property line identification signs;

(d) All other signs will conform to the requirements of Section 6.3 of this ordinance.

C. Maintenance and Construction Performance Standards.

(1) Any trail, accessory improvements and other lands shall be maintained in good order by the property owner or their designated representative while adhering to the City Code of Ordinances;

(2) The construction process and operation of the recreational uses shall be covered by a Construction and Operating Performance Agreement with the City.

D. Environmental Performance Standards.

(1) Rain gardens to retain and treat storm water runoff are to be developed and maintained using National Urban Runoff Program equivalent standards and Best Management Practices as contained in the Minnesota Pollution Control Agency's Stormwater Manual. for storm water retention and filtering with the following specific performance standards:

(a) Stormwater volume control: At a minimum, the first one inch of runoff from a 24-hour storm is infiltrated. Calculations shall use the appropriate Hydrologic Soil Group Classification and saturated infiltration rates unless specific rates are measured by a registered soil scientist and as approved by the City Engineer in accord with Minnesota Pollution Control Agency's "Minnesota Stormwater Manual" and Standards of the Minnehaha Creek Watershed District;

(b) Rain gardens shall be designed and maintained to reasonably reduce the production of adult mosquitoes;

(c) The rain gardens will be maintained in a functional manner.

(2) Institute design, construction and maintenance practices to retain soil particles greater than 20 microns on the entire site (40% reduction) resulting from a one-year 24-hour storm event, according to Best Management Practices, and assuming no sediment re-suspension.

(3) Practices resulting in an increases in phosphorous loading to the public storm water system, Wetlands and Lake Minnetonka are not allowed.

(4) Additional over story trees and other landscaping will be added within the Zoning District. Such additional trees and other landscaping shall:

(a) Not impair the trail's use or safety;

(b) Be used to reduce trail user speed;

(c) Be selected by species, type and color as a means to creating community identity.

(5) Forest and other Vegetarian Preservation and Restoration standards are as follows:

(a) Significant and Heritage trees shall not be removed unless approved by the City Council or the tree is deemed, by a licensed arborist, to be diseased and dying or of a noxious variety;

(b) Diseased and dying vegetation and noxious vegetation will be removed on an annual basis;

(c) Within two years of commencing construction of the trail, the property owner shall submit to the City a Forest Management Plan, prepared by a licensed arborist or ecologist with timing and sequencing that addresses the long-term health and viability and the actions needed to maintain the health of the forest within the P-1 Zone. Such plan shall:

(i) Provide measures to restore the original vegetation;

(ii) Enhance and restore the plant and forest community;

(iii) Restore the rarest or the otherwise highest priority plant community that is practical to restore;

(iv) Restore a representative variety of ecosystems for plants and animals throughout the forested areas; and

(v) Restore the highest priority and most easily attainable mix of forest ecosystems in the quickest and easiest way.

(d) The Forest Management Plan is subject to City approval.

(i) The property owner shall implement the Forest Management Plan upon the City's approval within the forested areas of the Zoning District.

(ii) The property owner shall actively manage the existing forests and woodlands by protecting the ecological integrity of the Maple- Basswood Forest, while improving the overall health and vitality of these plant communities using sustainable forestry principles. Forest management will include activities that implement the Forest Management Plan and include:

- Removal non-native invasive species;
- Protection of the ecological health of existing mature forests;
- Restoration of the ecological health of degraded and young forest areas; and
- The increase of habitat for birds, reptiles and other animals.

E. Site Plan Required.

(1) Unless otherwise waived by the Zoning Administrator, a site plan conforming to the performance standards of this ordinance, the Comprehensive Plan and depicting the following shall be required:

(a) Survey prepared by a Registered Land Surveyor showing the boundaries, a legal description of the site and all improvements on the site.

(b) Two-foot contour interval topographic maps the site with flood plains and flood prone areas, Lake Minnetonka Ordinary High Water Level and Wetlands delineated.

(c) Tree survey of the site identifying any Significant or Heritage trees that are proposed to be removed;

(d) Grading, drainage and erosion control plan, utilities plan, landscape plan, lighting plan, and site plan with any building and structural footprints and dimensions shown along with setback distances from the property lines, public rights-of-way, private streets, adjacent buildings, parks and recreation facilities (public and private), and Lake Minnetonka. The site plan to further illustrate access, roads, security, and on-site parking with all dimension shown;

(e) Elevations of all buildings

(f) Impervious surface calculations;

(g) Location and type of post construction stormwater runoff control Best Management Practices to be used on the site.

(2) Permits shall not be issued by the City until the City Council finds that the improvements depicted on the site plan are consistent with this ordinance.

(3) The improvements shall be substantially and materially built as depicted in the Site Plan. Once approved, the Site Plan may not be substantially or materially altered unless approved by the City Council.

7.0 FINISHING STANDARDS

7.1 Fences & Walls

7.1.1 Purpose and Intent. The purpose and intent of this section is to regulate the location, height, and appearance of fences and walls to maintain visual harmony within residential and business districts; protect adjacent properties from the indiscriminate placement and unsightliness of fences and walls; and ensure the safety, security, and privacy of properties.

7.1.2 Applicability. In General. Unless exempted in accordance with Section 7.1.2(B) below, the provisions of this section shall apply to the construction, reconstruction, or replacement of all fences or walls in the City. The following are exempted from the requirements of this section.

A. Recreational Fencing. Customary fencing provided as a part of a permitted tennis court, athletic field, or other recreational facility.

B. Temporary Fencing. Temporary fencing established around construction sites, demolitions, or other site conditions unsafe for pedestrians or vehicles, provided it is consistent with the building code.

7.1.3 General Requirements for Fences and Walls

A. Location

(1) Fences and walls are permitted anywhere on a lot subject to the following restrictions:

(a) The corner visibility requirements in Section 6.1.8(E), and setbacks in Table 6.1.8(B) shall be met.

(b) Fences and walls shall not be located within public right-of-way unless permitted by the City via a written encroachment agreement.

(c) Fences and walls that are located within City easements are subject to removal without compensation to the property owner if the City must access the area to utilize the easement for its intended purpose.

(d) Retaining walls shall not be located within easements.

(2) All fences shall be located entirely upon the private property of the person constructing the fence.

B. Blocking Natural Drainage Flow

(1) No fence shall be installed so as to block or divert a natural drainage flow or to obstruct the flow of water upon a drainage or ponding easement unless specifically permitted to do so by the City Engineer.

(2) Drainage swales may not be filled to accommodate the construction of fences or walls without alternate storm water provisions being reviewed and approved by the City Engineer.

(3) Nothing in this section shall be construed to prevent the installation of temporary fencing to protect existing trees, limit sedimentation, or control erosion.

C. Permit Requirements

(1) A building permit is required for the construction of a retaining wall that is more than four (4) feet in height from the bottom of the footing to the top of the wall.

(2) Fences do not require a building permit, but shall adhere to all fencing requirements in this ordinance.

7.1.4 Specific Requirements for Fences and Walls. All fences and walls shall conform to the following standards.

A. Transparency

(1) Fences or walls may be fully opaque up to a height of six (6) feet.

(2) All portions of a fence or wall between six (6) and eight (8) feet in height shall be at least 75% transparent.

B. Access. Where any fence or wall connects to a building used as a dwelling, at least one gate not less than 2 feet 6 inches in width shall be required to allow access around the building.

7.1.5 Prohibited Fences

A. Chain-link fencing.

B. Barbed or razor wire fencing.

C. Fences or walls made of debris, junk, rolled plastic, sheet metal, plywood, wooden landscape lattice or waste materials are prohibited unless such materials have been recycled and reprocessed for marketing to the general public as building materials that resemble new building materials and are designed for use as a fencing material (e.g., picket fencing made from recycled plastic and fiber).

D. No metal "t" posts shall be permitted.

7.1.6 Appearance

A. Customary Materials. Fences and walls shall be constructed of any combination of:

(1) Treated wood posts and vertically-oriented planks;

(2) Metal materials of 14-gauge or better, treated with factory-applied weather resistant coating or galvanized, and framed at top and bottom with permitted materials;

(3) Rot-resistant wood;

(4) Wrought iron;

(5) Decorative metal materials;

(6) Brick;

(7) Stone;

(8) Masonry materials;

(9) Other reliable products designed to resemble these materials if approved by the City Engineer.

B. Finished Side to Outside. Wherever a fence or wall is installed, if one side of the fence or wall appears more "finished" than the other (e.g., one side has visible support framing and the other does not), then the more "finished" side of the fence shall face the perimeter of the lot rather than the interior of the lot.

C. Compatibility of Materials along a Single Lot Side. All fencing or wall segments located along a single lot side shall be composed of a uniform style and colors compatible with other parts of the fence and with the associated buildings.

D. Maintenance Required

(1) Every fence or wall must be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger or constitute a nuisance.

(2) Fences or walls in a state of disrepair may be removed by the City as provided by Minnesota Statutes. The cost of removing fences shall be borne by the property owner.

7.2 Exterior Lighting

7.2.1 In General

A. Any lights used for exterior illumination shall direct light away from adjoining property, public roads, and any public water body.

B. Glare, whether direct or reflected, such as from floodlights or spotlights, and differentiated from general illumination, shall not be visible beyond the limits of the property.

C. All sources of artificial light shall be so fixed, directed, designed or sized that the sum total of their illumination will not increase the level of illumination on any nearby residential property by more than 0.1 foot candle in or within twenty five (25) feet of a dwelling nor more than 0.5 foot candle on any other part of the property.

7.3 Signs

7.3.1 Findings, Purpose, and Effect

A. Findings

(1) Exterior signs have a substantial impact on the character and quality of the environment.

(2) Signs provide an important medium through which individuals may convey a variety of messages.

(3) Signs can create traffic hazards and aesthetic concerns, thereby threatening the public health, safety and welfare.

(4) The City's zoning regulations include the regulation of signs in an effort to provide adequate means of expression while protecting the City and its citizens from a proliferation of signs of a type, size, location and character that would adversely impact upon the aesthetics of the community and threaten the health, safety and welfare of the community. Over the years regulation of the physical characteristics of signs has had a positive impact on traffic safety and the appearance of the community.

B. Purpose and Intent

(1) It is not the purpose or intent of Section 7.3 to regulate the message displayed on any sign except off-premises signs; nor is it the purpose or intent of this section to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building.

(2) The purpose and intent of Section 7.3 is to:

(a) Regulate the number, location, size, type, illumination and other physical characteristics of signs within the City in order to promote the public health, safety and welfare.

(b) Maintain, enhance and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community.

(c) Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.

(d) Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the City.

C. Effect. A sign may be erected, mounted, displayed or maintained in the City if it is in conformance with the provisions of this ordinance. The effect of Section 7.3, as more specifically set forth herein, is to:

(1) Allow certain small, unobtrusive signs incidental to the principal use of a site when in compliance with the requirements of Section 7.3.

(2) Prohibit signs whose location, size, type, illumination or other physical characteristics negatively affect the environment and where the communication can be accomplished by means having a lesser impact on the environment and the public health, safety and welfare.

(3) Provide for the administration and enforcement of the provisions of Section 7.3.

7.3.2 Sign Standards by Use. Uses may erect signs as outlined in Table 7.3.2.

TABLE 7.3.2: SIGN STANDARDS BY USE

Use	*Maximum Sign Area of a Single Sign*	*Maximum Total Area of All Signs*	*Sign Permit Required [1]*
▪ Single Family Dwelling [2]	4 square feet	16 square feet	No unless specifically required by the provisions of Section 7.3
▪ Private Recreational Facility	8 square feet	8 square feet	Yes
▪ Country Club	24 square feet	72 square feet [3]	Yes
▪ Places of Public Assembly	24 square feet	72 square feet [3]	Yes
▪ Essential Services	The number and size of allowed signs shall be as determined by City Council		
▪ Public Parks & Playgrounds	The number and size of allowed signs shall be as determined by City Council		
▪ Public Buildings or Uses	The number and size of allowed signs shall be as determined by City Council		
▪ Regional Trail	The number and size of allowed signs shall be as determined by City Council via conditional use permit		

[1]: See 3.4.11 for the process to acquire a sign permit.

[2]: Signs erected by or for an accessory dwelling unit will count against the sign allowance for the primary single family dwelling on the same site.

[3]: The maximum total of all signs may be increased by issuance of a conditional use permit via the process spelled out in 3.4.4, and subject to the following additional review criteria:

a. Unless adjacent to a functionally classed roadway, all additional signage requested over and above the allowed maximum shall be located a minimum of 50 feet from perimeter boundary lines.

b. Any additional signage that is deemed to be potentially obtrusive to adjacent residential properties shall be at partially screened by landscaping if non-illuminated, and fully screened by landscaping if illuminated.

7.3.3 Signs Which Require a Permit. No sign that requires a permit according to Table 7.3.2 shall be erected, altered, improved, reconstructed, maintained, or moved in the City until the required permit has been issued or re-issued.

A. The content of the message or speech displayed on the sign shall not be reviewed or considered in determining whether to approve or deny a sign permit except off-premises signs.

B. Application for a sign permit shall be in conformance with the requirements of Section 3.4.11, Sign Permits.

7.3.4 Allowed Additional Temporary Signs. The following sign allowances are in addition to the standard sign allowances for each property as established in Table 7.3.2:

A. Elections

(1) In a State general election year, signs of any size and number, containing noncommercial speech, may be posted forty-six (46) days before the State primary in a State general election year until ten (10) days following the State general election.

(2) In the case of elections held at times other than those regulated by Minn. Stat. 211B.045, signs of any size and number, containing non-commercial speech, may be posted no more than forty-six (46) days before the scheduled election date until ten (10) days following the election.

(3) All signs containing noncommercial speech posted in connection with an election are permitted on private property with the express consent of the owner or occupant of such property.

B. Sale of Land. One (1) sign shall be allowed per frontage when a property is offered for sale or lease subject to the following:

(1) Signs erected under this provision shall not exceed eight (8) square feet in area and six (6) feet in height.

(2) For the purposes of this section, frontage on any right of way, either local or County, shall constitute "frontage" regardless of access. A lot line adjacent to Lake Minnetonka shall also be considered a "frontage."

7.3.5 Prohibited Signs. The following signs are prohibited unless specifically provided for by this ordinance:

A. Any sign, signal, marking or device which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signs; or which

attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.

B. All off-premises signs.

C. Abandoned signs.

D. Awning signs.

E. Balloon signs

F. Bench signs.

G. Dynamic display signs.

H. Flashing signs.

I. Internally illuminated signs.

J. Mural sign.

K. Off Premises sign (commercial speech).

L. Pennants.

M. Portable signs.

N. Projecting signs.

O. Roof signs.

P. Rotating signs.

Q. Shimmering signs.

R. Signs which move or imitate movement.

S. Signs painted, attached, or in any other manner affixed to trees or similar living surfaces.

T. Signs attached to utility poles, bridges, towers, or similar public structures.

7.3.6 General Provisions

A. Setbacks, Placement, and Height

(1) Sign setbacks shall be as outlined in Table 6.1.8(B):R-1 Yard and Lakeshore Setback Requirements.

