

## ORDINANCE NO. 1550

BEING AN ORDINANCE AMENDING ORDINANCE NO. 1490, CITY CODE OF 2005 RELATING TO THE PUBLIC AND OPEN SPACE ZONING DISTRICT IN THE CITY OF COLUMBIA HEIGHTS

The City of Columbia Heights does ordain:

Chapter 9, Article I of the Columbia Heights City Code, is proposed to include the following additions.

### **§9.113 OVERLAY DISTRICTS.**

#### *(C) Shoreland Management Overlay District.*

##### *(1) Purpose.*

(a) The unregulated use of shorelands in the city affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise use and development of shorelands of public waters.

(b) Statutory authorization. These shoreland regulations are adopted pursuant to the authorization and policies contained in Minn. Stat. Ch. 103F, Minnesota Regulations, Parts 6120.2500 through 6120.3900, and the planning and zoning enabling legislation in Minn. Stat. Ch. 462.

(c) Jurisdiction. The provisions of this Code shall apply to shorelands of the public water bodies as classified in Section 9.113 (C)(4)(b) of this Code. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this Code.

(d) Compliance. The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the grading and filling of any shoreland area; and the cutting of shoreland vegetation shall be in full compliance with the terms of this Code and other applicable regulations.

(e) District application. The shoreland overlay district shall be superimposed (overlaid) upon all the zoning districts as identified in Chapter 9 of this Code as existing or amended by the text and map of this Code. The regulations and requirements imposed by the shoreland overlay district shall be in addition to those established by the base zoning district, which jointly apply. Under joint application of the districts, the more restrictive requirements shall apply.

(f) Exemptions.

1. A structure or use which was lawful before adoption of this article, but which is not in conformity with the provisions of the Shoreland Overlay District, may be continued subject to Section 9.105 of this Code.

2. A property located within the Shoreland Overlay District that does not drain into a body of water listed in Section 9.113 (C)(4)(b).

(2) *District Boundaries.* The boundaries of the shoreland overlay district within the city consist of the first tier of riparian lots abutting a protected lake or tributary identified in Section 9.113 (C)(4)(b) of this Code. The specific boundaries of the Shoreland Overlay District are shown on the official Columbia Heights Shoreland Overlay District Map in the Columbia Heights Zoning Code.

(3) *Definitions.* For the purpose of this Chapter, certain terms and words are hereby defined: Words use in the present tense shall include the future; words in the singular include the plural, and the plural the singular; the word “building” shall include the word “structure”; and the word “lot” shall include the word “plot”; and the word “shall” is mandatory and not directory; and the word “including” shall mean “including, but not limited to”.

For the purpose of this district, the following definitions shall apply:

(a) *Accessory Building.* A subordinate building or use, which is located on the same, lot as the principal building or use and is necessary or incidental to the conduct of the principal building or use.

(b) *Commission.* The City of Columbia Heights Planning Commission.

(c) *Commissioner.* The Commissioner of the Department of Natural Resources of the State of Minnesota.

(d) *Council.* The Columbia Heights City Council.

(e) *Development.* The making of any material change in the use or appearance of any structure of land including reconstruction; alteration of the size of any structure; alteration of the land; alteration of a shore or bank of a river, stream, lake or pond; a commencement of drilling (except to obtain soil samples); mining or excavation; demolition of a structure; clearing of land as an adjunct to construction; deposit of refuse, solid or liquid waste, or fill on a parcel of land; the dividing of land into two (2) or more parcels.

(f) *Impervious Surface.* A constructed hard surface that either prevents or retards the entry of water into the soil, and causes water to run off the surface

in greater quantities and at an increase rate of flow than existed prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt roads and gravel areas.

(g) *Lot Coverage.* The amount of impervious surface on a lot.

(h) *Ordinary High Water Level.* Minnesota State Statute 103G.005, subdivision 14 defines ordinary high water level as the boundary of waterbasins, watercourses, public waters, and public waters wetlands and:

1. the ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominately aquatic to predominately terrestrial;

2. for watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and

3. for reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

(i) *Shoreland.* Shoreland means land located within the following distances from the ordinary high water elevation of public waters:

1. land within 1,000 feet from the normal high watermark of a lake, pond, or flowage; and

2. land within 300 feet if a river or stream or the landward side of a floodplain delineated by ordinance on the river or stream, whichever is greater.

(j) *Shore Impact Zone.* The area between the ordinary high water mark and fifty (50) feet inland from the ordinary high water mark.

(k) *Structure.* Anything constructed or erected which requires location on or underground or attachment to something having location on or underground. This includes an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, whether of a temporary or permanent character.

