

## **SECTION 17A: WATER MANAGEMENT**

### **Subd. 1 Policy and Statement of Purpose**

- A. Statutory Authorization. This section is adopted pursuant to the authorization and policies contained in Minnesota Statutes Chapters 103B, 103F, 462, and 497 and Minnesota Rules, Parts 6120.2500-6120.3900, Minnesota Rules Chapters 8410 and 8420.
- B. Resolution of Policy. Whereas, the City of Long Lake Comprehensive Land Use Plan and Water Resources Management Plan identify specific goals and policies related to the proper management of its shoreland, lakes, wetlands, water and soil resources, and;

Whereas, the City of Long Lake recognizes that the uncontrolled use of shorelands, wetlands, and land disturbing activities in general in the City affects the public health, safety and general welfare not only by contributing to the pollution of surface and ground waters, but also by impairing the local tax base, and;

Whereas, land development and use impact all receiving waters, especially lakes, streams and wetlands by contributing to their impairment through point and nonpoint pollution sources, and; Whereas, the City of Long Lake will soon adopt a Water Resources Management Plan that recognizes that its storm water system is integrated with the management of its natural lakes and wetlands and;

Now Therefore, City of Long Lake has determined that it is the best interests of the public to manage and implement its Comprehensive Plan and Water Resources Management Plan by a consolidated approach with this section as provided for in Subdivisions 1 through 10 to avoid conflict and duplication to the maximum practical extent.

- C. Statement of Purpose. To achieve the policies described in the City Comprehensive Plan, State and Federal policies and statutes, the City intends to determine, control and guide future development within and surrounding those land areas which are contiguous to designated bodies of public water and areas of "natural environmental significance" as herein defined and regulated. Specifically, this Chapter purports to:
- 1) Regulate the placement of sanitary and storm water disposal facilities on lots;
  - 2) Regulate the area of a lot and the length of water frontage suitable for a building site;
  - 3) Regulate alteration of the shorelands and wetlands of public waters; Control natural environment areas of ecological value to maintain existing aquatic, vegetation and wildlife conditions to the maximum extent possible;
  - 4) Regulate the use and subdivision of land within the corporate limits as it relates to public waters, wetlands, shorelands and storm water;
  - 5) Provide variances from the minimum standards and criteria.

**Subd. 2      General Provisions**

- A.    Jurisdiction. The provisions of this section shall apply to the shoreland, wetland, and storm water management overlay districts and the city in general as each section specifies.
  
- B.    Disclaimer. This Chapter does not imply that areas outside of the Shoreland, Wetland and Storm Water Management Overland District or land uses permitted within that District will be free from flooding or flood damages. This Chapter does not create liability on the part of the City or its officers or employees for any flood damage that may result from reliance on this Chapter or any administrative decisions made under it.
  
- C.    Interpretation. In their interpretation and application, the provisions of this Chapter 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.
  
- D.    Severability. If any section, clause, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Chapter shall not be affected thereby.
  
- E.    Abrogation and Greater Restrictions. It is not intended by this Chapter to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

**Subd. 3      Administration**

- A.    Compliance. The use of any shoreland of public waters; the size and shape of lots; the use, size and shape of structures on lots; the installation and maintenance of water supply and waster removal systems, the grading and filling of any wetland or shoreland area; the cutting of vegetation; and the subdivision of land shall be in full compliance with the terms of this Section and other applicable regulations. In cases where standards conflict with the standards of the base zoning districts, the more restrictive standard will prevail.
  
- B.    General requirements of permits and other authorizations.
  - 1. A permit is required for the construction of buildings or building additions (and including such related activities as construction of decks and signs), working in road right-of-ways, and those grading and filling activities not exempted by Subd. 9 of this section. Application for a permit shall be made to the Building Official. Other permits may be necessary from the Minnehaha Creek Watershed District.
  
- D.    Variances
  - 1. Variances in the water management overlay district may only be granted in accordance with Minnesota Statutes, Chapter 462, as applicable. A variance may not circumvent the general purposes and intent of this section. 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 provided the condition is directly related to and proportional to the impact created by the variance.

2. When a variance is approved in a MDNR designated shoreland district by the city council after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Subd. 3 (E) below shall also include the Planning Commission's summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

E. Notification to the Department of Natural Resources.

1. Copies of all notices of any public hearings to consider section amendments affecting shoreland management, subdivision approvals, planned unit developments variances, section amendments, or conditional uses affecting a MDNR designated shoreland district must be sent to the MDNR, Division of Waters Regional Hydrologist and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
2. A copy of approved amendments affecting shoreland management, planned unit developments, subdivisions/plats, and final decisions granting variances or conditional uses in a MDNR designated shoreland district must be sent to the MDNR, Division of Waters Regional Hydrologist and postmarked within ten days of final action.