(2) No sign may be located within a drainage and utility easement unless authorized by the City Engineer.

(3) No sign shall be erected or maintained that prevents free ingress or egress from any door, window, or fire escape.

(4) No sign shall exceed six (6) feet in height unless a greater height is authorized via a conditional use permit as may be allowed by this Section.

B. Construction, Maintenance, and Repair

(1) The installation of electrical signs shall be subject to the State's Electrical Code. Electrical service to such signs shall be underground.

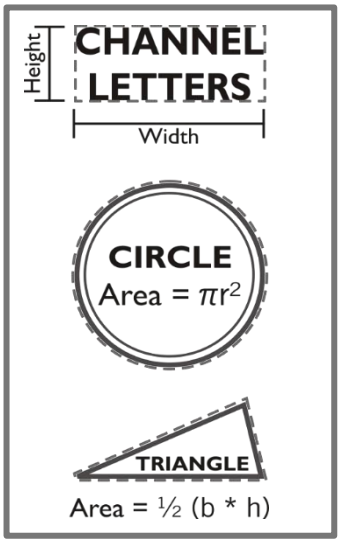
(2) No sign shall be attached or be allowed to hang from any building until all necessary wall and roof attachments have been approved by the building official.

(3) No sign shall be permitted to obstruct traffic visibility, or any window, door, or opening intended to provided light, air, or access to any building or structure on adjacent property.

(4) All signs and structures shall be properly maintained and shall be constructed of sufficiently permanent material so that they shall not succumb to deterioration from weathering.

(5) Any existing sign or sign structure which is rotted, unsafe, deteriorated, defaced, or otherwise altered, shall be repainted, repaired, replaced, or removed if repair is not feasible. Sign maintenance shall be the responsibility of the underlying fee owner.

Figure 1: Sign Area



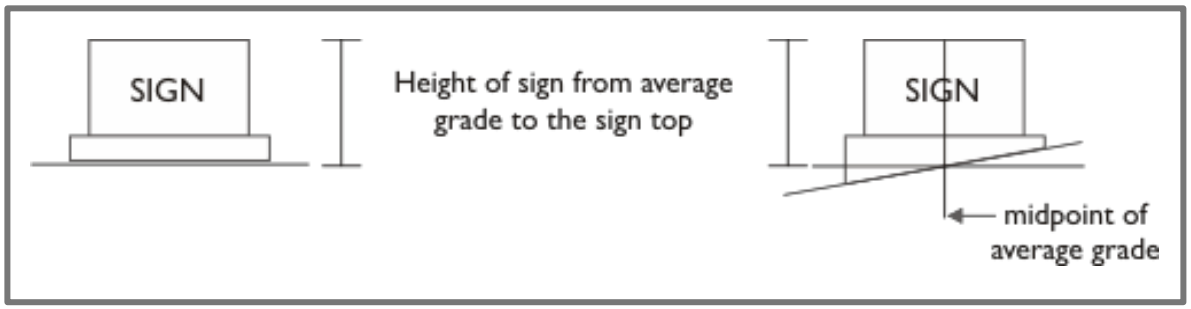
C. Sign Area Calculation

(1) The area of a sign shall be computed by means of the smallest circle, rectangle or triangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the building facade against which it is placed. When a sign has two back-to-back sign faces containing sign copy, only the sign area for one side is counted toward the total allowed sign area. Poles, bases, and other supports shall not be included in the sign area calculation.

(2) A sign constructed so that the faces are not back to back shall not have an angle separating the faces which exceeds thirty (30) degrees unless the total area of both sides added together does not exceed the maximum allowable sign area for the property.

D. Sign Height Calculation. The height of the sign shall be computed as the vertical distance measured from the average grade at the base of the sign to the top of the highest attached component of the sign.

Figure 2: Sign Height Measurement



E. Illuminated Signs. Illumination of signs shall be limited to indirect illumination.

F. Landscaping. A site plan shall be submitted as a part of any sign permit application. The site plan shall depict all plans for landscaping near the sign, and demonstrate that the sign will complement the existing or proposed general site landscaping of the property.

G. Changeable Copy Signs. Changeable copy signs, if used, are subject to the following additional regulations:

(1) The changeable copy area must be permanently anchored to the structure.

(2) The changeable copy area must be incorporated within the overall sign structure for both monument and ground signs, and must be consistent in design with the sign structure.

(3) Only one (1) changeable copy sign shall be allowed per site provided that the area of the sign shall not exceed twenty-five (25) percent of the allowable maximum sign area.

H. Banners. Banners may be used in conjunction with an activity (wedding, graduation, etc) provided they do not exceed the maximum allowed signage on the property, and are erected for no more than five consecutive days around the activity.

I. Flags. Flags may be displayed on properties and shall not count towards allowable signage.

7.3.7 Nonconforming Signs and Uses

A. A non-conforming sign lawfully existing upon the effective date of this ordinance as denoted in Section 1.4 shall be regulated in accordance with Section 1.11 of this ordinance.

B. When the principal use of land is deemed legally non-conforming under Section 1.11 of this ordinance, all existing signs for the land use shall also be considered legally non-conforming provided they were legally erected, and new signs shall also be allowed provided they comply with all sign requirements of the underlying zoning district.

7.3.8 Enforcement, Penalties, and Responsibility for Compliance

A. Section 7.3 shall be administered and enforced in accordance with the provisions of Section 1.13 of this ordinance.

B. Exemptions from permitting shall not be construed as relieving the owner of the sign from the responsibility of its erection and maintenance, and its compliance with the provisions of this section, or any other law or ordinance regulating the same.

7.3.9 Substitution. The owner of any sign which is allowed or has been permitted in accordance with Section 7.3 of this ordinance may substitute non-commercial copy in lieu of any other commercial or non-commercial copy. This substitution of copy may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non- commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

7.4 Underground Utilities. Unless otherwise authorized by the City Engineer, all utilities [e.g. cable television, electrical (excluding transformers), gas, sewer, telephone, and water lines] within or serving newly created lots (this does not include the redevelopment of existing individual lots) shall be placed underground.

7.5 Parking

7.5.1 Required Number of On-Site Parking Spaces. On-site parking areas of sufficient size to provide parking for patrons, suppliers, residents, visitors and employees shall be provided on the premises of each use. The minimum number of required on-site parking spaces for the following uses shall be as follows:

A. Single family Dwelling. One (1) enclosed parking space. No garage shall be converted into living space unless other acceptable on-site parking space is provided.

B. Multiple family Dwelling. Two (2) parking spaces per dwelling unit, one space of which must be completely enclosed.

C. Places of Public Assembly. One (1) parking space for each four (4) seats, based on the design capacity of the main seating area.

D. Public or Private School. Two (2) parking spaces for each classroom.

E. Golf Course, Club, Public Pool. Golf course, golf clubhouse, country club, swimming club, tennis club, public swimming pool twenty (20) spaces, plus one (1) space for each five hundred (500) square feet of floor area in the principal structure.

7.5.2 Parking Lot Performance Standards

A. American Disability Act (ADA) standards apply to all parking lots.

B. Two (2) feet of the vehicle may overhang a wheel stop of curb as long as at least 4 feet clear width is maintained on any side walk adjacent to the parking stall. The two-foot overhang may be included in the parking stalls overall length.

C. Compact parking stalls must be designated and signed "compact cars only"

D. Parking lot end islands are required. All end islands shall have the following performance standards:

(1) Landscaped using Best Management Practices to reduce storm water runoff;

(2) Five-foot minimum width;

(3) A minimum length equal to at least ½ the adjacent parking stall(s) length

E. All parking lots shall drain storm water runoff to an approved drainage basin which uses "Best Management Practices" to filter and retain storm water.

F. Parking areas and access drives shall be paved with a dust-free, all-weather surface.

G. All parking lots shall adhere to the specific parking lot performance standards outlined in Table 7.5.2(G).

TABLE 7.5.2(G): SPECIFIC PARKING LOT PERFORMANCE STANDARDS

Type of Parking Stall	*Minimum Percentage of Full Size Vehicle Stalls Required*	*Full Size Stall Width*	*Full Size Stall Depth*	*Compact Stall Width*	*Compact Stall Depth*	*Driving Isle Width*
90 degree	60%	9 feet	18 feet	8 feet	16 feet	24 feet
60 degree	60%	9 feet	19 feet	8.feet	17 feet	One way 18 feet
45 degree	60%	9 feet	19 feet	8 feet	17 feet	One way 18 feet
Access Drive Width						24 feet

8.0 VEGETATION AND LAND ALTERATION STANDARDS

8.1 Shoreland Alterations.

All land in the City of the Village of Minnetonka Beach is classified as Shoreland. Alterations of vegetation and topography will be regulated as outlined herein to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.

8.1.1 Controlling Shoreline Erosion

A. Applicability and Required Shoreline Stabilization. Shoreline stabilization shall be installed in accord with Minnehaha Creek Watershed District Rules in the following circumstances:

(1) On any riparian property where the demolition permit for an existing residential home and a building permit for construction of a new residential home is issued;

(2) On any non-residential riparian property that is adding 1,000 square feet or more of floor area or is adding a new building containing a 1,000 square feet of floor area to the property;

(3) Where erosion on private or public riparian property threatens damage to public improvements, creates a public nuisance or a creates a danger to public safety;

(4) On public property owned or under the control of the City, County, Three Rivers Park district or Hennepin County Regional Railroad Authority;

B. Permit(s) Required

(1) A permit shall be required from the Minnehaha Creek Watershed District for the placement of any riprap or similar device including bio-stabilization methods along the shoreline of Lake Minnetonka below the Ordinary High Water Level.

(2) At the discretion of the City Engineer, shoreline stabilization projects which extend above the Ordinary High Water Level of Lake Minnetonka may also require a City issued grading permit [as outlined in Section 3.4.9] if the proposed work is deemed to go beyond normal yard maintenance by the City Engineer.

8.1.2 Vegetation Alterations. Vegetation removal in a Shore Impact Zone or Bluff Impact Zone is prohibited as follows:

A. Trees-See Section 8.4.

B. Intensive vegetation clearing is prohibited except as may be necessary for the construction of structures, other permitted uses, or Essential Services.

8.1.3 Topographic Alterations, Grading, and Filling. Any grading or filling of the natural topography of a lot in excess of 50 cubic yards, or in excess of that normally required for the construction of a structure or for normal yard maintenance, as determined by the City Engineer, shall require a grading permit and be subject to all applicable State Statutes, Rules, and rules of the Minnehaha Creek Watershed District in addition to the following standards.

A. In General. Land alterations must be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently through the following standards:

(1) Except for routine yard maintenance or gardening, no filling or grading, shall be allowed within protected Wetland areas, below the floodplain of Lake Minnetonka, on any lands

within twenty-five (25) feet of a Wetland, or on any land within seventy-five (75) feet of the Ordinary High-Water Level of Lake Minnetonka.

(2) No filling or grading shall be allowed on slopes greater than twelve percent (12%).

(3) Before demolition, construction, or other grading activity begins; an applicant shall properly install any required erosion control measures in locations specified on a plan approved by the City.

(4) The amount and time of bare ground exposure should be limited.

(5) Temporary ground cover acceptable to the City Engineer must be used immediately after grading operations are complete

(6) Permanent ground cover, such as sod, vegetation or trees must be planted as soon as possible.

(7) Sediments must be retained on site with diversions, silting basins, terraces, and other methods to trap sediments.

(8) Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;

(9) Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;

(10) Fill or excavated material must not be placed in bluff impact zones;

(11) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G;

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

(13) No grading or filling shall result in water runoff causing flooding, erosion, or depositing of minerals on adjacent properties. Such runoff shall be properly channeled into a storm drain, watercourse, ponding area, or other public facilities subject to the review and approval of the City Engineer.

(14) Natural stone rip rap shoreline protection and/or sand beach blankets must meet the requirements of the Department of Natural Resources and the Lake Minnetonka Conservation District, including required permits.

B. Review Documentation. In conjunction with a grading permit, building permit, or other permit authorizing topographic alterations, grading, or filling; one or more of the following plan sets may be required for submittal either by ordinance or at the discretion of the City Engineer.

(1) Grading, Erosion, and Sediment Control Plan. A grading, erosion, and sediment control plan shall outline how land is being altered and how erosion will be mitigated and eliminated following completion of all work.

(2) Post-Construction Stormwater Management Plan and Calculations. A post-construction stormwater management plan and associated calculations shall document how best management practices are being used to meet all applicable federal, state, and local stormwater quality regulations as may be applicable.

C. Grading, Erosion, and Sediment Control Plan Required. A grading, erosion and sediment control plan shall be submitted for City Engineer approval under the following circumstances.

(1) Development of land that triggers a City grading or erosion control permit, a Minnehaha Creek Watershed District (MCWD) permit, or a Minnesota Pollution Control Agency (MPCA) permit.

(2) Development that is part of a required building permit for new construction, or an addition to the existing land use where the earth is to be substantially and materially altered by the new construction.

(3) Projects that include land to be altered within 20 feet of a private or public street or neighboring property, or where the water flow from the subject property to a neighboring property is proposed to be changed due to the project.

(4) Projects that are within 75 feet of the OHWL of Lake Minnetonka or within 25 feet of a protected wetland.

(5) Projects that are adjacent to or within a flood plain, flood prone area, or an area identified in the City Engineer's Report entitled "Drainage Study" dated November 12, 2013, as an area subject to flooding.

(6) When existing or proposed slopes on the land to be altered exceed 1.5%

D. Grading, Erosion, and Sediment Control Plan Contents. When required, a Grading, Erosion, and Sediment Control Plan shall be submitted which includes a detailed plan and schedule of earth-moving activities in accordance with the following:

(1) The Grading, Erosion, and Sediment Control Plan drawing must be on a certificate of survey showing the existing and proposed topography at (a minimum) two (2)-foot contour intervals, at a scale and in such detail as to be reasonably understood, interpreted, and enforceable. The plan drawing must also:

(a) Have existing and proposed impervious surface calculations (if the impervious surface is changing);

(b) Show all existing and proposed improvements on the property;

(c) Show the location of the stormwater inlets; and

(d) Show plan details using MCWD standards for the following:

(i) Construction entrance;

(ii) Silt fence or other acceptable devices;

(iii) Typical signs to be posted on the slit fence prohibiting construction activity beyond the erosion control measures;

(iv) Stormwater sewer inlet protection;

(v) Tree protection for trees protected by this ordinance or by any order or decision of the City Council; and

(vi) Any other related details as requested by the City Engineer.

(2) The Grading, Erosion, and Sediment Control Plan must include a soil storage or removal plan and methods to protect adjoining property and trees during grading operations.