(4) *Shoreland Classification System.*

(a) Public waters. The public waters of Columbia Heights have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the DNR Protected Waters Inventory Map for Anoka County, Minnesota.

(b) Official Map. The shoreland permit district for the waterbodies listed below shall be shown on the Columbia Heights Map.

<i>Recreational Development Lakes</i>	<i>Protected Waters Inventory I.D. #</i>
Silver Lake	83P
<i>General Development Lake</i>	<i>Protected Waters Inventory I.D. #</i>
Sullivan Lake	80P
Highland Lake	79P
Hart Lake	81P
Clover Pond	686W
LaBelle Pond	687P

(5) *Administration.*

(a) Building Permit Required. A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), and those grading and filling activities not exempted by this Code that occur within the shoreland district. Application for a building permit shall be filed with the Zoning Administrator or any staff persons designated by the City Manager on an official application form of the City, accompanied by a fee as set forth in Chapter 6, Article II of the City Code. Where required by law, the building permit application shall be forwarded to the applicable watershed district for review and comment. The application shall include the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use.

(b) Variance. Variances may only be granted in accordance with Section 9.104 (G) of this Code. A variance may not circumvent the general purposes and intent of this Code. No variance may be granted that would allow any use that is prohibited in the underlying zoning district in which the subject property is located.

(c) Conditional Use Permit. Conditional Use Permits may only be granted in accordance with Section 9.014 (H) of this Code. Conditional Use Permits are required to ensure specific development standards within the Shoreland Overlay Districts.

(d) Notifications to the Department of Natural Resources.

1. *Public Hearings.* Copies of all notices of any public hearings to consider variances, amendments, conditional uses, or special uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days prior to the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

2. *Approval.* A copy of approved amendments and subdivisions/plats, and final decisions granting variances and conditional use permits under local shoreland management controls must be sent by the City to the commissioner or the commissioner's designated representative and postmarked within ten days of the final action.

(6) *Land Use District Descriptions.*

(a) Allowed land uses within the shoreland district shall be determined by the underlying zoning district, as listed within Chapter 9 of the City Code.

(7) *Lot Area and Width Standards.*

(a) Lot area and width standards for residential development shall be regulated per the underlying zoning district in Chapter 9 of the City Code.

(8) *Placement, Design, and Height of Structures.*

(a) Placement of structures on lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone. Structures shall be located as follows:

1. *Required Setbacks.* All required rear yard, side yard and front yard setbacks shall be met per the underlying zoning district.

2. *Ordinary High Water Level Setback.* Structure setbacks (in feet) from the ordinary high water level are:

<u>Classes of Public Waters</u>	<u>Structure Setbacks</u>
General Development Lake	50 feet
Recreational Development Lake	75 feet

3. *Height of Structures.* Maximum allowable height for all structures shall be regulated per underlying zoning districts in Chapter 9 of the City Code.

(b) 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.

1. *Vegetation alteration.* Removal or alteration of vegetation is allowed subject to the following standards:

a. Intensive vegetation clearing within the shore impact zones and on steep slopes is not allowed.

b. In shore 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) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards and the removal of plants deemed noxious under the Minnesota Noxious Weed Law.

2. *Building permit.* Grading and filling and excavations necessary for the construction of structures and driveways under validly issued building permits for these facilities do not require the issuance of a separate shoreland grading and filling permit.

3. *Conditional Use Permit.* Notwithstanding (2) above, a Conditional Use Permit will be required for those properties located in the Shoreland Overlay District for:

a. Placement, removal or grading of more than 250 cubic yards of earthen material on developed property zoned R-1, R-2A or R-2B.

b. Placement, removal or grading of more than 500 cubic yards of earthen material on undeveloped property zoned R-1, R-2A or R-2B.

c. Placement, removal or grading of more than 750 cubic yards of earthen material on property zoned R-3, R-4 or LB.

d. Placement, removal or grading of more than 1,000 cubic yards of earthen material on property zoned GB, CBD, I-1, I-2, MXD, or PO.

4. *Land alteration permit.* Notwithstanding (2) above, a land alteration permit will be required for:

a. The movement of more than ten cubic yards of material on steep slopes or within shore impact zones.

b. The movement of more than 50 cubic yards of material outside of steep slopes and shore impact zones.

