

**CHAPTER 1096
S, SHORELAND OVERLAY DISTRICT**

SECTION:

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1096-1: STATUTORY AUTHORIZATION AND POLICY:

- A. **Statutory Authorization.** This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103.F, and the planning and zoning enabling legislation in Minnesota Statutes.
- B. **Policy.** The uncontrolled use of shorelands of the City of Montrose, Minnesota affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the State to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the City of Montrose.

1096-2: GENERAL PROVISIONS AND DEFINITIONS:

- A. **Jurisdiction.** The provisions of this Ordinance shall apply to the shorelands of the public water bodies as classified in Section 1096-4 of this Ordinance. Pursuant to Minnesota Regulations, Parts 6120.2500 – 6120.3900, no lake, pond, or flowage less than ten (10) acres in size shall be regulated by this Ordinance. A body of water created by a private use where there was no previous shoreland may, at the discretion of the City, be exempt from this Ordinance.
- B. **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; the cutting of shoreland vegetation; and the subdivision of

land shall be in full compliance with the terms of this Ordinance and other application regulations.

- C. **Enforcement.** The City of Montrose is responsible for the administration and enforcement of this Ordinance. Any violation of the provisions of this Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Ordinance can occur regardless of whether or not a permit is required for a regulated activity pursuant to Section 1096-3.A of this Ordinance.
- D. **Interpretation.** In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
- E. **Severability.** If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall prevail. All other ordinances inconsistent with this Ordinance are hereby repealed to the extent of the inconsistency only.
- F. **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.

1096-3: ADMINISTRATION:

A. Permits Required.

- 1. 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 Section 1096-5.C of this Ordinance. Application for a permit shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can determine the site's suitability for the intended use.
- 2. A permit authorizing an addition to an existing structure shall stipulate that an identified non-conforming sewage treatment system, as defined by the City, shall be replaced with City utilities in accordance with the provisions of this Ordinance.

B. **Certificate of Zoning Compliance.** The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in this Ordinance. This certificate will specify that the use of land conforms to the requirements of this Ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Ordinance and shall be punishable as provided in this Ordinance.

C. **Variances.**

1. Variances may only be granted in accordance with Chapter 1007 of this Ordinance. A variance may not circumvent the general purposes and intent of this Ordinance. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.
2. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section 1096-3.D of this Ordinance shall also include the Board of Adjustment's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.
3. For existing developments, the application for variance shall clearly demonstrate compliance with City sewer and water service requirements.

D. **Notification to the Department of Natural Resources.**

1. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls shall be sent to the 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 shall include copies of the subdivision/plat.
2. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls shall be sent to the Commissioner or Commissioner's designated representative and postmarked within ten (10) days of final action.

1096-4: SHORELAND CLASSIFICATION SYSTEM:

A. **Public Waters.** The public waters of Montrose have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Wright County, Minnesota.

B. **Official Map.** The shoreland area for the water bodies listed below shall be shown on the Montrose Zoning Map.

C. **Lakes.** (All classified as “natural environment”)

	Protected Waters Inventory I.D. Number
Mud Lake	86-85P
Unnamed	86-105P
Malardi Lake	86-112P
Fountain Lake	86-86P

D. **Rivers and Streams.**

1. Rivers: None.
2. Streams: Unnamed Tributary to North Fork Crow River

E. **Overlay District Uses.** The shorelands of the City of Montrose are hereby designated as a Shoreland Overlay District. The purpose of the Shoreland Overlay District is to provide for the wise utilization of shoreland areas in order to preserve the quality and natural character of these protected waters of the City.

1. Permitted Uses. All permitted uses allowed and regulated by the applicable zoning district underlying this Shoreland Overlay District is indicated on the official zoning map of the City.
2. Conditional Uses.
 - a. All conditional uses and applicable attached conditions allowed and regulated by the applicable zoning district underlying this Shoreland Overlay District as indicated on the official zoning map of the City and as required by this Ordinance.
 - b. Boathouses.
3. Substandard Uses. Any uses of shorelands in existence prior to the date of enactment of this Ordinance which are permitted within the applicable zoning district, but do not meet the minimum lot area, setbacks or other dimensional requirements of this Ordinance are substandard uses. Substandard uses, including substandard sanitary facilities, shall be allowed to continue. However, any structural alteration or addition to a substandard use which will increase the substandard dimensions shall not be allowed.

4. Prohibited Uses. Any uses which are not permitted or conditional uses as regulated by the applicable zoning district underlying this Shoreland Overlay District as indicated on the official zoning map of the City.

