

10-8-10: SHORELAND OVERLAY DISTRICT:

(A) Administration:

1. Permits Required:

a. A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by subsection (C)3 of this section. Application for a permit shall be made to the city manager, or his or her designee, on the forms provided. The application shall include the necessary information so that the city manager, or his or her designee, can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

b. A permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by subsection (C)8 of this section, shall be either brought into compliance or eliminated according to the provisions of [title 7, chapter 11](#) of this code.

2. Certificate Of Zoning Compliance: The city manager, or his or her designee, shall issue a certificate of zoning compliance for each activity requiring a permit as specified in subsection (A)1 of this section. This certificate shall specify that the use of land conforms to the requirements of this chapter. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this chapter and shall be punishable as provided in subsection [10-8-4\(D\)](#) of this chapter.

3. Variances:

a. Variances may only be granted in accordance with Minnesota statutes 462 and section [10-5-4](#) of this title as applicable. A variance may not circumvent the general purposes and intent of this chapter. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. In considering a variance request, the city council must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties. (Ord. 621, 5-20-1996)

b. In order to preserve water quality, the city will require a natural vegetated buffer strip on riparian lots as a mitigation measure with any variances granted. This includes variances to the OHWL setback, other setbacks and yard requirements, impervious surface, etc. The buffer strip must run parallel to and extend landward from the OHWL, with an average width of no less than twenty feet (20'). The buffer strip must be planted with native vegetation as approved by the city, and must not be mowed, cut or fertilized. A pervious twenty foot (20') wide, or twenty percent (20%) of the lot width at the shoreline (whichever is less) walkway or path may be established across the width of the buffer strip to allow access to a beach, dock or other amenity. If a beach is established landward of the OHWL, the buffer strip can be moved further landward to accommodate it.

c. The city council shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the department of natural

resources has formally recommended denial in the hearing record, the notification of the approved variance required in subsection (A)4b of this section shall also include the city council's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

- d. For existing developments, the application for a variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require that a nonconforming sewage treatment system be either brought into compliance or eliminated according to the provisions of [chapter 11](#) of this title. (Ord. 884, 6-2-2003)

4. Notifications To The Department Of Natural Resources:

- a. Copies of all notices of any public hearings and reviews to consider variances, amendments, or conditional and interim uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- b. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional and interim uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten (10) days of final action.

(B) Shoreland Classification System And Land Use Districts:

1. Shoreland Classification System: The public waters of the city have been classified in this subsection consistent with the criteria found in Minnesota regulations part 6120.3300, and the protected waters inventory map for Dakota County, Minnesota.

- a. The shoreland area for the water bodies listed in subsections (B)1b and (B)1c of this section shall be as defined in section [10-8-2](#) of this chapter and as shown on the official zoning map. The shorelands of the city are hereby designated as shoreland overlay district.

b. Lakes:

<u>MnDNR ID No.</u>	<u>MnDNR Classification</u>	<u>Name</u>
19-0021	Recreational development (RD)	Alimagnet
19-0024	Natural environment (NE)	Wood Park
19-0025	Natural environment (NE)	Keller
19-0027	Recreational development (RD)	Crystal
19-0028	Natural environment (NE)	Twin

19-0032	Natural environment (NE)	Horseshoe
19-0033	Natural environment (NE)	Earley
19-0083	General development (GD)	Black Dog

Note: Sunset Lake does not have a DNR designation. It is not required to be regulated by the MnDNR.

c. Rivers:

<u>Name</u>	<u>Classification</u>	<u>Location</u>
Minnesota River	Transition	35W Bridge to Savage
Minnesota River	Transition	35W Bridge to Eagan
Unnamed Black Dog Lake	Tributary	From: Sect. 24, Twp. 27, RNG. 24W To: Basin 83
One Mile Creek	Tributary	From: Sect. 24, Twp. 27, RNG. 24W To: Sect. 24, Twp. 17, RNG. 24W
Unnamed Tributary	Tributary	From: Sect. 26, Twp. 27, RNG. 24W To: Basin 110