(3) The Grading, Erosion, and Sediment Control Plan must show how the material will be stored on the site, how the material will be removed from the site (or delivered to the site), detail

the truck routes to be used, and identify how the public streets will be protected during removal or delivery operations.

(4) The Grading, Erosion, and Sediment Control Plan, and its implementation on the site, must specifically meet the NPDES Municipal Separate Storm Sewer System (MS4) Permit requirements contained in the MS4 Permit including the following:

(a) Use BMPs to minimize erosion,

(b) Use BMPs to minimize the discharge of sediments and other pollutants,

(c) Use BMPs for dewatering activities,

(d) Use City Engineer approved criteria of temporary sediment basins,

(e) Provide for scheduled City Engineer inspection,

(f) Provide and implement BMPs maintenance schedule,

(g) Provide for the management of solid and hazardous waste on the site and its transportation from and to the site,

(h) Final stabilization upon completion of construction activity including the use of perennial vegetative sod cover of all exposed soils or equivalent stabilization methods

(5) Conditions of approval for all Grading, Erosion, and Sediment Control Plans shall include the following:

(a) Fill shall be stabilized according to accepted engineering standards.

(b) The Applicant and Contractor must attend a preconstruction meeting with designated City officials.

(c) The site must be inspected by the City Engineer prior to approving the plan and after completion of grading or filling activities, but before permeant ground cover is applied to the site.

8.2 Stormwater Management

8.2.1 General Standards

A. Hardcover/Impervious Surface shall not exceed thirty percent (30%) of a lot or combination of adjacent lots under one ownership or Planned Unit Development.

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

C. Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.

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

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

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

G. New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231.

8.2.2 Post-Construction Stormwater Management Plan Required. A post-construction stormwater management plan shall be submitted for City Engineer approval if one or more of the following apply:

A. The project is greater than one acre;

B. The project is less than one acre, but is part of a larger common plan for development or sale. In such cases, the rules of the MPCA shall apply as contained in Part III Stormwater Pollution Prevention Program Permit No. MNR040000 paragraph 5, pages 15 through 18, as may be amended.

C. The project involves new or substantially new development or building, or redevelopment where one or more acres of land are disturbed by construction or landscaping, or any subdivision of land where five (5) or more residential dwelling units are to be built;

D. Improvements to a Country Club, place of public assembly, public facility, park, or public open space where such improvements are greater than 5,000 square feet;

E. The proposed land use requires a General National Pollution Discharge Elimination System (NPDES) Permit for stormwater discharges associated with industrial activities;

F. The project involves the construction of new hard surface roads or trails, or the substantial re-grading of existing roads or trails;

G. The improvement involves the material and substantial installation of new storm drains, or substantial and material alteration to existing storm drains;

H. Any non-residential land use involving vehicle and/or equipment fueling, washing, or maintenance areas;

I. The project involves new construction or substantial rehabilitation of an existing land uses where run off from the property will cause pollution to Lake Minnetonka, or will not conform to the City's Comprehensive Plan Water Quality Management Plan or Storm water.

J. Any non-residential land use involving commercial or industrial waste handling or storage, excluding typical office or household wastes.

K. Whenever otherwise required by the City Engineer.

L. Post-Construction Stormwater Management Plan Contents. Unless post-construction stormwater runoff requirements are waived by the City Engineer, a post-construction stormwater runoff plan drawn on a certificate of survey shall be submitted which contains at least the following:

(1) Consistency with the City's Comprehensive Plan, Water Quality Management Plan, SWPPP, and Phosphorous Removal Program.

(2) Consistency with the MCWD Rules.

(3) A depiction of the type and location of post-construction Best Management Practice (BMP) methods that will be used to reduce pollution.

(4) Hydrologic Soil Groups (HSG).

(5) Hydrologic calculations showing predevelopment and post- development stormwater runoff calculations. Such calculations shall be prepared by a civil engineer, hydrologist, or hydrogeologist who is registered in the State of Minnesota;

(6) Hydrologic calculations showing runoff volume, velocities, and peak flow rates by sub watershed for the 2-yr, 10-yr, and 100-yr, 24-hr storm events. These calculations shall include:

(a) Stormwater runoff rate control calculations showing the following:

(i) Post-construction peak flow rates with no abstraction and filtration;

(ii) Post-construction peak flow rates with abstraction and filtration;

(iii) Assumed runoff curve numbers;

(iv) Times of concentration used in calculations;

(b) Hydrologic calculations for retaining soil particles greater than 5 microns (80% reduction) for construction sites adjacent to Lake Minnetonka or wetlands and greater than 20 microns (40% reduction) for all other construction sites resulting from a 1-yr, 24-hr storm event.

(c) Runoff rate control hydrologic calculations: All runoff calculations in accordance with the methodology described in the USDA Natural Resources Conservation Service's Technical Release 55, "Urban Hydrology for Small Watersheds" (commonly known as TR-55). For residential land use, use curve number of 51 for Hydrologic Soil Group (HSG) A, 68 for HSG B, 79 for HSG C, and 84 for HSG D. For sites with heavily disturbed soils, curve numbers for the hydrologic calculations should be lowered by one HSG.

(7) Adherence to the following performance control standards:

(a) The Minnehaha Creek Watershed District Rules, MPCA Rules, the MS4 Storm Water Permit;

(b) Stormwater Volume Control: Using the appropriate Hydrologic Soil Group the saturated infiltration rate must be at least the first one inch of runoff from a 24-hr storm.

(c) Stormwater sediment control: Soil particles greater than 5 microns (80% reduction) for construction sites adjacent to Lake Minnetonka or protected wetlands and greater than 20 microns (40% reduction) for all other construction sites resulting from a 1- yr, 24-hr storm event must be retained on site.

(d) Oil and grease control: Stormwater plans for the Country Club, places of public assembly, the Public Works Facility, and any other non-residential use where the potential for pollution by oil or grease or both exists, have the first 0.5 inches of runoff been treated using the best oil and grease removal technology available? This requirement may be waived by the City Engineer only when the applicant can demonstrate to the City Engineer that installation of such practices is not necessary.

(e) Hardcover shall not exceed thirty percent (30%) of a lot or combination of adjacent lots under one ownership or Planned Unit Development.

(f) Incorporate Green Roofs with the minimum following standards: The owner of every building having a Green Roof must maintain the planting media and plant material in accordance with generally accepted landscape maintenance practices, replacing each as necessary to optimize the storm water management capability of the roof.

(g) Without receiving credit toward impervious surface coverage to accomplish the performance standards of Volume, Rate and Sediment control contained in this Section, the Applicant shall use the following Design Control, Treatment Control and Source Control BMPs of this Table or equivalent methods approved by the City Engineer:

(i) Incorporate the use of natural topography and land cover such as natural swales, vegetated buffer edge, and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of Lake Minnetonka or a wetland. The development shall minimize impact to significant natural features including steep slopes, bluff impact zone, shore impact zone, wetlands, wooded areas of significance, rare and endangered species habitat, areas designated by the County Biological Survey or public lands, parks, and open space.

(ii) Minimize Directly Connected Impervious Areas.

(iii) Where landscaping is proposed, drain rooftops into adjacent landscaping prior to discharging to the stormwater conveyance system.

(iv) Where landscaping is proposed, drain impervious parking lots, sidewalks, walkways, trails, and patios into adjacent landscaping, filtration basins and other devices designed to infiltrate stormwater runoff.

(v) Maximize canopy interception and water conservation.

(vi) Preserve existing native trees and shrubs.

(vii) Plant additional native trees and large shrubs.

(viii) Establish landscaped buffer zones using selected BMPs adjacent to wetlands and Lake Minnetonka.

M. Treatment Control BMPs. Treatment control BMPs, such as rain gardens, that are designed to primarily function as infiltration devices, shall meet the following conditions (these conditions do not apply to treatment BMPs which allow incidental infiltration and are not designed to primarily function as infiltration devices, such as grassy swales, detention basins, vegetated buffer strips, constructed wetlands, etc.):

(1) Runoff from non-residential uses shall undergo pretreatment, such as filtration, to remove both physical and chemical contaminants prior to infiltration.

(2) The vertical distance from the base of any infiltration structural treatment BMP to the seasonal high groundwater mark shall be at least 3 feet.

(3) The horizontal distance between the base of any infiltration structural BMP and any water supply wells shall be 50 feet.

(4) Treatment Control BMPs shall be designed and maintained to reduce the production of adult mosquitoes.

(5) Treatment control BMPs shall conform to Pat III Stormwater Pollution Prevention Program Permit No. MNR040000 as may be amended from time to time.

N. Source Control BMPs

(1) For non-residential parking lots and driveways, to minimize pollutants, the following design criteria are required:

(a) Reduce impervious surface of the parking lot by the use of permeable surfaces;

(b) Direct runoff from paved surfaces to appropriate landscaping to infiltrate and treat stormwater;

(c) Treat to remove oil and petroleum hydrocarbons at parking lots with 25 or more parking spaces or in areas where a concentration of oil and petroleum hydrocarbons are likely to occur;

(d) Ensure adequate operation and maintenance of treatment systems, particularly sludge and oil removal, and system fouling and plugging prevention.

(2) New or reconstructed stormwater conveyance systems shall Include energy dissipaters, such as riprap, at the outlets of new storm drains, culverts, conduits, or channels that enter unlined channels in accordance with applicable specifications to minimize erosion. Energy dissipaters shall be installed in such a way as to minimize impacts to Lake Minnetonka or a wetland.

(3) Ditches, vegetative swales, and other open conveyance systems shall:

(a) Be lined with vegetation, with rock or other material to delimit the vegetation to minimize erosion of the bed and bank;

(b) Reduce conveyance system channel velocities and provide treatment of stormwater runoff; vegetation shall be the preferred lining provided the critical velocity/shear stress does not exceed the permissible velocity/shear stress of vegetation;

(c) Provide a vegetated buffer to protect exposed soils and to filter and abstract stormwater runoff before entering the conveyance system.

(4) Landscaping:

(a) Preserve existing native trees, shrubs, and ground cover to the maximum extent practicable;

(b) Design landscaping to minimize irrigation and runoff, to promote surface infiltration where appropriate, and to minimize the use of fertilizers and pesticides that can contribute to stormwater pollution;

(c) Where landscaped areas are used to detain or retain stormwater, use plant species that are tolerant of saturated soil conditions;

(d) The use of phosphorus on landscaped areas is prohibited.

(5) Pools, spas, and fountains: Pools including swimming pools, hot tubs, spas, and fountains shall:

(a) Not be connected directly to storm drains or the sanitary sewer system;

(b) Be drained to designated landscaped areas adequate to contain and infiltrate the water.

(6) Roofs, gutters, and downspouts: All roofs, gutters, and/or downspouts shall discharge to landscaping, other pervious surface, or devices such as rain barrels, pop-up sprinklers designed and maintained appropriately to prevent soil erosion and to retain, infiltrate and dissipate stormwater runoff.

(7) Trash storage areas for non-residential uses shall be:

(a) Paved with an impervious surface;

(b) Designed not to allow run-on from adjoining areas, and screened or walled to prevent off-site transport of trash;

(c) Contained by a roof or awning to minimize direct precipitation or contain attached lids on all trash containers that exclude rain.

(8) Loading and unloading dock areas for non-residential uses: To minimize the material spill potential, the following design criteria are required:

(a) Cover loading dock areas or design drainage to preclude stormwater run-on and runoff;

(b) Direct connections to storm drains from depressed loading docks (truck wells) are prohibited.

(9) Outdoor Material Storage Areas for non-residential uses:

(a) Smaller quantities of materials and wastes (e.g., pesticides, fertilizers, etc.) with the potential to contaminate stormwater must be placed in an enclosure such as, but not limited to, a cabinet, shed, or similar structure that prevents contact with runoff or spillage to the stormwater conveyance system;

(b) If it is not practicable to cover larger quantities of materials and wastes (e.g., soil, compost, treated lumber, etc.), the area must be designed to preclude stormwater run-on;

(c) Storage areas for liquid materials and wastes must have a permanent cover (e.g., roof) designed to keep rainwater out of the storage area and be protected by secondary containment structures such as berms, dikes, or curbs to contain all the liquid from the largest liquid container stored.

(10) Processing areas in non-residential uses:

(a) Processing areas shall be paved and performed indoors or under a cover to keep rainwater out of the processing area;

(b) If the processing area is outdoors, grade or berm the processing area to prevent run-on from surrounding areas;

(c) Installation of storm drains in processing areas is prohibited;

(d) For processing areas that generate liquid wastes, slope the area to a drain to the sanitary sewer system or other approved collection system.

(11) Vehicle/equipment repair and maintenance areas in non-residential uses must include the following:

(a) Vehicle/equipment repair and maintenance shall be performed in a designated area indoors, or if such services must be performed outdoors, the area must be covered and designed to prevent the run-on and runoff of stormwater;

(b) Secondary containment shall be provided for exterior work areas where motor oil, brake fluid, gasoline, diesel fuel, radiator fluid, acid-containing batteries, or other hazardous materials or hazardous wastes are used or stored;

(c) Stormwater drains shall not be installed within the secondary containment areas. All drains shall be connected to the sanitary sewer system;

(d) Tanks, containers or sinks used for parts cleaning or rinsing shall not be connected to the storm drain system;

(e) Tanks, containers, or sinks used for such purposes may only be connected to a closed-loop system or the sanitary sewer system.

(12) Vehicle/equipment wash areas in non-residential uses: Wastewater from vehicle and equipment washing operations shall not be discharged to the storm drain system.

(13) Food service equipment cleaning in non-residential uses:

(a) Have a sink or other area for cleaning floor mats;

(b) Containers and equipment shall be connected to a grease interceptor prior to discharging to the sanitary sewer system;

(c) The cleaning area shall be large enough to clean the largest mat or piece of equipment to be cleaned.

(14) Fueling areas in non-residential uses:

(a) Fueling stations must be covered with an overhanging roof structure or canopy. The canopy's minimum dimensions must be equal to or greater than the area within the grade break. The canopy must not drain onto the fuel dispensing area, and the canopy downspouts must be routed to prevent drainage across the fueling area;

(b) All fuel-dispensing areas must be paved with concrete (or equivalent smooth impervious surface), and the use of asphalt shall be prohibited. All fuel dispensing areas must have a 2% to 4% slope to prevent ponding, and must be separated from the rest of the site by a grade break that prevents run-on of stormwater to the extent practicable. At a minimum, the concrete fuel dispensing area must extend 6.5 feet from the corner of each fuel dispenser, or the length at which the hose and nozzle assembly may be operated plus 1 foot, whichever is less;

(c) Above-ground fuel tanks must be protected with a secondary containment structure of sufficient volume to contain all of the fuel in the event of a tank rupture or leak.

O. Post Construction Maintenance Plan

(1) An agreement assigning maintenance responsibility to the property owner and providing remedies should the property owner not maintain and repair the treatment control will be executed between the City and the property owner. The agreement would be recorded among the deed records at the County Recorder's Office so that it would run with the title to the land.