1096-5: ZONING AND WATER SUPPLY/SANITARY PROVISIONS:

A. Lot Area, Setback, and Width Standards.

1. Natural Environment Lakes.

- a. The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the date of enactment of this Ordinance for natural environment lakes are as follows:

	Riparian Lots		Non-Riparian Lots	
	Area	Width	Area	Width
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

b. Additional Provisions.

- 1) Residential subdivisions with dwelling unit densities exceeding those in the tables in Section 1096-5 can only be allowed if designed and approved as residential planned unit developments under Section 1096-7 of this Ordinance. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards shall be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in Section 1096-5 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 lakes shall also meet the following standards:
 - a) Each building shall be set back at least two hundred (200) feet from the ordinary high water level.
 - b) Each building shall connect to publicly owned sewer and water systems.

- c) Watercraft docking facilities for each lot shall be centralized in one location and serve all dwelling units in the building.
 - d) No more than twenty-five (25) percent of a lake's shoreline can be in duplex, triplex, or quad developments.
- 3) One (1) guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Section 1096-5.A, provided the following standards are met:
- a) For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage shall be located within the smallest duplex-sized lot that could be created including the principal dwelling unit.
 - b) A guest cottage shall not cover more than seven hundred (700) square feet of land surface and shall not exceed fifteen (15) feet in height.
 - c) A guest cottage shall be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.
- 4) Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non-riparian lots within subdivisions are permissible and shall meet or exceed the following standards:
- a) They shall meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
 - b) If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) shall be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

Controlled Access Lot Frontage Requirements	
Ratio of Lake Size to Shore Length (acres/mile)	Required Increase in Frontage (Percent)
Less than 100	25
100 – 200	20
201 – 300	15
301 – 400	10
Greater than 400	5

- 5) They shall be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot.
- 6) Covenants of other equally effective legal instruments shall be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They shall also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities including swimming, sunbathing, or picnicking. The covenants shall limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and shall require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They shall also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

2. River Tributaries.

- a. Lot Width. The lot width (in feet) standards for single, duplex, triplex, and quad residential lots created after the date of enactment of this Ordinance for river tributaries are as follows:

Lot Width

Single	75 feet
Duplex	115 feet
Triplex	150 feet
Quad	190 feet

- b. Setbacks. Minimum setbacks for structures, except water-oriented accessory structures, for river tributaries are as follows:

Setback from Ordinary High Water Level	50 feet
Setback from Top of Bluff	30 feet

B. Placement, Design, and Height of Structures.

1. Placement of Structures on Lots. When more than one (1) setback applies to a site, structures and facilities shall be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:

- a. Structure Setbacks.*

	<u>Setback From</u>	<u>Setback</u>
1)	Ordinary High Water Level*	150 feet
2)	Top of bluff	30 feet
3)	Unplatted cemetery	50 feet
4)	Right-of-way line of federal, state, Or county highway	50 feet
5)	Right-of-way line of town road, public street, or other roads or streets not classified	20 feet

* Applicable to Natural Environment Lakes.

** One water-oriented accessory structure designed in accordance with Section 1096-5.B.2 of this Ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.

- b. Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, shall not be placed within bluff impact zones.
- c. Uses Without Water-Oriented Needs. Uses without water-oriented needs shall be located on lots or parcels without public waters

frontage, or if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

2. Design Criteria for Structures.

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

- 1) For lakes, by placing the lowest floor at a level at least three (3) feet above the highest known water level, or three (3) feet above the ordinary high water level, whichever is higher.
- 2) Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind drive waves and debris.

b. Water-Oriented Accessory Structures. Each lot may have one (1) water-oriented accessory structure not meeting the normal structure in Section 1096-5.B of this Ordinance if this water-oriented accessory structure complies with the following provisions:

- 1) The structure or facility shall not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than two hundred fifty (250) square feet. Detached decks shall not exceed eight (8) feet above grade at any point.
- 2) The setback of the structure or facility from the ordinary high water level shall be at least ten (10) feet.
- 3) The structure or facility shall be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions.
- 4) The roof may be used as a deck with safety rails, but shall not be enclosed or used as a storage area.