2. Land Use District Descriptions:

a. Criteria For Designation: The land use districts in section [10-6-1](#) of this title, and the delineation of a land use district's boundaries on the official zoning map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan and the following criteria, considerations, and objectives:

- (1) Preservation of natural areas;
- (2) Present ownership and development of shoreland areas;
- (3) Shoreland soil types and their engineering capabilities;
- (4) Topographic characteristics;
- (5) Vegetative cover;

- (6) In water physical characteristics, values, and constraints;
- (7) Recreational use of the surface water;
- (8) Road and service center accessibility;
- (9) Socioeconomic development needs and plans as they involve water and related land resources;
- (10) The land requirements of industry which, by its nature, requires location in shoreland areas; and
- (11) The necessity to preserve and restore certain areas having significant historical or ecological value.

b. Land Use District Descriptions: The land use districts provided in section [10-6-1](#) of this title, and the allowable land uses therein for the given classifications of water bodies, shall be properly delineated on the official zoning map for the shorelands of the city. These land use districts are in conformance with the criteria specified in Minnesota regulations part 6120.3200, subp. 3. (Ord. 621, 5-20-1996)

(C) Zoning And Water Supply/Sanitary Provisions:

1. Lot Area And Width Standards: The lot area standards (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the date of enactment hereof for the lake and river/stream classifications are the following:

a. Lake Standards:

<u>Lot Area (Square Feet):</u>	<u>NE</u>	<u>RD</u>	<u>GD</u>
<u>Lots With Shoreline:</u>			
Single	40,000	20,000	15,000
Single (unsewered)	2 acres	2 acres	2 acres
Duplex	70,000	35,000	26,000
Triplex	100,000	50,000	38,000
Quad	130,000	65,000	49,000
<u>All Others:</u>			

Single	20,000	15,000	10,000
Single (unsewered)	2 acres	2 acres	2 acres
Duplex	35,000	26,000	17,500
Triplex	52,000	38,000	25,000
Quad	65,000	49,000	32,500
<u>Lot Width (Feet):</u>			
<u>Lots With Shoreline:</u>			
Single	125	80	80
Single (unsewered)	200	200	200
Duplex	225	135	135
Triplex	325	195	195
Quad	425	255	255
<u>All Others:</u>			
Single	125	80	80
Single (unsewered)	200	200	200
Duplex	220	135	135
Triplex	315	190	190
Quad	410	245	245
Principal and accessory	150 ¹	75	50

structure setback from OHWL (feet)			
Total impervious surface area	25%	25%	25%
Total building height (feet)	35	35	35

Note:

1. Earley Lake and Keller Lake shall remain at 100 feet from OHWL.

(Ord. 884, 6-2-2003)

- b. River/Stream Lot Width Standards: There are no minimum lot size requirements for rivers and streams. The lot width standards for single, duplex, triplex and quad residential developments for the river/stream classifications are:

	<u>Transition</u>	Tributary
Single	250	100
Duplex	375	150
Triplex	500	200
Quad	625	250

c. Special Provisions:

- (1) Only land above the ordinary high water level of public waters can be used to meet lot area standards. The lot width is the horizontal distance between the side lot lines, measured on a straight line that is as perpendicular to the side lot lines as possible, and that is parallel with the front lot line, as defined in section [10-4-2](#) of this title. The width standard must be met at both the ordinary high water level and at the building line. For lots with irregular front lot lines and/or shorelines, the width shall be measured on a straight line that is as perpendicular to the side lot lines as possible, and that is no closer to the front lot line and/or the shoreline than any portion of the building line and/or the ordinary high water level, respectively. The sewer lot area dimensions in subsection (C)1a of this section can only be used if publicly owned sewer system service is available to the property.
- (2) Subdivisions of duplexes, triplexes, and quads on natural environment (NE) lakes must also meet the following standards:
 - (a) Each building must be set back at least two hundred feet (200') from the ordinary high water level;