(2) New development and redevelopment projects with land disturbances greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, within the City's jurisdiction and that discharge to the City's MS4, must be in compliance with the Post-Construction Stormwater Management requirements of Part III D.5 (1)-(5) of the MS4 Permit.

P. Approval from Other Jurisdictions. If required, the following jurisdiction must approve the Site Plan before the City approves the Site Plan and issues any permits:

(1) Minnesota Pollution Control Agency

(2) Minnesota Department of Natural Resources

(3) Minnesota Department of Transportation

(4) United States. Army Corps of Engineers

(5) Federal Emergency Management Agency

(6) Minnehaha Creek Watershed District

Q. Other Permits Required

(1) An erosion control permit shall be obtained from the Minnehaha Creek Watershed District in the following circumstances:

(a) Excavation, grading, filling or other change in the earth's topography being proposed that would result in the movement of more than 50 cubic yards of material.

(b) Excavation, grading, filling or other changes to the earth's topography being proposed that would result in the movement of material encompassing more than 5,000 square feet in an area or areas on the same or adjoining lots.

(2) If the applicant is required to obtain a permit from the Minnesota Pollution Control Agency or a permit from a Minnehaha Creek Watershed District, that permit must be on file with the City before construction activity begins.

(3) The applicant must properly install any required erosion control measures in locations specified on the approved plan, before demolition, construction or grading activity begins.

(4) All erosion control measures and devices, must be regularly inspected and maintained by the applicant. Damaged erosion control measures or devises shall be immediately repaired.

(5) If a grading and erosion control plan has been implemented but is reasonably considered by the City Engineer or Building Official to be inadequate in achieving the policy objectives of the Comprehensive Plan or the City Code of Ordinances or Performance Agreement, the City Engineer may require applicant to modify the plan and its implementation to achieve those objectives. Site Inspection Required.

R. Site Inspection Required. A site inspection by the City Engineer shall be made after completion of grading or filling activities.

8.3 Landscaping (reserved)

8.4 Tree Preservation and Protection

8.4.1 Purpose. Minnetonka Beach's Comprehensive Plan describes our community character as "a small lake town nestled in the woods." Woods, trees and shrubs are a vital shared asset of public welfare in our lakeshore setting, delivering lasting environmental, social, and economic benefits by:

(1) Tempering noise
(2) Improving air quality
(3) Absorbing water, reducing runoff, and thereby improving lake water quality
(4) Moderating temperatures through tree canopy
(5) Supporting wildlife
(6) Protecting shoreline stability
(7) Maintaining historical neighborhood character aesthetic
(8) Contributing to strong property values
(9) Leaving a living legacy for our historical community

8.4.2 Long term sustainability. To preserve these benefits over time, trees and canopy should ideally reflect:

(1) A healthy mix of tree species—ensuring resilience against pests, disease, and climate stresses.
(2) A healthy mix of tree ages-- maintaining continuous coverage over decades as older trees decline and younger ones mature.
(3) A healthy mix of levels-high canopy, medium canopy and shrubs

8.4.3 Protected trees. The City has protection standards for larger, older trees, as outlined in this Section

A. Significant Trees: approximately 30-100 years old, defined by tree type and diameter (DBH) in Section 2.4 Definitions.
B. Heritage trees: approximately 80-100+ years old, defined by tree type and diameter (DBH) in Section 2.4 Definitions.

8.4.4 Tree density. The City has designated a target Minimum Tree Density of Protected (Significant and Heritage) trees, as defined in Section 2.4 Definitions. Minimum Tree Density and diversity of tree species is encouraged on all properties. Minimum Tree Density is considered in certain tree removal permitting.

8.4.5 Tree Contractor License Required. Persons conducting or offering commercial (service for hire) tree trimming or removal services in the City must first obtain a tree contractor license. The license shall be issued by the City Administrator annually, and licensees must pay the fee and provide proof of insurance in the amounts set forth in the City fee schedule. The City has sole discretion in whether it will issue a license. Licensees who violate the provisions of this Chapter or other City Ordinances may have their license revoked or non-renewed.

8.4.6 Tree trimming. A property owner or his or her agent or contractor may trim an otherwise Healthy Tree in such a manner as to manage its growth, improve its appearance, or eliminate branches which encroach upon structures and improvements without first obtaining a permit. If any trimming is likely to cause the tree to become diseased or die, such activity will be considered Tree Removal and subject to those conditions.

8.4.7 Tree Removal.

A. Nuisance Trees. The City requires removal of certain Diseased, Hazard, Dead or Dying trees as defined in City Code Section 508, after the property owner obtains any permits or approvals as required in this Section 8.4.7.

B. Noxious Trees. Removal of Noxious trees (as defined in Section 2.4 Definitions) requires no approval or permits, unless said trees are located within the Shore Impact Zone or Bluff Impact Zone (as defined in Section 2.4 Definitions).

(1) Removal of trees located within protected areas requires a permit in accordance with Section 8.4.7(D)(2). The Site Plan or Tree Preservation Plan for said permit shall identify the proposed noxious trees to be removed by species, diameter (DBH), height, location, and condition.

(2) A restoration plan that addresses erosion control will be required, said plan shall be reviewed by the (Minnehaha Creek Watershed District) prior to issuance of a permit. Said plan shall identify replacement of each 1" DBH of noxious tree with 1" DBH of trees listed as 'Tree Types' under Section 2.4, or a combination of trees with vegetation that provides suitable habitat and effective soil stability, runoff retention, and infiltration capability. Vegetation species, composition, density, and diversity must be guided by nearby patches of native plant communities and by Native Vegetation Establishment and Enhancement Guidelines.

C. Non-Protected Trees. Trees that are not Significant or Heritage (as defined in Section 2.4 Definitions) may be removed without approval or permit unless said trees are located within the Shore Impact Zone or Bluff Impact Zone (as defined in Section 2.4 Definitions).

(1) Removal of trees located within protected areas requires a permit in accordance with Section 8.4.7(D)(2). The Site Plan or Tree Preservation Plan for said permit shall identify

the proposed non-protected trees to be removed by species, diameter (DBH), height, location, and condition.

(2) A restoration plan that addresses erosion control will be required, said plan shall be reviewed by the (Minnehaha Creek Watershed District) prior to issuance of a permit. Said plan shall identify replacement of each 1" DBH of non-protected tree with 1" DBH of trees listed as 'Tree Types' under Section 2.4, or a combination of trees with vegetation that provides suitable habitat and effective soil stability, runoff retention, and infiltration capability. Vegetation species, composition, density, and diversity must be guided by nearby patches of native plant communities and by Native Vegetation Establishment and Enhancement Guidelines.

D. Protected trees. Significant and Heritage trees, as defined in Section 2.4, have certain protections and conditions which must be met before they may be removed.

(1) Tree type and permits and plans required (see Section 8.4.8 for additional requirements if tree removal is related to Construction Activity or Improvement in Public Infrastructure)

Table 8.4.7(D)(1)

Tree Condition	Significant or Heritage	Permit required	Permit fee	Plan required	Certification required (3)	Replacement trees (4)	Approving body
Dead	Both	No	None	None	CTI, CF	None	CA
Hazard (emergency)	Both	No (5)	None	None	CTI, CF or A (TRAQ)	None	CA
Hazard (non-emergency)	Both	Yes	None	Site	A (TRAQ), CF or CTI (6)	None	CA
Diseased or dying	Both	Yes	None	Site	CTI or CF	None	CA
Healthy, not in a protected area (1) nor restricted area (2)	Significant	Yes	Yes	Site	CF or CTI	None if Minimum Tree Density maintained and not on Steep Slope	CA
						Yes if on a Steep Slope	CA, CE
						Yes to reach or maintain Minimum Tree Density	CA
						If Minimum Tree Density is not reached or maintained and Fee-In-Lieu is paid	CA, CF (7)
						If Minimum Tree Density is not reached or maintained and Fee-In-	CC (7)

						Lieu is not paid	
Healthy, in a protected area (1)	Both	Prohibited					
Healthy, in a restricted area (2) but not in a protected area (1)	Significant	Yes	Yes	Site and Tree	CF or CTI	Same as not in restricted area	CC
Healthy, not in a protected area (1)	Heritage	Yes	Yes	Site and Tree Preservation Plan	CF	Full replacement of DBH inches required	CC (8)

(1) Protected areas are
   a. Shore Impact Zone (within 75' of Lake Minnetonka Ordinary High Water Level/OHWL-- See Section 2.4 Definitions)
   b. Bluff Impact Zone (See Section 2.4 Definitions)

(2) Restricted areas are
   a. In City Right of Way (ROW)
   b. In a City Easement

(3) Certifying and reviewing bodies:
   A = certified arborist, including City Forester or other third party (hired by property owner).
   A (TRAQ) = certified arborist with Tree Risk Assessment Qualification, including city arborist or other third party (hired by property owner).
   CA = City Administrator (no charge).
   CTI = City Tree Inspector (no charge).
   CF = City Forester (under contract, property owner pays directly)
   CE = City Engineer
   CC = City Council

(4) See Section 8.4.9 for replacement tree standards

(5) Promptly after removal, the property owner must provide photos showing the DBH, species, location and condition of the affected tree(s), the circumstances of the emergency and certify that imminent harm could not have been corrected by pruning, transplanting, or other treatments.

(6) Certification includes the DBH, species, location and condition of the affected tree(s), the nature of the hazard and that the risk could not have been corrected by pruning, transplanting, or other treatment

(7) May be approved if Approving Body agrees that it is impractical to meet Minimum Tree Density and that property owner will plant as many replacement trees as is practical. See Section 8.4.9(B) for Fee-In-Lieu guidelines.

(8) Permits to remove Healthy Heritage tree may only be approved when there is no practical alternative to their removal.

(2) Tree Removal Permits, if required in Table 8.4.7(D)(1)

(a) Application Requirements.

(i) Name, address and contact information for the property owner.

(ii) Name, address and contact information for the primary contractor or licensed tree removal company.

(iii) Identification of Significant and Heritage Trees proposed to be removed by species, diameter (DBH), height, location, condition and reason for removal.

(iv) Description of trees proposed for replacement by species, diameter (DBH) and expected planting date.

(v) Site Plan, if a Plan is required in Table 8.4.7(D)(1), and if tree removal <u>is not</u> related to Construction Activity or improvement to Public Infrastructure.

The Site Plan may be a drawing, prepared by the property owner, or by a professional, or the City Tree Inspector may prepare it at the property owner ‘s request free of charge.

At a minimum, a Site Plan must include the following information:

- The name(s) and address(es) of property owners and applicants;
- Identify by species, DBH, condition and location the trees that are proposed to be removed;
- Indicate where any replacement trees, if applicable, will be planted, indicating the species, diameter (see Replacement Tree definition), location and planting date;
- Indicate the Minimum Tree Density on the property;
- Name of person preparing the Site Plan;
- Date Site Plan was prepared;
- Photos of the trees to be removed are encouraged.

(vi) Tree Preservation Plan, if a Plan is required in Table 8.4.7(D)(1), or if tree removal is related to Construction Activity or improvements to Public Infrastructure (See Section 8.4.8) or if the permit is for removal of a Heritage Tree.

The Tree Preservation Plan will be reviewed by City staff to assess the best overall site and tree design for the project involved, considering the preservation, renewal and health of Protected Trees, and to mitigate damage to the trees on the property and the natural environment.

The Tree Preservation Plan must be certified by a licensed land surveyor, civil engineer, certified arborist, licensed landscape architect, or other person whose credentials are deemed acceptable by the City Administrator.

A survey or landscape plan that includes the information in this Section may serve as a Tree Preservation Plan. The Tree Preservation Plan includes:

- The name(s) and address(es) of property owners and applicants;
- Delineation (scale not less than 1" to 30') of buildings, structures, impervious surfaces, utilities, and other site improvements situated thereon or contemplated to be constructed thereon;
- Delineation of all areas to be graded and land disturbance, including the contouring of all areas to be graded;
- DBH, species, location, and condition of all Significant and Heritage Trees located on the property as well as on adjacent properties where the Critical Root Zones of the trees are within the area proposed for site preparation, grading, building construction or any other construction activity, or the canopy extends over the property line;
- Identification of all dead, diseased, dying and Hazard Trees;
- The Critical Root Zone of all Significant and Heritage Trees proposed to be preserved;
- Identification of all Significant and Heritage Trees proposed to be removed;
- A written inventory of all trees by species, DBH, condition and location and an indication of the trees that would be at risk or will be lost to grading and construction activities;

- Measures to protect remaining Heritage and Significant Trees as outlined in this Chapter;
- Species, diameter (see Replacement Tree definition) and location of all replacement trees to be planted on the property in accordance with the tree replacement requirements.
- Indicate the Minimum Tree Density on the property;
- Signature of the person preparing the plan and statement that replacement trees are appropriate species with respect to survivability;
- Date Tree Preservation Plan was prepared;

(vii) Such other information as may be required on the City's Tree Removal Permit application or as requested by City staff.

(b) Approval prior to Removal. The Tree Removal Permit application must receive approval from the Approving Body in Table 8.4.7(D)(1) and a permit be issued by the City prior to any removal of trees that require a permit..

(c) Appeal. Any denial of a Tree Removal Permit application made by a City staff member may be appealed to the Board of Adjustment and Appeals.

(3) Intentional or Deliberate Damage. It shall be unlawful for any person(s) to intentionally damage, destroy or adversely alter any Protected Tree on public or private land within the limits of the City in violation of this Code. Minn. Stat., section 561.04 strictly prohibits intentional damage to trees on public property in any form and provides that whoever willfully and without lawful authority injures any tree, timber or shrub on City property is liable for treble the amount of damages which may be assessed therefore.

(4) Environmental Remediation. Any property owner who removes, directs or allows removal of, intentionally damages or allows to be damaged, a Protected Tree without meeting the conditions of this section is subject to Environmental Remediation Fees as set out in the City fee schedule.

8.4.8 Tree Protection During Construction Activities or Improvement to Public Infrastructure. In addition to conditions related to tree removal outlined in this Section, the following tree protection specifications and measures should be followed for all projects on land with existing Protected Trees. Best management practices must be undertaken.

A. Tree Protection Plan. A Tree Protection Plan is required (See Section 8.4.7(D)(2)(a)(vi)).

B. Required Protections.

(1) An area of prohibited disturbance, generally corresponding to the Critical Root Zone of the Protected Tree shall be protected during construction with a temporary five-foot-high fence. The fencing shall be installed prior to issuance of development permits for the site;

(2) Snow fencing, silt fence, or polyethylene laminate safety netting shall be placed at the Critical Root Zone of Significant and Heritage Trees to be preserved on or adjacent to the property being developed;

(3) No fill, excavation, or storage of construction materials shall be permitted within the area defined by such fencing;

(4) Any oak trees requiring pruning between April 1 and July 15 shall be identified and any oak trees so pruned are required to have any cut areas sealed with an appropriate, non-petroleum-based tree wound sealant, such as shellac;

(5) Utilities shall be placed in common trenches outside of the Critical Root Zone of Significant and Heritage Trees or through use of tunneled installation;

(6) Change in soil chemistry due to concrete washout and leakage or spillage of toxic materials, such as fuels or paints shall be prevented;

(7) Tree root aeration, fertilization, and irrigation systems shall be used when appropriate;

(8) Other tree protection measures shall be used as required by the state Building Code;

(9) Other protections identified as appropriate and necessary to fulfill the intent of this Section shall be used.