- 5) The structure or facility shall not be designed or used for human habitation and shall not contain water supply or sewage treatment facilities.
 - 6) As an alternative for general development and recreational development water bodies, water-oriented accessory structures used solely for watercraft storage, and including storage of related boating and water-oriented sporting equipment, may occupy an area up to four hundred (400) square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the configuration of the shoreline.
- c. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts shall meet the following design requirements:
- 1) Stairways and lifts shall not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties, public open space recreational properties, and planned unit developments.
 - 2) Landings for stairways and lifts on residential lots shall not exceed thirty-two (32) square feet in area. Landings larger than thirty-two (32) square feet may be used for commercial properties, public open space recreational properties, and planned unit developments.
 - 3) Canopies or roofs are not allowed on stairways, lifts, or landings.
 - 4) Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.
 - 5) Stairways, lifts, and landings shall be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical.
 - 6) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and

performance standards of Sections 1096-5.B.2.b.1 through 1096-5.B.2.b.5, above are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

- d. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
 - e. Steep Slopes. The Zoning Administrator shall evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.
3. Height of Structures. All structures in residential districts, except churches and non-residential agricultural structures, shall not exceed twenty-five (25) feet in height.

C. **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 Alterations.
 - a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 1096-5.D of this Ordinance are exempt from the vegetation alteration standards that follow.
 - b. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Section 1096-5.F is allowed subject to the following standards:
 - 1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.

- 2) In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
 - a) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced.
 - b) Along rivers, existing shading of water surfaces is preserved.
 - c) The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

2. Topographic Alterations/Grading and Filling.

- a. Grading and filling and excavations necessary for the construction of structures, 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 shall be incorporated into the issuance of permits for construction of structures, and driveways.
- b. Public roads and parking areas are regulated by Section 1096-5.D of this Ordinance.
- c. Notwithstanding Sections 1096-5.C.2.a and 1096-5.C.2.b above, a grading and filling permit will be required for:
 - 1) The movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones.
 - 2) The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.
- d. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:

- 1) Grading or filling in any Type 2, 3, 4, 5, 6, 7, or 8 wetland shall be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland*:
 - a) Sediment and pollutant trapping and retention.
 - b) Storage of surface runoff to prevent or reduce flood damage.
 - c) Fish and wildlife habitat.
 - d) Recreational use.
 - e) Shoreline or bank stabilization.
 - f) Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

* 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. The applicant will be so advised.

- 2) Alterations shall be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible.
- 3) Mulches or similar materials shall be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible.
- 4) Methods to minimize soil erosion and to trap sediments before they reach any surface water features shall be used.
- 5) Altered areas shall be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service.
- 6) Fill or excavated material shall not be placed in a manner that creates an unstable slope.

- 7) Plans to place fill or excavated material on steep slopes shall be reviewed by qualified professionals for continued slope stability and shall not create finished slopes of thirty (30) percent or greater.
 - 8) Fill or excavated material shall not be placed in bluff impact zones.
 - 9) Any alterations below the ordinary high water level of public waters shall first be authorized by the Commissioner under Minnesota Statutes, Section 105.42.
 - 10) Alterations of topography shall only be allowed if they are necessary to permitted or conditional uses and do not adversely affect adjacent or nearby properties.
 - 11) Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.
 - 12) All grading and erosion control shall comply with the requirements of the MPCA NPDES – Phase II requirements.
- e. Connections to Public Waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, shall be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

D. Placement and Design of Roads, Driveways, and Parking Areas.

1. Public and private roads and parking areas shall be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation shall be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
2. Roads, driveways, and parking areas shall meet structure setbacks and shall not be placed within bluff and shore impact zones, when other

reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and shall be designed to minimize adverse impacts.

3. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Section 1096-5.C.2 of this Ordinance shall be met.

E. Stormwater Management.

1. General Standards.

- a. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- b. Development shall be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas shall be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference shall be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

2. Specific Standards.

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

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

1. Standards for Commercial, Industrial, Public and Semi-Public Uses.
 - a. Surface water-oriented commercial uses and industrial, public, or semi-public 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 shall meet the following standards:
 - 1) In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this Ordinance, the uses shall be designed to incorporate topographic and vegetative screening of parking areas and structures.
 - 2) Uses that require short-term watercraft mooring for patrons shall centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.
 - 3) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - a) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the Wright County Sheriff.
 - b) Signs may be placed, when necessary, within the shore impact zones if they are designed and sized to be the minimum necessary to convey needed information. They shall only convey the location and name of the establishment and the general types of goods or services available. The signs shall not contain other detailed information such as product brands and prices, shall not be located higher than ten (10) feet above the ground, and 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.

- c) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
 - b. Uses without water-oriented needs shall be located on lots or parcels without public waters frontage or, if located on lots or parcels with public waters frontage, shall either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
- 2. Agricultural Use Standards.
 - a. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and fifty (50) feet from the ordinary high water level.
 - b. Animal feedlots shall meet the following standards.
 - 1) New feedlots shall not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of three hundred (300) feet from the ordinary high water level of all public water basins.
 - 2) Modifications or expansions to existing feedlots that are located within three hundred (300) feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.
- 3. Forest Management Standards. The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management "Best Management Practices in Minnesota."