- (b) Each building must have public sanitary sewer and water service;
- (c) Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and (Ord. 621, 5-20-1996)
- (d) No more than twenty five percent (25%) of a lake's shoreline can be in duplex, triplex, or quad developments.
- (3) Mooring facilities for seven (7) or more watercraft are prohibited on all lakes. Marinas are only permitted along rivers as regulated by the underlying zoning district.
- d. Structure And On Site Sewage System Setbacks (In Feet) From Ordinary High Water Level¹:
Setbacks are measured from the closest point of the OHWL to the closest point of the structure.

	Structure		Sewage Treatment System
	<u>Unsewered</u>	<u>Sewered</u>	
<u>Lakes</u>			
Natural environment (NE)	150	150	150
Recreational development (RD)	100	75	75
General development (GD)	75	50	50
<u>Rivers</u>			
Transition	150	150	100
Tributary and urban	100	50	75

Note:

1. 1 water oriented accessory structure designed in accordance with subsection (C)2 of this section may be set back a minimum distance of 20 feet from the ordinary high water level.

(Ord. 884, 6-2-2003)

e. Additional Structure Setbacks: The following additional structure setbacks apply, regardless of the classification of the water body:

<u>Setback From</u>	<u>Setback (In Feet)</u>
Top of bluff	30
Unplatted cemetery	50
Right of way line of federal, state, or county highway	50
Right of way line of town road, public street, or other roads or streets not classified	30

(Ord. 1196, 4-6-2010)

- f. Bluff Impact Zones: Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.
- g. Uses Without Water Oriented Needs: Uses without water oriented needs must be located on lots or parcels without public water frontage, or, if located on lots or parcels with public water frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions. (Ord. 621, 5-20-1996)
2. Design Criteria For Structures:
- a. High Water Elevations: Structures must be placed in accordance with floodplain and the Burnsville water resources management plan (WRMP) regulations applicable to the site. (Ord. 1196, 4-6-2010)
- b. Water Oriented Accessory Structures: Each lot may have one water oriented accessory structure and one open play structure such as a swing set or slide, but not a swimming pool or sport court not meeting the normal structure setback in subsection (C)1a of this section if this water oriented accessory structure complies with the following provisions:
- (1) The structure or facility must not exceed ten feet (10') in height, exclusive of safety rails, and cannot occupy an area greater than one hundred twenty (120) square feet. The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
 - (2) The setback of the structure or facility from the ordinary high water level must be at least twenty feet (20') and the setback from the side lot line shall be at least ten feet (10');
 - (3) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
 - (4) Detached decks must not exceed eight feet (8') above grade at any point as measured to the floor of the deck; and
 - (5) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities. (Ord. 884, 6-2-2003)

c. Stairways, Lifts, And Landings: Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:

- (1) Stairways and lifts must not exceed four feet (4') in width on residential lots. Wider stairways may be used for commercial properties and public open space recreational properties;
- (2) Landings for stairways and lifts on residential lots must not exceed thirty two (32) square feet in area. Landings larger than thirty two (32) square feet may be used for commercial properties and public open space recreational properties;
- (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 subsection (C)2c(1)_ (5) of this Section are complied with in addition to the requirements of Minnesota Regulations chapter 1340.

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

e. Steep Slopes: The City Manager, or his or her designee, must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on conditions.

f. Height Of Structures: All structures in residential districts, except churches, must not exceed thirty five feet (35') in height.

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

a. Vegetation Alterations:

(1) Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by subsection [10-8-10\(C\)4](#) of this Section are exempt from the vegetation alteration standards that follow.