C. Recommended Protections that may be required where appropriate.

(1) Where vehicular/equipment access is required within the Critical Root Zone of a tree, the soil, and the tree's roots shall be protected with 10 inches of woodchips and/or plywood placed over the path of the vehicle to limit soil compaction and subsequent root compression;

(2) A rock well shall be constructed if the grade level around the tree is to be raised by more than one foot. The inside diameter of the well shall be equal to the Critical Root Zone of the tree;

(3) The grade level shall not be lowered within the Critical Root Zone of the tree(s);

(4) When construction is complete, all trees to remain must have the soil out to their Critical Root Zone aerated and de-compacted. Aerating must include multiple concentric circles of one-inch holes, two inches deep, or as recommended by the City Forester; and

(5) Alternative protection methods may be used if determined by the City Forester to provide equal or greater tree protection.

D. Additional Approvals Required. The application must be approved by the City Administrator, City Forester, City Planning and Zoning Administrator, and City Engineer and a permit be issued by the City prior to any removal of trees.

8.4.9 Tree Replacement Standards

A. Replacement Tree Requirements: where required in Table 8.4.7(D)(1)

(1) Significant Trees: Each tree removed must be replaced with two 2.5” DBH caliper trees when Minimum Tree Density is not met after removal.

(2) Heritage Trees: Each 1” DBH removed must be replaced with 1” DBH of replacement trees, with no smaller than 2.5” DBH replacement trees being used, even if Minimum Tree Density is maintained after removal.

B. Fee-In-Lieu.

(1) Payment of a Fee-in-Lieu should be used only when full tree replacement on-site is not feasible.

(2) The Fee-in-Lieu is based on the number of inches actually replaced versus the number of inches required to be replaced. For example, if a 31" Heritage Tree is removed, 31" of Replacement Trees are required. If only 15" of Replacement Trees can practically be planted on site, in addition to planting the Replacement Trees, a Fee-in-Lieu based on 16" not replaced will be applied.

(3) The amount of the Fee-in-Lieu is provided on the City fee Schedule and shall be paid into the City's Tree and Environmental Fund.
(4) Any request for waiver of the Fee-in-Lieu must be approved by City Council.

C. Tree Replacement Species.

(1) A list of recommended Replacement Tree species is maintained at City Hall.

(2) Replacement Trees may not include Noxious Trees.

D. Placement of Replacement Trees. Replacement Tree centers must be planted entirely on the lot and at least 2 feet from common property lines.

E. Source of Replacement Trees. Replacement Trees shall consist of "certified nursery stock" or state inspected transplant stock as defined by Minnesota statutes chapter 18 as amended.

F. Timing of Replacement.

(1) For removal pursuant to Construction Activities, Replacement Trees that are required by this Chapter shall be planted within 60 days following final inspection from the appropriate City official, or if such date is not within a growing season, within the first 60 days of the next growing season.

(2) For tree removal not related to Construction Activity, Replacement Trees shall be planted within 60 days of removal, or if such date is not within a growing season, within the first 60 days of the next growing season.

G. Property Owner Warranties of Replacement Trees. The property owner shall warrant the survival of Replacement Trees planted pursuant to this ordinance for a term of 2 years from the date of planting. The property owner, their successors and assigns shall be responsible for the replanting of Replacement Trees which die during the 2 years following initial planting or replanting. The property owner shall be responsible to remove and restore any Replacement Tree that is not alive and Healthy 2 years after the date that the Replacement Tree was planted. In the event a dead or unhealthy tree is not replaced on 30-day written demand to the owner from the City, the property owner shall be subject to the provisions of Section 8.4.12.

8.4.10 Tree Protection and Preservation Section Administration.

A. City Administrator. The administration of this ordinance shall be through the offices of the City Administrator who shall have the authority to sign complaints of violation.

B. City Forester. The City Council shall designate from time to time the person who shall perform the duties of City Forester. The City Forester shall be the appropriately qualified person with a minimum licensure level of certified arborist with a Tree Risk Assessment Qualification who acts in the best interest of the City in its goal to preserve trees while allowing property owners the use and enjoyment of their real property. The City Forester shall report to and take direction from the City Administrator, or such other person designated by City Council.

C. City Tree Inspector. The City Council may designate one or more persons with inspector-level certification, qualified to provide input and recommendations to the City Administrator. The duties and responsibilities of the Tree Inspector are to be determined by the City Council and determined by scope of training. The City Tree Inspector cannot be a person or contractor who is privately employed by residents to provide tree trimming or removal services.

D. City Council. Fees for permits hereunder shall be set by the City Council from time to time and set forth in the City fee schedule.

8.4.11 Nuisance Trees: Diseased, Dead, Dying and Hazard Trees. The nuisance and abatement provisions in this Chapter shall apply to Nuisance Trees to the exclusion of similar provisions in Sections 110 and 508 of the Minnetonka Beach City Code.

8.4.12 Enforcement.

A. Intentional or Deliberate Damage. It shall be unlawful for any person(s) to intentionally damage, destroy or adversely alter any Protected Tree on public and private land within the limits of the City in violation of this Chapter. Minn. Stat., section 561.04 strictly prohibits intentional damage to trees on public property in any form and provides that whoever willfully and without lawful authority injures any tree, timber or shrub on City property is liable for treble the amount of damages which may be assessed therefore.

9.0 PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT

9.1. **Purpose**. The purpose of the Planned Unit Development (PUD) zoning district is to provide greater flexibility in the development of residential areas in order to achieve more creative development outcomes that better reflect the character of the community and surround area of the land being developed. This is achieved by undertaking a process that results in a development outcome exceeding that which is typically achievable through the underlying zoning district.

9.2. District Application

9.2.1. PUDs were allowed to be established over properties zoned R-1 prior to the effective date of this ordinance, as denoted in Section 1.5.

9.2.2. Establishment of new PUDs after the effective date of this ordinance, as denoted in Section 1.5, is prohibited.

9.3. Pre-existing PUDs.

Pre-existing PUDs authorized prior to the effective date of this ordinance, as denoted in Section 1.5, shall continue to be governed per the original conditions of approval until the PUD is cancelled by the City, or the PUD is requested to be amended.

9.4. PUD Amendments.

Existing PUDs may be amended from time to time as a result of unforeseen circumstances, overlooked opportunities, or requests from a developer or neighborhood. At such a time, the applicant shall make an application to the city for a PUD amendment. Amendments to an approved PUD Overlay district shall be processed as one of the following:

9.4.1 Ordinance Amendment. A PUD change requiring a text update to the adopted PUD overlay district language shall be administered in accordance with adopted regulations for zoning code changes in Section 3.4.2. Ordinance amendments shall be limited to changes that are deemed by the Zoning Administrator to be consistent with the intent of the original PUD approval, but are technically necessary due to construction of the adopted overlay district language**.**

9.4.2 All Other Amendments. Any change not qualifying for an Administrative amendment or an Ordinance amendment shall require cancellation of the existing PUD prior to such amendments moving forward under standard subdivision requirements as may be applicable.

9.5 PUD Cancellation.

A PUD shall only be cancelled and revoked upon the City Council adopting an ordinance rescinding the overlay district establishing the PUD. Cancellation of a PUD shall include findings that demonstrate that the PUD is no longer necessary due to changes in local regulations over time; is inconsistent with the Comprehensive Plan or other application land use regulations; threatens public safety, health, or welfare; or other applicable findings in accordance with law.

9.6 Approved Planned Unit Developments

9.6.1 Lafayette Ridge

A. Legal Description. Lots 1-4, Block 3; Lots 1-5, Block 4; Lots 1-6, Block 5; Out Lots A, D, E, F, H, Plat of Lafayette Ridge, Document 1278598, Book 94, Page 27 as recorded by Hennepin County.

B. Special Land Use Regulations. Except as specifically addressed below, underlying zoning standards for allowable land uses shall apply in Lafayette Ridge.

(1) Principal Use: Single Family Residential

(2) Except for the land held in Common Open Space by the Homeowners Association, One Principal use will be allowed on each lot.

(3) A Principal Use is not allowed on Common Open Space.

(4) Common Open Space Uses shall be for the exclusive use of the PUD lot owners and their guests.

C. Performance standards: Within the Planned Unit Development, the following dimensional standards shall apply:

(1) Principal Uses

(a) Front setback: 25 feet

(b) Side setback: 10 feet

(c) Rear setback adjoining the common open space: 0 feet

(d) Maximum Height: 40 feet

(e) Total PUD Density: 1 Dwelling Unit per Gross Acre

(2) Accessory Land Use Performance Standards. Table 9.6.1(C)(2) lists the required performance standards for accessory uses within Lafayette Ridge. The standards (except for the height standards) do not apply to accessory uses located within the buildable area on each lot. Uses must be set back at least 25 feet from all Wetlands.

TABLE 9.6.1(C)(2): LAFAYETTE RIDGE YARD & LAKESHORE SETBACK REQUIREMENTS

A shaded cell indicates that no encroachment is allowed and/or standard yard/setback/height requirements must be met	*MINIMUM REQUIRED YARDS (in feet) [1]*			Maximum Height (in feet)	Additional Standards
	Front	Rear *[2]*	Side		
Accessibility Improvements	0	0	0	N/A	N/A
Air Conditioning Units and Heat Pumps		0	10	8	N/A
Private Amateur Radio Antenna		0		10	N/A
Construction Uses & Structures	0	0	0	N/A	N/A
Detached Garage	25	0	0	[3]	9.6.1(D)(1)
Driveways	0	0	10	1	9.6.1(D)(2)
Fences & Walls	25	0	0	[4]	N/A
Generators		0	10	4	N/A
Lake Accessory Uses	[5]	0	10	N/A	N/A
Landscaping	0	0	0	N/A	9.6.1(D)(3)
Lawn Furniture	0	0	0	N/A	N/A
Living Quarters of Persons Employed on the Premises & Home Occupations				N/A	9.6.1(D)(4)
Motor Vehicles	0	0	10	N/A	9.6.1(D)(5)
Outbuildings & storage sheds		0	10	[6]	9.6.1(D)(6)
Outdoor Storage		0	10	N/A	N/A

Parking Areas, & Parking Lots	0	0	10	1	N/A
Patios		5	8	1	N/A
Permanent BBQs & Fire Pits		0	10	[6]	N/A
Recreational Equipment		0	10	N/A	N/A
Recreational Vehicles & Travel Trailers	0	0	0	N/A	N/A

[1]: All features, regardless of special yard requirements, shall adhere to the corner visibility restrictions outlined in Section 6.2.8 and Figure 6.1.8(E)

[2]: When adjoining Common Open Space

[3]: One half the height of the Principal Use but not less than one story

[4]: 6 feet opaque area; up to 2 additional feet if no more than 25% of the additional area is opaque

[5]: For Lakeshore lots, the minimum setback from the OHWL shall be zero feet. For lots without lakeshore, standard front yard setback requirements shall be met.

[6]: 15 feet but not less than one story

D. Accessory Land Use Additional Standards

(1) Detached Garages

(a) Detached garages shall be finished in a similar appearance as the primary use.

(b) Existing detached garages located in the setbacks may be remodeled, maintained, and rebuilt at the same location as long as the horizontal size of the garage is not enlarged.

(2) Driveways. Driveways may not exceed the width of the garage

(3) Landscaping. Flag poles shall be limited to 40 feet tall

(4) Living Quarters of Persons Employed on the Premises & Home Occupations. Located in the Principal Use; trucks or vans used in connection with the Home Occupation of more than 3 ton may not be parked on the lot.

(5) Motor Vehicles. Motor Vehicles may not be used for human or animal habitation while stored on the property; Motor vehicles must be located on paved driveways, or parking lots

(6) Outbuildings and Storage Sheds. Maximum Size for any one use not more than is 150 square feet; storage sheds shall be finished in a similar appearance to the Principal Use

(7) Stairways. Stairways in the Lake Setback may not be covered and may not be more than 4 feet wide when they provide access to the lake

(8) Swimming Pools and Associated Equipment

(a) Below ground swimming pools shall not extend above ground any greater than one (1) foot.

(b) Pool Equipment shall not extend any greater than five (5) feet above ground level.

(c) Above Ground pools shall be no taller than eight (8) feet measured from the average ground level to the top of the pool railing.

(9) Terraces. The maximum height of a terrace shall be determined by the height of the principal building's floor adjacent to the terrace or three (3) feet above grade, whichever is less.

E. Maximum Hardcover. Maximum hardcover in Lafayette Ridge shall be 30% of the following land areas within the PUD:

TABLE 9.6.1(E) : SPECIAL HARDCOVER STANDARDS IN LAFAYETTE RIDGE

Maximum hardcover in Lafayette Ridge on each lot within the PUD shall be as follows:

BLOCK	*LOT*	*SQ FT*	*BLOCK*	*LOT*	*SQ FT*
3	1	8227	4	5	7569
3	2	8651	5	1	8522
3	3	8227	5	2	8364
3	4	8227	5	3	9915
4	1	7569	5	4	7953
4	2	7569	5	5	7953
4	3	7569	5	6	7605
4	4	7569			

10.0 FLOODPLAIN OVERLAY DISTRICT

10.1 Statutory Authorization, Purpose, and Findings of Fact

10.1.1 Statutory Authorization. The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462 and in Minnesota Rules, parts 6120.5000 – 6120.6200, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Minnetonka Beach, Minnesota, does ordain as follows.

10.1.2 Statements of Purpose and Intent

A. This ordinance regulates development in the flood hazard areas of the City of Minnetonka Beach. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

B. This ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

10.1.3 National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

10.2 General Provision

10.2.1 Adoption of Flood Insurance Rate Maps by Reference

A. The following maps, together with all attached materials, are hereby adopted by reference and declared to be a part of the Official Zoning Map and this ordinance. The attached material includes the Flood Insurance Study for Hennepin County, Minnesota, and Incorporated Areas, dated November 4, 2016 and the Flood Insurance Rate Map panels enumerated below, dated November 4, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file at City Hall.