4. Extractive Use Standards.
 - a. Site Development and Restoration Plan. An extractive use site development and restoration plan shall be developed, approved, and followed over the course of operation of the site. The plan shall address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It shall also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and shall clearly explain how the site will be rehabilitated after extractive activities end.
 - b. Setbacks for Processing Machinery. Processing machinery shall be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.
5. Mining of Metallic Minerals and Peat. Mining of metallic minerals and peat, as defined in Minnesota Statutes, Sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes, Section 93.44 to 93.51, are satisfied.

G. **Conditional Uses.** Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community-wide. The following additional evaluation criteria and conditions apply within shoreland areas:

1. Evaluation Criteria. A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site shall be made to ensure:
 - a. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.
 - b. The visibility of structures and other facilities as viewed from public waters is limited.
 - c. The site is adequate for water supply and on-site sewage treatment.
 - d. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
2. Conditions Attached to Conditional Use Permits. The City Council, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional

use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:

- a. Increased setbacks from the ordinary high water level.
- b. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
- c. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

H. **Water Supply and Sewage Treatment.** Publicly-owned sewer and water systems shall be used in accordance with City specifications.

1096-6: NON-CONFORMITIES: All legally established non-conformities as of the date of this Ordinance may continue, but they will be managed according to Chapter 1015 of this Ordinance for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use, except that the following standards will also apply in shoreland areas:

A. **Deck Additions.** 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 (15) percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than thirty (30) feet, whichever is more restrictive.
4. The deck is constructed primarily of wood, and is not roofed or screened.

B. **Non-Conforming Sewage Treatment and Water Systems.** A sewage treatment system not meeting the requirements of Section 1096-5.H of this Ordinance shall be terminated, at a minimum, at any time a permit or variance of any type is required for any improvement on or use of, the property. At such time, connection to publicly owned sewer and water systems shall be required.

- C. **Required Lot Combination.** If, in a group of two (2) or more contiguous lots under the same ownership, any individual lot does not meet the minimum lot area requirements of this chapter, the lot shall not be considered as a separate parcel of land for the purposes of sale or development. The lot shall be combined with the one (1) or more contiguous lots so they equal one (1) or more parcels of land, each meeting the minimum lot area requirements of this chapter to the extent possible.

1096-7: PLANNED UNIT DEVELOPMENTS: Flexible application of the allowable land uses, minimum lot area and setback requirements and developments of this Ordinance may be used within a Shoreland Overlay District, provided the applicable provisions of this Ordinance are satisfactorily met:

- A. **Conditional Use Permit Required.** Planned unit developments within Shoreland Overlay Districts shall require a conditional use permit based upon procedures set forth in and regulated by Chapter 1005 of this Ordinance.
- B. **Open Space Requirements.** Planned unit developments shall contain open space meeting all of the following criteria:
1. At least fifty (50) percent of the total project area shall be preserved as open space.
 2. Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space.
 3. Open space shall include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries.
 4. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public.
 5. Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
 6. Open space shall not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities.
 7. The appearance of open space areas, including topography, vegetation, and allowable uses, shall be preserved by use of restrictive deed

covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means.

8. The shore impact zone, based on normal structure setbacks shall be included as open space. For residential planned unit developments, at least fifty (50) percent of the shore impact zone area of existing developments or at least seventy (70) percent of the shore impact zone area of new developments shall be preserved in its natural or existing state. For commercial planned unit developments, at least fifty (50) percent of the shore impact zone shall be preserved in its natural state.

C. Site “Suitable Area” Evaluation.

1. Procedures and Standards. Proposed new or expansions to existing planned unit developments shall be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Section 1097-7.D.
2. Shoreland Tier Dimensions. The project parcel shall be divided into tiers by locating one (1) or more lines approximately parallel to a line that identifies the ordinary high water level at three hundred twenty (320) foot intervals, proceeding landward.
3. Suitable Area. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

D. Residential and Commercial Planned Unit Development Density Evaluation.

The procedures for determining the “base” density of a planned unit development (PUD) and density increase multipliers are as follows. Allowable densities may be transferred from any pier to any other tier further from the water body, but must not be transferred to any other tier closer.

1. Residential PUD “Base” Density Evaluation. The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, unless the local unit of government has specified an alternative minimum lot size for rivers which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential PUDs are then compared with the tier, density, and suitability analyses herein and the design criteria in Section 1096-7.E.