4. *Conditions.* The following considerations and conditions must be adhered to during the issuance of building permits, land alteration permits, variances, conditional use permits, and subdivision approvals:

a. Grading or filling in any type 2-8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland (This evaluation shall 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):

- (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.
- (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 create finished slopes of less than 3:1 slope.

h. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minn. Stat. § 103G.245.

i. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties.

j. Placement of natural rock rip rap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the rip rap is within ten (10) feet of the ordinary high water level, and the height of the rip rap above the ordinary high water level does not exceed three (3) feet. Must be done in accordance with other State and Federal regulations. A permit from the DNR is required.

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 written authorization has been obtained from the Minnesota Department of Natural Resources approving the proposed connection to public waters.

(c) Stormwater management. The following general and specific standards shall apply:

1. *General standards.*

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

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

c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be



used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

2. *Specific standards.*

a. Impervious surface lot coverage shall not exceed thirty-five percent (35%) of the lot area for all zoning districts with exception of the CBD, Central Business District in which impervious surface lot coverage shall not exceed ninety percent (90%). These requirements may be amended through the variance process and shall comply with the following standards:

(i) All structures, additions or expansions shall meet setback and other requirements of this Code.

(ii) The lot shall be served with municipal sewer and water.

(iii) The lot shall provide for the collection and treatment of stormwater in compliance with Chapter 9 of the City Code if determined that the site improvements will result in increased runoff directly entering a public water. All development plans shall require review and approval by the City Engineer and the underlying watershed district.

(iv) Measures will be taken for the treatment of stormwater runoff and/or prevention of stormwater from directly entering a public water. The measures may include, but not limited to the following:

A. Appurtenances as sedimentation basins, debris basins, desilting basins, or silt traps.

B. Installation of debris guards and microsilt basins on store sewer inlets.

C. Use where practical, oil skimming devices or sump catch basins.

D. Direct drainage away from the lake and into pervious, grassed yards through site grading, use of gutters and down spouts.

E. Construction of sidewalks of partially pervious raised materials such as decking, which has natural earth or other pervious material beneath or between the planking.

F. Use grading and construction techniques that encourage rapid infiltration, e.g., sand and gravel under impervious materials with adjacent infiltration swales graded to lead into them.

G. Install berms, water bars, or terraces, which temporarily detain water before dispersing it into the pervious area.

b. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that the constructed facilities are designed and installed consistent with the field office technical guide for the local soil and water conservation districts.

c. Newly constructed stormwater outfall to public waters must provide for filtering or settling or suspended solids and skimming or surface debris before discharge.

3. *Nonconformities.* All legally established nonconformities as of the date of this section may continue, but they will be managed according to Section 9.105 of this Code with the following exceptions:

a. Decks are allowed as a conforming use provided all of the following criteria and standards are met:

(i) The principal structure existed on the date the structure setbacks were established.

(ii) No other reasonable location for the deck exists.

(iii) The deck encroachment toward the ordinary high water level maintains a minimum setback in accordance with applicable code sections and a maximum encroachment of ten (10) feet into the Shore Impact Zone.

(9) *Public Nuisance: Penalty*

(a) Any person who violates any provisions of this district or fails to comply with any of its terms or requirements shall be guilty of a misdemeanor, punishable by a fine of not more than \$500 or imprisoned for not more than ninety (90) days, or both, and in addition shall pay all costs of prosecution and expenses involved in the case. Each day the violation continues shall be considered a separate offence.

(b) Every obstruction or use placed or maintained in the Shoreland Overlay District in violation of this Chapter is hereby declared to be a public nuisance and creation thereof may be enjoined and the maintenance thereof abated by appointed judicial action.

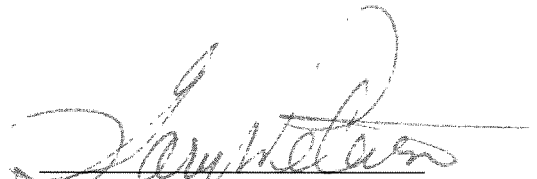
(c) Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent, remedy or remove any violation.

**Section 2:**

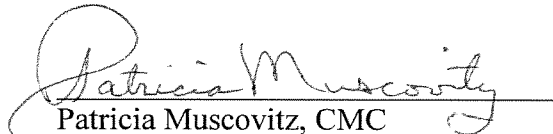
This ordinance shall be in full force and effect from and after 30 days after its passage.

First Reading: June 9, 2008  
Second Reading: June 23, 2008  
Date of Passage: June 23, 2008

Offered by: Diehm  
Seconded by: Kelzenberg  
Roll Call: Ayes: Peterson, Diehm, Kelzenberg Nay: Nawrocki Absent: Williams

  
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Mayor Gary L. Peterson

Attest:

  
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Patricia Muscovitz, CMC  
City Clerk