B. Effective Flood Insurance Rate Map panels:

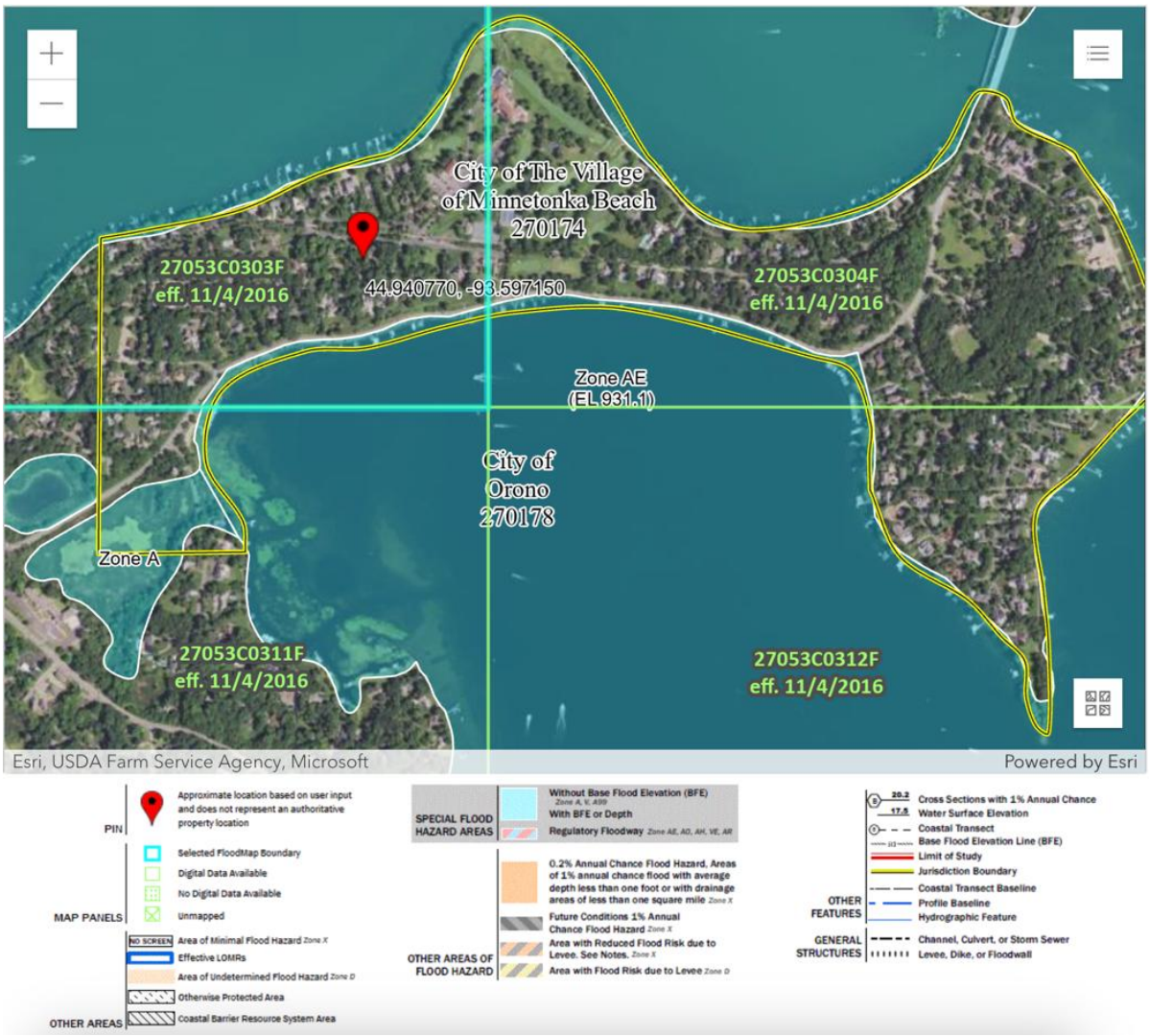
(1) 27053C0303F

(2) 27053C0304F

(3) 27053C0311F

(4) 27053C0312F

Figure 10.2.1: Flood Insurance Rate Map panels



Map retrieved on November 19, 2023, from FEMA at https://msc.fema.gov/portal/search?AddressQuery=55361. This information is subject to change and users should consult FEMA for the most current information.

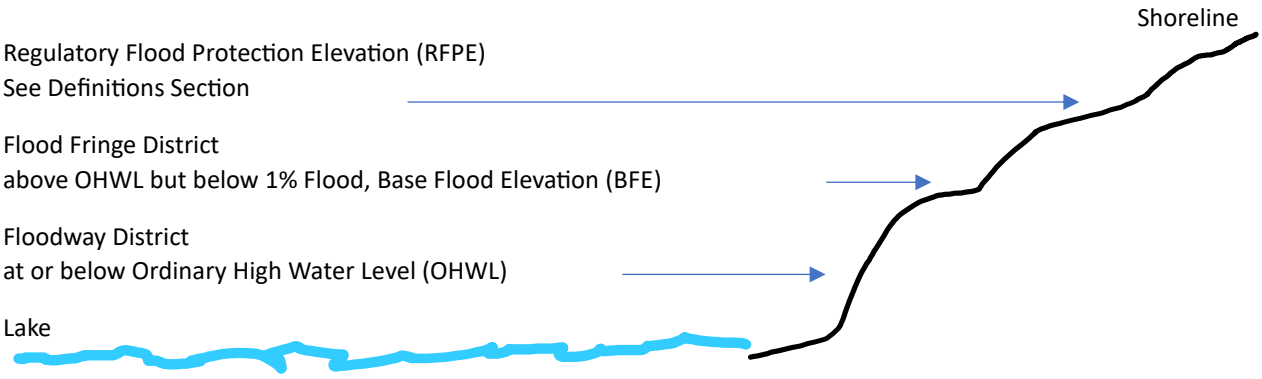
10.2.2 District Application. Floodplain Overlay District regulations shall apply to all areas designated as Zone A or AE as shown on the adopted Effective Flood Insurance Rate Map panels references in Section 10.2.1.

10.2.3 Sub Districts. All areas designated as Zone A or AE as shown on the adopted Effective Flood Insurance Rate Map panels are hereby broken down into the following two (2) sub-districts:

A. Floodway District. The Floodway District includes those areas within Zones A or AE that are located at or below the ordinary high water level of Lake Minnetonka or adjacent water body. The OHWL for Lake Minnetonka can be found on the LMCD website and as of January 2024 was 929.4 feet above sea level. (Accessed from the Lake Minnetonka Conservation District website at https://lmcd.org/water-levels/. This information is subject to change and users should consult LMCD for the most current information).

B. Flood Fringe District. The Flood Fringe District includes areas within Zones A or AE that are below the 1% annual chance (100-year) flood elevation, but above the ordinary high water level of Lake Minnetonka or adjacent water body. This elevation can be found on FEMA map for Minnetonka Beach. As of January 2024 the elevation was 931.1 feet above sea level. (Accessed from the FEMA website at https://msc.fema.gov/portal/search?AddressQuery=55361 and the Minnesota Department of Natural Resources website at https://arcgis.dnr.state.mn.us/ewr/lfeo/lat/44.9381/lng/-93.5899/z/15. This information is subject to change and users should consult FEMA and DNR for the most current information.)

Figure 10.2.3: Subdistricts



10.2.4 Applicability

A. Within the floodplain overlay district; the use, size, type and location of development must comply with the terms of this ordinance and other applicable regulations.

B. In no cases shall floodplain development adversely affect the efficiency, or unduly restrict the capacity, of the channels or floodways of any tributaries to the main stream, drainage ditches, or any other drainage facilities or systems.

C. All uses within the floodplain overlay district that are not listed as permitted uses or conditional uses herein are prohibited.

D. Critical facilities, as defined in Section 10.2.8, are prohibited in all floodplain districts.

10.2.5 Regulatory Flood Protection Elevation. The regulatory flood protection elevation (RFPE) is an elevation no lower than one (1) foot above the elevation of the regional flood.

10.2.6 Interpretation. The boundaries of Zones A and AE are to be determined by scaling distances on the Flood Insurance Rate Map.

A. Where a conflict exists between the floodplain limits illustrated on the Effective Flood Insurance Rate Map panels and actual field conditions, the base flood elevations as noted on the map panels shall be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.

B. Persons who wish to contest the location of the floodplain overlay district boundaries may appeal the decision of the Zoning Administrator to the Board of Adjustment and Appeals per Section 3.4.6 of this ordinance.

10.2.7 Warning and Disclaimer of Liability. This ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. Not all flood risk is mapped. Larger floods do occur and the flood height may be increased by man-made or natural causes, such as ice jams or bridge openings restricted by debris. This ordinance does not create liability on the part of the City of Minnetonka Beach or its officers or employees for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

10.2.8 Definitions. Definitions for terms can be found in Section 2.4 of this ordinance.

10.2.9 Annexations. The Flood Insurance Rate Map panels adopted by reference in Section 10.2.1 above may include floodplain areas that lie outside of the corporate boundaries of the City of Minnetonka Beach at the time of adoption of this ordinance. If any of these floodplain land areas are annexed into the City of Minnetonka Beach after the date of adoption of this ordinance, the newly annexed floodplain lands will be subject to the provisions of this ordinance immediately upon the date of annexation.

10.2.10 Detachments. The Flood Insurance Rate Map panels adopted by reference in Section 10.2.1 above will include floodplain areas that lie inside the corporate boundaries of municipalities at the time of adoption of this ordinance. If any of these floodplain land areas are detached from a municipality and come under the jurisdiction of Minnetonka Beach after the date of adoption of this ordinance, the newly detached floodplain lands will be subject to the provisions of this ordinance immediately upon the date of detachment.

10.3 Floodway District (FW)

10.3.1 Floodway Permitted Uses. The following uses, subject to the standards set forth in Section 10.3.2, are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district

A. Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, fishing areas, and single or multiple purpose recreational trails.

B. Residential lawns, gardens, parking areas, and play areas.

C. Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten (10) days prior to issuance of any permit.

D. No structures, as defined in Section 2.4, are allowed in the Floodway District.

10.3.2 Standards for Floodway Permitted Uses

A. The use must have a low flood damage potential.

B. The use must not obstruct flood flows, cause any increase in flood elevations greater than 0.00 feet, and must not involve structures, obstructions, or storage of materials or equipment. This shall be demonstrated through hydrologic and hydraulic analysis performed by a professional engineer, or using other standard engineering practices. This is commonly documented through a “no-rise certification.”

C. Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

10.3.3 Floodway Conditional Uses. The following uses may be conditionally permitted if allowed in the underlying zoning district(s) following the procedures in Section 3.4.4 of this ordinance.

A. Placement of fill or construction of fences that obstruct flood flows.

B. Travel-ready recreational vehicles meeting the exception standards in Section 10.8.2.

10.3.4 Standards for Floodway Conditional Uses

A. A conditional use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.

B. Any development in the beds of public waters that will change the course, current or cross section is required to obtain a public waters work permit in accordance with Minnesota Statutes, section 103G.245 or a utility crossing license in accordance with Minnesota Statutes, section 84.415, from the Department of Natural Resources, or demonstrate that no permit is required, before applying for a local permit.

10.4 Flood Fringe District (FF)

10.4.1 Flood Fringe Permitted Uses. Permitted uses within the flood fringe district are those uses of land or structures allowed by the underlying zoning district that comply with the standards herein.

10.4.2 Standards for Flood Fringe Permitted Uses

A. All structures

(1) All structures shall be constructed to the elevation determined in Section 6.2.9(A).

(2) The finished fill elevation around the structure or addition must be no lower than one foot below the regulatory flood protection elevation and must extend at the same elevation at least 15 feet beyond the outside limits of the structure or addition.

(3) Elevations must be certified by a registered professional engineer, land surveyor, or qualified person designated by the Zoning Administrator.

B. Accessory Structures. All accessory structures must meet the following standards:

(1) Structures shall not be designed or used for human habitation.

(2) Structures will have a low flood damage potential.

(3) Structures with fewer than two rigid walls, such as carports, gazebos, and picnic pavilions, may be located at an elevation below the Regulatory Flood Protection Elevation.

(4) Structures may be elevated on fill, meeting the standards in Section 10.4.2(A). Fill is not required to be extended 15 feet beyond the outside limits of the structure.

C. As an alternative to the fill requirements of Section 10.4.2.A above, accessory structures in the flood fringe district may be permitted as a conditional use to be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided that:

(1) The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.

(2) All portions of floodproofed accessory structures below the Regulatory Flood Protection Elevation must be:

(a) adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls;

(b) be constructed with materials resistant to flood damage; and

(c) Must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation

(3) Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

(a) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

(b) There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

D. In General

(1) The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 10.4.2.A of this ordinance, or if allowed as a conditional use under Section 10.4.3 below.

(2) The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.

(3) All service utilities, including ductwork, must be elevated or water- tight to prevent infiltration of floodwaters.

(4) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(5) Storage of materials likely to cause pollution of the waters, such as sewage, sand, rock, wrecked and discarded equipment, dredged spoil, municipal waste, agricultural waste, and other wastes further defined in Minnesota Statutes, Section 115.01, are prohibited unless adequate safeguards approved by the Minnesota Pollution Control Agency are provided.

(6) All fill must be properly compacted and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

(7) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, or must have a flood warning /emergency evacuation plan acceptable to the City Council.

(8) Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

(9) Manufactured homes and recreational vehicles must meet the standards of in Section 10.8 of this ordinance.

10.4.3 Flood Fringe Conditional Uses. The following uses and activities may be conditionally permitted if allowed in the underlying zoning district(s) following the procedures in Section 3.4.3 of this ordinance, and subject to the additional requirements in Section 10.4.4 below.

A. Wet/internally floodproofing as described in Section 10.4.2.

B. Alternative Elevation Methods – Residential Structures. Residential structures with their lowest floor elevated above the Regulatory Flood Protection Elevation (RFPE) using methods alternative to the fill requirements in Section 10.4.2(A).

C. Storage of any material or equipment below the regulatory flood protection elevation.

D. The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 10.4.2.A of this ordinance.

10.4.4 Standards for Flood Fringe Conditional Uses

A. The standards listed in Section 10.4.2.D, subsections (2) through (7), apply to all conditional uses.

B. Basements, as defined by Section 2.4 of this ordinance, are subject to the following:

(1) Residential basement construction is not allowed below the regulatory flood protection elevation.

(2) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with Section 10.4.4.C of this ordinance.

C. All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

D. The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan meeting the following minimum requirements:

(1) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.

(2) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City Council to certify that the design and methods of construction meet the requirements of 44 CFR § 60.3.44.

(3) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

E. Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

F. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

(1) Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.

(2) Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:

(a) The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and

(b) That the enclosed area will be designed of flood resistant materials in accordance with the FP3 or FP4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

10.5 RESERVED

10.6 Land Development Standards

10.6.1 In General. Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the City of Minnetonka Beach.

10.6.2 Subdivisions. No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities.

A. All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

B. All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City Council. The plan must be prepared by a

registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.

C. For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.

D. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:

(1) All such proposals are consistent with the need to minimize flood damage within the flood prone area,

(2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and

(3) Adequate drainage is provided to reduce exposure of flood hazard.

(4) Subdivision of lands within the floodplain districts may not be approved if the cost of providing governmental services would impose an unreasonable economic burden on the community.