(2) Removal or alteration of vegetation is allowed subject to the following standards:

- (a) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as an interim use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
- (b) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - i. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - ii. Along rivers, existing shading of water surfaces is preserved; and
 - iii. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
- b. Topographic Alterations/Grading And Filling:
 - (1) Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this Section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
 - (2) Public roads and parking areas are regulated by subsection [10-8-10\(C\)4](#) of this Section.
 - (3) Notwithstanding subsection (C)3b(1) and (2) of this Section, a grading and filling permit shall be required for:
 - (a) The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
 - (b) The movement of more than ninety (90) cubic yards of material outside of steep slopes and shore and bluff impact zones.
 - (4) The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional and interim use permits, variances and subdivision approvals:
 - (a) Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland. This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, State, or Federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant shall be so advised:
- i. Sediment and pollutant trapping and retention;

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

4. Placement And Design Of Roads, Driveways, And Parking Areas:

- a. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical material.
- b. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
- c. Public and private watercraft access ramps, approach roads, and access related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subsection are met. For private facilities, the grading and filling provisions of subsection (C)3b of this section must be met. (Ord. 621, 5-20-1996)

5. Storm Water Management:

- a. General Standards: Land development shall comply with the water resources management plan as regulated in section [10-8-11](#) of this chapter.
- b. Impervious Surface: A city of Burnsville impervious surface worksheet must be submitted with all planning development applications or building permits or land activity that increases impervious surface to a level that exceeds twenty five percent (25%) of the lot. The worksheet will be reviewed by the city engineer to ensure compliance with this chapter.
 - (1) Impervious surface coverage limits shall apply to all riparian lots and nonriparian lots where fifty percent (50%) or more of the lot area lies within the shoreland overlay district. If a lot is subject to the impervious surface coverage limits, the entire lot must comply with the limits.
 - (2) Maximum impervious surface coverage of all lots is twenty five percent (25%) of the lot area; however, impervious surface may be increased as follows if the proposed development mitigates additional storm water runoff to a level consistent with twenty five percent (25%) impervious surface coverage under a 1.5 inch rainfall design storm:

<u>Zoning District</u>	<u>Permitted Maximum Impervious Surface With Mitigation</u>	<u>Conditional Use Permit Required: Maximum Impervious Surface With Mitigation</u>
R-1, R-1A and R-2	30 percent	n/a
R-3A, R-3B, R-3C and R-3D	30 percent	50 percent
B-1, B-2, B-3, B-4	30 percent	75 percent
I-1, I-2, I-3, GIM, and GIH	30 percent	75 percent

(Ord. 884, 6-2-2003)

6. Special Provisions For Commercial, Industrial, Public/Semipublic, And Extractive Uses And Mining Of Metallic Minerals And Peat:

a. Standards For Commercial, Industrial, Public, And Semipublic Uses:

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

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

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

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

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

ii. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information, and to comply with the requirements of chapter 30 of this title. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet (10') above the ground, and must not exceed thirty two (32) square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

iii. Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. All outside lighting must comply with section [10-7-36](#) of this title. This does not preclude use of navigational lights.

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

b. Extractive Use Standards:

(1) Site Development And Restoration Plan: An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to

mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

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

c. Mining Of Metallic Minerals And Peat: Mining of metallic minerals and peat, as defined in Minnesota statutes sections 93.44 to 93.51, may be allowed as an interim use provided the provisions of Minnesota statutes sections 93.44 to 93.51, and [chapter 9](#) of this title are satisfied.