2. Commercial PUD “Base” Density Evaluation.

- a. Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.
- b. Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development Floor Area Ratios* (Natural Environment Lakes)	
Average Unit Floor Area (Square Feet)*	Floor Area Ratio
200	.010
300	.012
400	.014
500	.016
600	.019
700	.021
800	.023
900	.025
1,000	.027
1,100	.029
1,200	.032
1,300	.034
1,400	.036
1,500	.038

* For average unit floor area less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

- c. Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
- d. Divide the total floor area by tier computed in Section 1096-7.D.2.c above by the average inside living area size determined in Section 1096-7.D.2.a above. This yields a base number of dwelling units and sites for each tier.
- e. Proposed locations and numbers of dwelling units or sites for the commercial PUD are then compared with the tier, density and

suitability analyses herein and the design criteria in Section 1096-7.E.

3. Density Increase Multipliers.

- a. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 1096-5 are met or exceeded and the design criteria in Section 1096-7.E are satisfied. The allowable density increases in Section 1096-7.D.3.b below will only be allowed if structure setbacks from the ordinary high water level are increased to at least fifty (50) percent greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through vegetative management, topography or additional means acceptable to the local unit of government and the setback is at least twenty-five (25) percent greater than the minimum setback.
- b. Allowable Density Unit or Dwelling Site Density Increases for Residential or Commercial PUDs:

<u>Density Evaluation Tiers</u>	<u>Maximum Density Increase Within Each Tier</u>
First	50 percent
Second	100 percent
Third	200 percent
Fourth	200 percent
Fifth	200 percent

E. Maintenance and Design Criteria.

- 1. Maintenance and Administration Requirements. Before final approval of a PUD, adequate provisions shall be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
- 2. Open Space Preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means shall be provided to insure long term preservation and maintenance of open space. The instruments shall include all of the following protections:
 - a. Commercial uses prohibited (for residential PUDs).
 - b. Vegetation and topographic alterations other than routine maintenance prohibited.

- c. Construction of additional buildings or storage of vehicles and other materials prohibited.
 - d. Uncontrolled beaching of watercraft prohibited.
- 3. Development Organization and Functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments shall use an owners association with the following features:
 - a. Membership shall be mandatory for each dwelling unit or site purchaser and any successive purchasers.
 - b. Each member shall pay a pro rate share of the association's expenses, and unpaid assessments can become liens on units or sites.
 - c. Assessments shall be adjustable to accommodate changing conditions.
 - d. The association shall be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
- 4. Erosion Control and Stormwater Management. Erosion control and stormwater management plans shall be developed and the PUD shall:
 - a. Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This shall be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques shall be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
 - b. Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier shall not exceed twenty-five (25) percent of the tier area, except that for commercial PUDs thirty-five (35) percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 1096-5.C.

- c. Shall meet the requirements of MPCA NPDES Phase II requirements.
5. Centralization and Design of Facilities. Centralization and design of facilities and structures shall be done according to the following standards:
- a. Planned unit developments shall be connected to publicly owned water supply and sewer systems.
 - b. Dwelling units or sites shall be clustered into one (1) or more groups and located on suitable areas of the development. They shall be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level shall be increased in accordance with Section 1096-7.D.3 of this Ordinance for developments and density increases.
 - c. Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft shall not exceed one (1) for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other areas.
 - d. Structures, parking areas, and other facilities shall be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening shall be preserved, if existing, or may be required to be provided.
 - e. Accessory structures and facilities, except water oriented accessory structures, shall meet the require principal structure setback and shall be centralized.

- f. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 1096-5.B of this Ordinance and are centralized.
 - 6. **Minimum Dwelling Units.** All residential planned unit developments shall contain at least five (5) dwelling units or sites.
- F. **Conversions.** Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUDs if all of the following standards are met:
- 1. Proposed conversions shall be initially evaluated using the same procedures for residential PUDs involving all new construction. Inconsistencies between existing features of the development and these standards shall be identified.
 - 2. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities shall be corrected as part of the conversion or as specified in the conditional use permit.
 - 3. Shore and bluff impact zone deficiencies shall be evaluated and reasonable improvements made as part of the conversion. These improvements shall include, where applicable, the following:
 - a. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones.
 - b. Remedial measures to correct erosion sites and improve vegetative cover and screening of buildings and other facilities as viewed from the water.
 - c. If existing dwelling units are located in shore or bluff impact zones, conditions are attached to approvals of conversions that preclude exterior expansions in any dimension or substantial alterations. The conditions shall also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.
 - 4. Existing dwelling unit or dwelling site densities that exceed standards in Section 1096-7.D may be allowed to continue but shall not be allowed to be increased, either at the time of conversion or in the future. Efforts shall be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.