10.6.3 Building Sites. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:

A. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

B. Constructed with materials and utility equipment resistant to flood damage;

C. Constructed by methods and practices that minimize flood damage; and

D. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

E. Be reasonably safe from flooding and consistent with the need to minimize flood damage;

F. Be assured to provide adequate drainage to reduce exposure to flood hazards;

G. Not be detrimental to uses in adjoining areas; and

H. Not adversely affect the efficiency or restrict the flood carrying capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

I. Ensure that any fill or other materials are protected from erosion, discharge, and sediment entering surface waters by the ese of vegetative cover or other methods as soon as possible.

10.7 Public Utilities, Railroads, Roads, and Bridges

10.7.1 Public Utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.

10.7.2 Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the floodplain must comply with Section 10.3 and 10.4 of this ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a

lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

10.7.3 On-site Water Supply and Sewage Treatment Systems. Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.

10.8 Manufactured Homes, Manufactured Home Parks, and Recreational Vehicles

10.8.1 Manufactured Homes. The following requirements apply to manufactured homes:

A. Placement or replacement of manufactured home units is prohibited in the Floodway District.

B. If allowed in the Flood Fringe District, placement or replacement of manufactured home units is subject to the requirements of Section 10.4 of this ordinance and the following standards.

(1) New and replacement manufactured homes must be elevated in compliance with Section 10.4 of this ordinance and must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

(2) New or replacement manufactured homes in existing manufactured home parks must meet the vehicular access requirements for subdivisions in Section 10.6.2.B.

10.8.2 Recreational Vehicles. The following requirements apply to recreational vehicles.

A. Recreational vehicles are exempt from the provisions of this ordinance if they are placed on individual lots or parcels of record, and meet the criteria listed in Section 10.8.2.

B. Criteria for Exempt Recreational Vehicles:

(1) The vehicle must have a current license required for highway use.

(2) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.

(3) No permanent structural type additions may be attached to the vehicle.

(4) The vehicle and associated use must be permissible in any pre- existing, underlying zoning district.

(5) Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in Section 10.8.2.

(6) An accessory structure must constitute a minimal investment.

C. Recreational vehicles that are exempt in Section 10.8.2 lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as

new structures subject to the elevation and floodproofing requirements of Section 10.4 of this ordinance. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

10.9 Administration

10.9.1 Zoning Administrator. A Zoning Administrator or other official designated by the City Council shall administer and enforce this ordinance.

10.9.2 Permit Requirements

A. Permit Required. A permit must be obtained from the Zoning Administrator prior to conducting the following activities in the flood zone:

(1) The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this ordinance.

(2) The use or change of use of a building, structure, or land.

(3) The construction of a dam, fence, pool, deck or on-site septic system, or the placement of anything that may cause a potential obstruction.

(4) The change or extension of a nonconforming use.

(5) The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

(6) The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

(7) Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been obtained.

(8) Any other type of "development" as defined in this ordinance.

B. Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

(1) A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.

(2) Location of fill or storage of materials in relation to the stream channel.

(3) Copies of any required municipal, county, state or federal permits or approvals.

(4) Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

C. Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this ordinance.

D. Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this ordinance.

Floodproofing measures must be certified by a registered professional engineer or registered architect.

E. Record of First Floor Elevation. The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

F. Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

G. Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters in accordance with Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to FEMA.

10.9.3 Variances

A. Variance Applications. An application for a variance to the provisions of the floodplain overlay district will be processed and reviewed in accordance with applicable state statutes and Section 3.4.2 of this ordinance.

B. Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.

C. Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

(1) Variances shall not be issued within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(2) Variances may only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances must be consistent with the general purpose of these standards and the intent of applicable provisions in state and federal law.

(5) Variances may be used to modify permissible methods of flood protection, but no variance shall permit a lesser degree of flood protection than the Regulatory Flood Protection Elevation (RFPE).

D. Flood Insurance Notice. The Zoning Administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance

coverage; and 2) Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

E. General Considerations. In addition to the other criteria set forth in Section 3.4 of this Ordinance, the City must consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

(1) The potential danger to life and property due to increased flood heights or velocities caused by encroachments;

(2) The danger that materials may be swept onto other lands or downstream to the injury of others;

(3) The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;

(4) The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;

(5) The importance of the services to be provided by the proposed use to the community;

(6) The requirements of the facility for a waterfront location;

(7) The availability of viable alternative locations for the proposed use that are not subject to flooding;

(8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

(9) The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area;

(10) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(11) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

F. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator shall submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

G. Submittal of Final Decisions to the DNR. A copy of all decisions granting variances shall be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

H. Record-Keeping. The Zoning Administrator shall maintain a record of all variance actions, including justification for their issuance, and shall report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

10.9.4 Conditional Uses

A. Administrative Review. An application for a conditional use permit within the floodplain overlay district will be processed and reviewed in accordance with Section 3.4.4 of this ordinance.

B. Factors Used in Decision-Making. In passing upon conditional use applications, the City Council shall consider all relevant factors specified in other sections of this ordinance, and those factors identified in Section 10.9.3.E of the floodplain overlay district.

C. Conditions Attached to Conditional Use Permits. The City Council may attach such conditions to the granting of 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) Modification of waste treatment and water supply facilities.

(2) Limitations on period of use, occupancy, and operation.

(3) Imposition of operational controls, sureties, and deed restrictions.

(4) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

(5) The prevention of soil erosion or other possible pollution of public waters both during and after construction.

(6) Floodproofing measures, in accordance with the State Building Code and this ordinance. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

D. Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator shall submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

E. Submittal of Final Decisions to the DNR. A copy of all decisions granting conditional uses shall be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

10.10 Nonconformities.

10.10.1 Continuance of Nonconformities. A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to regulations in Section 1.8 and the following additional provisions.

A. A nonconforming use, structure, or occupancy may not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in 10.10.1.B below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

B. Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in Section 10.10.1.C and Section 10.10.1.G below.

C. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of any nonconforming structure, that shall be considered substantial improvement, and the entire structure must meet the standards of Section 10.3 or Section 10.4 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.

D. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance.

E. If any nonconformity is substantially damaged, as defined in Section 10.2.8 of this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Section 10.3 or Section 10.4 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

F. If any nonconforming use or structure experiences a repetitive loss, as defined in Section 10.2.8 of this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance.

G. Any substantial improvement, as defined in Section 10.2.8 of this ordinance, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Section 10.3 or Section 10.4 of this ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.

10.11 Penalties and Enforcement

10.11.1 Violation Constitutes a Misdemeanor. 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) constitute a misdemeanor and will be punishable as defined by law.

10.11.2 Other Lawful Action. Nothing in this ordinance restricts the City of Minnetonka Beach from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this ordinance and will be prosecuted accordingly. Every structure, fill, deposit, or other use placed or maintained in the floodplain in violation of this ordinance shall be considered a public nuisance. The creation of a public nuisance may be enjoined and the maintenance of a public nuisance under this ordinance may be abated by an action brought by the City of Minnetonka Beach or the Department of Natural Resources.

10.11.3 Enforcement. Violations of the provisions of this ordinance will be investigated and resolved in accordance with the provisions of this ordinance. In responding to a suspected ordinance violation, the Zoning Administrator and City Council may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City of Minnetonka Beach shall act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

10.12 Amendments

10.12.1 Floodplain Designation. Restrictions on Removal: The floodplain designation on the Official Zoning Map may not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the floodplain.

10.12.2 Map Revisions Require Ordinance Amendments. The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 10.2.1 of this ordinance.

11.0 WETLAND OVERLAY DISTRICT

11.1 Administration. Per Minnetonka Beach Resolution 2009 -33, City Council delegated to the Minnehaha Creek Watershed District as the Local Government Unit, the implementation of the Wetland Conservation Act and the state rules promulgated under the Act in the City, in addition to the provisions in this Section.

11.2 Purpose.

The Wetland Overlay District is intended to promote the public health, safety, and general welfare and to protect the public interest against uncoordinated and unplanned land development which affects marshes, swamps, wetlands, drainage ways, lakes, and watercourses. In addition to these general purposes, the specific intent of this section is as follows:

11.2.1 Unimpeded Floodwater Flow. Permit and encourage planned development land uses which will not impede the flow of floodwater or cause danger to life or property.

11.2.2 Preservation of Natural Vegetation. Permit and encourage land uses compatible with the preservation of the natural vegetation and marshes which are a principal factor in the maintenance of constant rates of water flow through the year and which sustain many species of wildlife and plant growth.

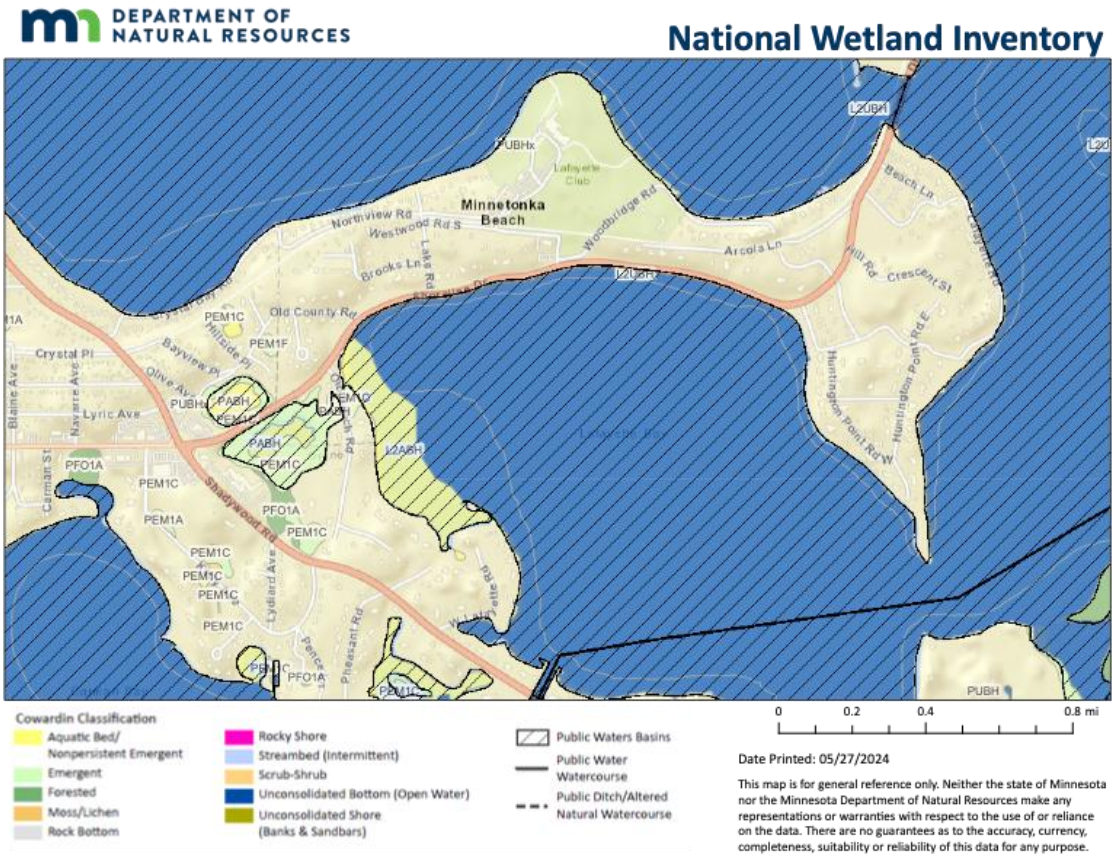
11.2.3 Avoidance of Fast Runoff. Avoid fast runoff of surface waters from developed areas to prevent polluting materials such as animal feces, motor oils, paper, sand, salt and other debris, garbage and foreign materials from being carried directly into the nearest natural stream, lake or other public waters.

11.2.4 Groundwater Infiltration and Recharge. Encourage a suitable system of ponding areas to permit the temporary withholding of rapid water runoff which presently contributes to downstream flooding and general water pollution giving preference to areas which contribute to groundwater infiltration and recharge, thereby reducing the need for public projects to contain, store and control such runoff.

11.2.5 Sufficient Land Area. Provide sufficient land area to carry abnormal flows of storm water in periods of heavy precipitation, and to prevent needless expenditures of public funds for storm sewers and flood protection devices which proper planning could have avoided.

11.3. District Application. The provisions of Chapter 11 shall apply to the following areas:

11.3.1 All wetlands, as defined in Section 2.4 of this ordinance, including those governed by the Department of Natural Resources, and depicted in the DNR's interactive online mapping application of Minnesota wetland inventory retrieved on 5/27/24 at https://www.dnr.state.mn.us/eco/wetlands/nwi_proj.html. This information is subject to change and users should consult the referenced DNR wetlands website for the most current information. If in the opinion of the city engineer wetlands may be present, a field delineation shall be required.



11.3.2 At the discretion of the City Engineer, the provisions of Chapter 11 Wetland Overlay District may also apply to land abutting, adjoining or affecting wetlands if the proposed activity in adjacent areas is incompatible with the policies expressed in Chapter 11 and the preservation of wetland areas in their natural state.

11.4. Development Restricted; Prohibition. Except as hereinafter specifically permitted, no filling, grading, dredging, excavation, hardcover, temporary or permanent structures, obstructions, septic systems, well or other construction shall be allowed within 25 feet of a wetland or within a delineated wetland.

11.5 Permitted Uses.

The following uses shall be permitted in the Wetland Overlay District if allowed by underlying zoning:

11.5.1 Fish and wildlife sanctuaries.

11.5.2 Recreational uses such as fishing, accesses, hiking, biking, horseback or nature trails, and picnic areas.

11.5.3 Residential uses such as lawns and gardens, provided no filling, grading or hardcover is involved.

11.5.4 Seasonally installed residential boat docks for single family dwellings.

11.5.5 Natural stone rip rap shoreline protection and/or sand beach blankets meeting the requirements of the Department of Natural Resources and the Lake Minnetonka Conservation District.

11.5.6 Storm Water Facilities including but not limited to the following Best Management Practices facilities: vegetative buffers, rain gardens, holding ponds, sedimentation ponds, constructed

wetlands, and other Best Management Practices stormwater facilities designed to reduce pollution of Lake Minnetonka and wetlands.

11.6 Conditional Uses.

The following uses may be conditionally permitted in the Wetland Overlay District allowed by underlying zoning districts (s) following the procedures in Section 3.4.4 of this ordinance:

11.6.1 All other forms of shoreline protection, including wood, metal, mortared stone or concrete seawalls.

11.6.2 All dredging or excavation of material from any lake bed, pond, or woodland or from land adjacent thereto.

11.6.3 All permanent boat docks or other similar structures.

11.6.4 All multiple boat docks, except those already under permit by the City, including residential or commercial structures, whether seasonal or permanent.

11.6.5 Water control structures such as dams, culverts, and weirs.

11.6.6 Bridges and abutments.

11.6.7 Utility lines. The erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a non-conforming use; and prior to the placement of fill or excavation of materials within the areas controlled by this section.