7. Conditional And Interim Uses: Conditional and interim uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional and interim uses established in sections [10-5-5](#) and [10-5-5A](#) of this title. The following additional evaluation criteria and conditions apply within shoreland areas:

a. Evaluation Criteria: A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:

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

(2) The visibility of structures and other facilities as viewed from public waters is limited;

(3) The site is served by public water and sanitary sewer service; and

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

b. Conditions Attached To Conditional And Interim Use Permits: The city council, upon consideration of the criteria listed above and the purposes of this chapter, shall attach such conditions to the issuance of the conditional and interim use permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

(1) Increased setbacks from the ordinary high water level;

(2) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted;

(3) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas; and (Ord. 621, 5-20-1996)

(4) Buffer strips on riparian lots that run parallel to and extend landward from the OHWL, with an average width of no less than twenty feet (20'). The buffer strip must be planted with native vegetation as approved by the city, and must not be mowed, cut or fertilized. A pervious twenty foot (20') wide, or twenty percent (20%) of the lot width at the shoreline (whichever is less) walkway or path may be established across the width of the buffer strip to allow access to a beach, dock or other amenity. If a beach is established landward of the OHWL, the buffer strip can be moved further landward to accommodate it. (Ord. 884, 6-2-2003)

8. 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 provided with an adequate method of sewage treatment, as follows:

(1) Publicly owned sewer systems must be used where available.

(2) All private sewage treatment systems must meet or exceed the provisions of [chapter 11](#) of this title and the Minnesota pollution control agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards", chapter 7080, a copy of which is hereby adopted by reference and declared to be a part of this chapter.

(3) On site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in subsection (C)1d of this section.

(4) All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the following evaluation criteria. If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on site field investigations.

Evaluation Criteria:

(a) Depth to the highest known or calculated ground water table or bedrock;

(b) Soil conditions, properties, and permeability;

(c) Slope; and

(d) The existence of lowlands, local surface depressions, and rock outcrops.

(5) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with subsection (D)10 of this section. (Ord. 621, 5-20-1996)

(D) Nonconformities: Within shoreland areas, all legally established nonconformities as of May 20, 1996, may continue, but they shall be managed according to applicable state statutes and section [10-7-2](#) of this title. The use of nonconforming lots of record and the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in shoreland areas shall also be subject to the following:

1. Destruction Of Nonconforming Structure: When a nonconforming structure in the shoreland district with less than fifty percent (50%) of the required setback from the water is destroyed by fire or other peril to greater than fifty percent (50%) of its estimated market value, as indicated in the records of the county assessor at the time of damage, 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.

2. Nonconforming Lot Allowed As A Building Site Without Variance: A nonconforming single lot of record located within a shoreland district may be allowed as a building site without variance from lot size requirements, provided that:
 - a. All structure and septic system setback distance requirements can be met;
 - b. A type 1 sewage treatment system consistent with Minnesota rules, chapter 7080, can be installed or the lot is connected to a public sewer;
 - c. The impervious surface coverage does not exceed the impervious surface coverage identified in subsection (C)5 of this section; and
 - d. The use is permitted in the underlying zoning district.
3. Shoreland Districts Not Surrounding Recreational Development Lakes: For all shoreland districts except said districts surrounding recreational development lakes, if in a group of two (2) or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
 - a. The lot must be at least sixty six percent (66%) of the dimensional standards for the lot width and lot size for the shoreland classification consistent with subsection (C) of this section;
 - b. The lot must be connected to a public sewer, if available, or must be suitable for the installation of a type 1 sewage treatment system consistent with Minnesota rules, chapter 7080 and city controls;
 - c. The impervious surface coverage must not exceed twenty five percent (25%) of each lot; and
 - d. Development of the lot must be consistent with the comprehensive plan.
4. Contiguous Lots Under Same Ownership Within Shoreland Area Of Recreational Development Lakes: Contiguous lots under the same ownership as of January 1, 2004, within the shoreland area of recreational development lakes may be considered as separate parcels of land for the purposes of sale or development if they meet all of the following criteria:
 - a. The average lot area, as measured above the OHWL, of the contiguous lots meets or exceeds twelve thousand (12,000) square feet.
 - b. Each lot is at least seventy five feet (75') wide as measured at the OHWL and building setback line.
 - c. Impervious surface coverage of the lots does not exceed twenty five percent (25%) or thirty percent (30%) with mitigation through the means of a twenty foot (20') buffer of native vegetation along shore.
 - d. No principal structures are located within the shore impact zone.
5. Combination Of Lots Not Subject To Subsection (D)3 Of This Section: A lot subject to subsection (D)3 of this section not meeting the requirements of subsection (D)3 of this section must be combined with one or more contiguous lots so they equal one or more conforming lots as much as possible.

6. Sale Of Contiguous Nonconforming Lots With Habitable Residential Dwellings: Notwithstanding subsection (D)3 of this section, contiguous nonconforming lots of record in shoreland districts under common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for, or served by, a sewage treatment system consistent with the requirements of Minnesota statutes section 115.55 and Minnesota rules, chapter 7080 (subsurface sewage treatment systems), or connected to a public sewer.

7. Requirements Of Property Owner: In evaluating all variances, zoning and building permit applications, or conditional use requests, the property owner shall be required to address, when appropriate, stormwater runoff management, reducing impervious surfaces, increasing setback, restoration of wetlands, vegetative buffers, sewage treatment and water supply capabilities, and other conservation designed actions.

8. Separation Of Portion Of Conforming Lot: A portion of a conforming lot may be separated from an existing parcel as long as the remainder of the existing parcel meets the lot size and sewage treatment requirements of the zoning district of a new lot and the newly created parcel is combined with an adjacent parcel.

9. Additions/Expansions To Nonconforming Structures:

a. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of subsection (C) of this section. Any deviation from these requirements must be authorized by a variance pursuant to subsection (A)3 of this section and section [10-5-4](#) of this title.

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

(1) The structure existed on the date the structure setbacks were established;

(2) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

(3) The deck encroachment toward the ordinary high water level does not exceed fifteen percent (15%) of the existing setback of the structure from the ordinary high water level or does not encroach closer than thirty feet (30'), whichever is more restrictive; and

(4) The deck is constructed primarily of wood, and is not roofed or screened.

10. Nonconforming Sewage Treatment Systems:

a. A sewage treatment system not meeting the requirements of subsection (C)8 of this section shall be considered to be nonconforming and must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

b. The city council has by formal resolution notified the commissioner of its program to identify nonconforming sewage treatment systems. The city of Burnsville will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of

time which will not exceed two (2) years. Sewage systems that do not meet the requirements of subsection (C)8 of this section and the requirements of [chapter 11](#) of this title shall be considered to be nonconforming. Systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota pollution control agency's chapter 7080 for design of on site sewage treatment systems, shall also be considered nonconforming. (Ord. 1196, 4-6-2010)

(E) Subdivision/Platting Provisions:

1. Land Suitability: Each lot created through subdivision must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the city shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near shore aquatic conditions unsuitable for water based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
2. Consistency With Other Controls: Subdivisions must conform to all official controls of the city. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with subsections (C)1 and (C)8 of this section can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of subsection (C)1 of this section, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two (2) standard soil treatment systems. Lots that would require use of holding tanks must not be approved.
3. Information Requirements: Sufficient information must be submitted by the applicant for the city to make a determination of land suitability. The information shall include at least the following:
 - a. Topographic contours at ten foot (10') intervals or less from United States geological survey maps or more accurate sources, showing limiting site characteristics;
 - b. The surface water features required in Minnesota statutes section 505.02, subdivision 1, to be shown on plats, obtained from United States geological survey quadrangle topographic maps or more accurate sources;
 - c. Adequate soils information to determine suitability for building and on site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
 - d. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
 - e. Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and

- f. A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
4. Dedications: When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
5. Platting: All subdivisions that create five (5) or more lots or parcels that are two and one-half ($2\frac{1}{2}$) acres or less in size shall be processed as a plat in accordance with Minnesota statutes chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after this ordinance was adopted unless the lot was approved as part of a formal subdivision. (Ord. 621, 5-20-1996)