11.6.8 Other similar uses not specifically listed when approved by the Council, or its designee, and applicable regulatory agencies.

11.7 Land Development and Platting.

No part of any lot within any wetland shall be platted for residential occupancy or for other uses which will increase the danger to health, life, property or the public welfare. All lots containing land within any wetland shall contain a building site above the regulatory flood plain elevation. All subdivisions shall have water and sewer disposal facilities that comply with the provisions of this section and have road access no lower than two feet below the regulatory flood protection elevation. Whenever a portion of any wetland is located within or adjoins a land area that is being subdivided, the subdivider shall dedicate to the City an adequate perpetual easement over the land within the protected area and along each side of such area for the purpose of improving or protecting the area for drainage or other purposes expressed in this section and other recreational uses, as determined by Council, or its appointed designee. Public or private streets, driveways, drainage openings and culverts shall not be constructed unless the design thereof has been approved by the City, and such structures shall be designed so as not to restrict the flow of water. Subdivision applicants shall provide all certified engineering data, surveys, site plans, flowage calculations and other information as the City may require in order to determine the effects of such development on the affected land and water areas.

11.8 Artificial Obstructions

11.8.1 **Nuisance.** Any filling, alteration, construction or artificial obstruction of any part of any wetland is declared to be and to constitute a public nuisance unless a permit to construct and maintain the obstruction has been obtained in the manner provided herein.

11.8.2 **Removal.** If an artificial obstruction is found after investigation by the City, an order shall be issued to the owner, following ten (10) days written notice and hearing thereon, for removal within a reasonable time as may be prescribed by the condition and type of artificial obstruction. If the owner shall fail to remove the artificial obstruction or if the owner cannot be found or determined,

the City shall have the power to make or cause such removal to be made, the cost of which shall be borne by the owner.

11.9 Full Compliance Required.

No structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this section and other applicable regulations which apply to uses within the jurisdiction of this section.

11.10 Additional Variance Standards.

Requests for variances on land within the Wetland Overlay District shall be administered as outlined in Section 3.4.3 subject to the following additional requirements:

11.10.1 No variance shall be granted which the Council, or its appointed designee, determines will or has a tendency to result in incompatible land uses or which would be detrimental to the protection of surface and ground water supplies.

11.10.2 No variance shall be granted which the Council, or its appointed designee, determines will increase the financial burdens imposed on the community through increased floods and overflow of water onto land areas within the City or onto land areas adjacent thereto.

11.10.3 All variances within the Wetland Overlay District shall be in line with the land use plans and planning objectives of the City, and shall not increase or cause danger to life or property.

11.10.4 The variance, if approved, must be consistent with the City's objective to encourage land uses compatible with the preservation of natural land forms, vegetation, marshes, and wetlands.

12.0 TELECOMMUNICATIONS OVERLAY DISTRICT

12.1. Purpose. The Telecommunications Overlay District is intended to mitigate the potential impacts that cell towers and similar communication infrastructure can have on the character and appearance of the City if left unregulated.

12.1 District Application.

The provisions of Chapter 12 shall apply to all lands within the jurisdiction of the City of the Village of Minnetonka Beach.

12.2 Uses Allowed in the Telecommunications Overlay District.

The following uses, subject to permitting as may be required by the use tables in Chapter 5.0, may be allowed in the Telecommunications Overlay District:

12.2.1 Telecommunication antennas;

12.2.2 Telecommunication Towers;

12.2.3 Facilities on the same parcel that are incidental to and support the telecommunications antenna or telecommunications tower.

12.3 General Location Requirements.

Telecommunications towers and antennae shall be located in accordance with the following:

12.3.1 In determining whether the installation of a telecommunications tower or telecommunications antenna complies with the Overlay Zoning District regulations, the dimensions of the entire parcel shall control, even though the telecommunications antennae or towers may be located on leased property within the parcel.

12.3.2 In determining whether the installation of a telecommunications tower or antenna complies with the setback and separation requirements established herein, the measurement shall be from the base of the structure or any portion thereof.

A. Telecommunications towers shall be located at least 500 feet from Lake Minnetonka's Ordinary High Water Level of Lake Minnetonka and 40 feet from any Wetland.

B. Antenna located on buildings must be located at least 75 feet or 150% of the antenna's height whichever is greater from the Ordinary High Water Level of Lake Minnetonka.

12.3.3 Telecommunication towers or antennae shall not be located on property that is used for or intended for use as single family resident. Single family homes may not be removed and replaced with a telecommunication tower of antenna.

12.3.4 Except for the City Hall property, telecommunications towers or antennae shall not be located in a public park or property used for public park purposes, on a publicly owned structure or within a public street, trail, railroad or similar public right-of-way.

12.3.5 All telecommunications towers or antennae must be located on a Lot of Record that is considered buildable by this Code. Only one telecommunications tower shall exist at any one time on any one parcel. All parcels shall conform to the minimum requirements of the zoning district.

12.3.6 No tower shall be in excess of a height equal to the distance from the base of the antenna and/or tower to the nearest overhead electrical power line which serves more that one dwelling or place of business.

12.3.7 Telecommunications towers or antennae shall be located at least 300 feet from a parcel of property which has on it a structure listed on the National Register of Historic Places. Telecommunications

towers shall be located at least 300 feet of a Historic District as designated by the City Council and approved by the United States Department of Interior, National Park Service.

12.3.8 Telecommunications towers or antennae not located on a building shall be located a distance of at least 150% of the height of the tower from a school, school bus stop, park, day care center, single family home and health care facility, place of public assembly or the Lafayette Club Clubhouse.

12.3.9 Telecommunications towers or antennae must be located a distance of at least 150% of the height of the tower, from all property lines.

12.3.10 Telecommunications towers or antennae shall not be located between a principal structure and a public street except on a lot with road frontage on more than three sides. In which case the telecommunications tower or antenna shall be located in the rear yard.

12.3.11 A telecommunications tower or antenna setback may be reduced or its location in relation to a public street varied, at the sole discretion of the City Council to allow the integration of a tower into an existing or proposed structure such as a steeple, building elevator tower, light standard, or similar accessory structure.

12.4 Co-location Requirements

12.4.1 In determining whether to permit by Zoning Overlay District Amendment a new telecommunications tower or antenna, the City Council shall require the applicant to exhaust all possible options and avenues for sharing space on an existing tower or alternative support structure. The applicant must demonstrate to the satisfaction of the City Council that they appropriately investigated this option and have made a finding that no alternative exists for the location of the proposed Telecommunications Tower.

12.4.2 All new telecommunication towers shall be built with the capacity to accommodate multiple co-location of antennae. Antenna placed on alternative support structures shall be done in such a way as to not preclude the placement of other antennae.

12.4.3 The applicant shall submit an affidavit stating that space will be available to future users without regard to feasibility and at a reasonable price. At a minimum, the tower shall accommodate at least four additional antennae if 100 feet or more in height or three additional antennae if between 0 and 100 feet in height.

12.5 Design Standards

12.5.1 All telecommunications towers shall be of a stainless steel mono-pole design unless an alternative design is demonstrated to the City Council's satisfaction to be more complementary to the surrounding environment or as otherwise deemed acceptable to the City Council. In no event are guyed towers permitted.

12.5.2 Any proposed telecommunications tower and/or antennae that is, in any way, determined to be visible from Lake Minnetonka, public street or a residential home shall be effectively camouflaged.

12.5.3 Telecommunications towers shall be subject to any applicable standards of the FAA, and be painted so as to reduce the visual obtrusiveness of the structure.

12.5.4 The design of the buildings and related structures associated with the operation of the telecommunications tower or antenna shall use materials, colors, textures, screening, and landscaping that will enable the telecommunications tower and its associated facilities to blend with the natural setting as well as the surrounding built environment including but not limited to:

A. Landscaping, at least six feet in height with a combination of plant materials shall be established around 75% of the base of the tower and accessory structure. Detailed landscape specifications shall provide a 75% opaque continuous screening year around within three years of planting.

B. To the maximum extent possible, the natural vegetation shall remain undisturbed.

12.5.5 If a telecommunications antenna is installed on an alternative support structure other than a telecommunications tower, the antenna and other supporting electrical and mechanical equipment must be of a color that is identical to, or closely compatible with, the color of the supporting structure, so as to make the telecommunications antenna and related equipment as visually unobtrusive as possible. The antenna proposed for buildings or other alternative support structures shall be effectively camouflaged or concealed in a manner that architecturally complements the building to minimize any adverse visual impacts.

12.5.6 All lighting shall meet FAA and FCC requirements and not result in glare on adjacent property. Unless otherwise required by the FAA or FCC there shall be no lighting on the tower of antenna. In the event that the FAA or FCC require lighting it shall be the minimum possible. Flashing or strobe lights are not allowed because of the residential nature of the City. Minimal security lighting is allowed around the base of the structure and as needed for temporary emergency purposes. Such lighting shall conform to the City Code of Ordinances.

12.5.7 The height of the telecommunications tower and antennae shall be the minimum possible to ensure that adequate services can be provided within the designated coverage area. In determining the appropriate height, consideration will be given to the topography of the site and surrounding area, sighting of the antenna, antenna design, surrounding tree cover, and structures.

12.5.8 Permanent platforms or structures, exclusive of antennae, that increase off-site visibility are not allowed.

12.5.9 No signs, advertising or banners of any kind shall be permitted on the telecommunications tower and other telecommunications facilities. Warning or equipment maintenance information signs are allowed as reviewed and approved by the City Council.

12.5.10 Any ground-mounted equipment shall be appropriately screened from public view.

12.5.11 Telecommunications towers and antennae shall be certified by a qualified and licensed Professional Engineer, Registered in Minnesota and approved by the City to conform to the latest structural standards including wind and ice loading requirements of the International Building Code and the Electronics Industry Association.

12.5.12 Telecommunications towers and antennae shall be designed to conform with accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

12.5.13 Every telecommunications tower and antennae affixed to the ground shall include structural components to prevent climbing of the tower by unauthorized persons.

12.5.14 Telecommunications towers shall be designed to collapse only upon the parcel of property upon which it is situated.

12.5.15 Adequate access and parking shall be provided that does not increase the hardcover of the parcel by more than 30% of the lot area and is paved in a way to prevent erosion into a Public Body of Water or onto adjacent property.

12.6 Operating Performance Standards

12.6.1 If a telecommunications tower or any antenna on a separate structure ceases to operate such that, in the case of the tower, the antenna is not operational for a period of six consecutive months, then the telecommunications tower will be deemed to be abandoned. The owner/operator will be given six months after being provided with written notice to either reactivate, or dismantle and remove the tower. In the case of reactivation, it must remain fully operational for the next six months or it will again be determined to be abandoned and then it must be removed within thirty days of notice. If the tower or antenna is not removed within the appropriate specified time period, then the City may remove it and such costs of removal shall be assessed against the property. The applicant and property owner shall give right of access to the City for removal of an abandoned tower or antenna. The property owner shall agree to assessing the cost of removal to the property.

12.6.2 Unused portions of telecommunications towers or antenna above a manufactured connection shall be removed within six months of antenna relocation.

12.6.3 The applicant or operator of the telecommunications tower and/or antenna shall notify the City within fourteen days of any change in its respective operational status. Failure to properly notify shall be grounds for revocation immediate removal of the telecommunications tower and/or antenna.

12.6.4 After removal of the telecommunications tower, the site shall be restored to its original condition or to a condition otherwise suitable to the City Council.

12.6.5 In the event the telecommunications tower or antenna becomes a nuisance, the City may act to abate the nuisance and require the removal of the tower at the property owner's expense.

12.6.6 Property that is leased for the purposes of accommodating a telecommunications tower or antenna shall require that the property owner sign an affidavit attesting to the fact that they have read and understand the requirements of this Ordinance. The applicant shall submit this affidavit at time of application and whenever the property changes ownership. Such affidavit shall become part of the chain of title.

12.6.7 The property owner must agree in advance of processing the application for an Overlay Zoning District Amendment for a telecommunications tower on the property to assume all obligations of the applicant including the cost of removing the tower or antenna, and removal and eradication of all hazardous material.

A. Should the applicant or property owner not remove the hazardous material, tower, or antenna as provided in this ordinance the City shall have the right but not obligation to remove the tower or antenna and levy an Assessment as a nuisance for all costs including attorney fees to the property owner.

B. Should the antenna or communication tower operator engage in any activity that violates these standards or endangers the public health, safety and welfare, the City Council may require the removal of the tower or antenna from its current site. The City Staff will provide notice of violation to the operator and property owner, who may appeal, in writing and within thirty days, to the City Council.

C. The City may require immediate abatement and removal of any telecommunications tower, antenna or other such device if it is deemed to be an immediate threat to the public health, safety and welfare or it deems it a hazardous structure.

12.7 Airspace Protection

12.7.1 No Telecommunication Tower, Antenna or other structure shall exceed 500 feet in height.

12.7.2 The City shall notify the Federal Aviation Administration and the Minnesota Department of Transportation on the appropriate form of any construction including Antenna and Telecommunication Towers that are more than 200 feet in height above ground level of its site.

12.7.3 No permits may be issued for construction that is more than 200 feet in height until 30 days after the required notification to the Federal Aviation Administration and the Minnesota Department of Transportation has occurred, and after the City has sent an executed copy of FAA Form 7460-2 Notice of Actual Construction or Alteration to the Federal Aviation Administration once construction on the structure commences.

13.0 SHORELAND OVERLAY DISTRICT

13.1.1 Shoreland District

A. Statutory Authorization. Incorporated into Section 1.2 Statutory Authority.

B. Purpose. Incorporated into Section 1.7 Shoreland Community Responsibility.

C. District Application. Incorporated into Section 1.6.3

D. Notifications to the Department of Natural Resources Incorporated into Sections 3.4.2(D) Zoning Ordinance Text and Zoning Map Amendments Review, Section 3.4.3(D)(3) Variances Review, and Section 3.4.4(D) Conditional Use Permits Review.

E. Shoreland Classification System Incorporated into Section 1.6.1 and 1.6.2

F. Uses and Development Standards

(1) In General. Moved provisions into common code and out of overlay.

(2) Bluff Impact Zones. Incorporated into 6.2.3

(3) Steep Slopes. Incorporated into 6.2.4

(4) Specific Design Criteria for Lakeshore lots. Incorporated into 6.2.7

(5) Significant Historic Sites. Incorporated into Section 6.2.2

(6) Water-oriented Accessory Structures or Facilities. Incorporated into 6.2.7

(7) Placement and Design of Roads, Driveways, Parking Areas, and Other Improvements Incorporated into Section 7.5

G. Stormwater Management. Incorporated into 6.2.10

H. Shoreland Alterations. Incorporated into 8.1

I. Nonconformities. Incorporated into Section 1.11

J. New Controlled Access or Recreational Lots. Incorporated into Section 6.2.11