**Subd. 4 Illicit Discharge Detection and Elimination**

A. Purpose / Intent

The purpose of this ordinance is to provide for the health, safety, and general welfare of the City of Long Lake through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) process.

The objectives of this ordinance are:

- (a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.
- (b) To prohibit illicit connections and discharges to the municipal separate storm sewer system.
- (c) To establish legal authority to carry out all inspections, surveillance, and monitoring procedures necessary to ensure compliance with this ordinance.

B. Definitions

For the purposes of this ordinance, the following shall mean:

*Authorized Enforcement Agency:* The City of Long Lake

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

*Clean Water Act:* The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

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

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

*Illegal Discharge:* Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in this ordinance.

*Illicit Connections:* An illicit connection is defined as any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

*Industrial Activity:* Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

*National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit:* Means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342 (b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual group, or general area-wide basis.

*Non-Storm Water Discharge:* Any discharge to the storm drain system that is not composed entirely of storm water.

*Person:* Means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and action as either the owner or as the owner's agent.

*Pollutant:* Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, pesticides, herbicides, and fertilizers; hazardous substances and wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

*Premises:* Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

*Storm Drain System:* Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

*Storm Water:* Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

*Stormwater Management Prevention Plan:* A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

*Wastewater:* Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

C. Applicability.

This ordinance shall apply to all water entering the storm drain system generated on any developed or undeveloped lands unless explicitly exempted by an authorized enforcement agency.

D. Responsibility for Administration.

The authorized enforcement agency shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the Director of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

E. Severability.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

F. Ultimate Responsibility.

The standards set forth herein and promulgated pursuant to this ordinance and minimum standards; therefore this ordinance does not intend or imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

G. Public Nuisances.

1. Policy. It is the policy of the City of Long Lake to prevent and remedy the degradation of the quality of surface and ground waters as well as public and private land resources in order to protect the health, safety and general welfare of the public. All acts or failures to act by persons which may result in the degradation of such water and land resources is considered to be a public nuisance in accordance with, but not limited to, the Public Nuisance section of the City Code, Minnesota Statutes, Section 609.74, 561.19, and 144.37, and as hereinafter specifically defined.

2. Specific Public Nuisances. The following items are public nuisances:

- a. Erosion and sedimentation. The deposition of measurable amounts of soil by wind or water action into public road ditches, natural or man-made watercourses, ditches, wetlands, shorelands and water bodies or adjoining private properties is a public nuisance, provided such deposition is related to the failure of a land owner or occupier to apply accepted soil erosion.
- b. Deposition or disposal. The deposition or disposal of any substance onto land or into a watercourse or water body which in its present or decomposed state may release nutrients or chemicals into ground and surface waters or otherwise impair water resources is a public nuisance. Such substances include, but are not limited to, fertilizers, pesticides, plant or animal parts or waste, garbage, refuse, demolition material, sewage sludge, petrochemicals, toxic salts, and other hazardous materials.
- c. Excavation and fill activities. The excavation of any material from or placement of any fill material into any man-made or natural watercourse, wetland, lake, or other water body without necessary local, state or federal authorizations is a public nuisance.

H. Discharge Prohibitions

a. Prohibition of Illegal Discharges:

No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm

drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated – typically less than one PPM chlorine), fire fighting activities, and any other water source not containing pollutants.
- (2) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- (4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

b. Prohibition of Illicit Connections

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of the connection.
- (3) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

I. Suspension of MS4 Access

- a. Suspension due to illicit discharges in emergency situations. The City Council may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present an imminent and substantial danger to the environment, or the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

- b. Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for reconsideration and a hearing. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

J. Industrial or Construction Activity Discharges

- a. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City Council prior to the allowing of discharges to the MS4.

K. Monitoring of Discharges

- a. Applicability.

This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

- b. Access to Facilities.

- i. The authorized enforcement agency shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.

- ii. Facility operators shall allow the authorized enforcement agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

- iii. The authorized enforcement agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.

- iv. The authorized enforcement agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.



- v. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the authorized enforcement agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- vi. Unreasonable delays in allowing the authorized enforcement agency access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of the facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- vii. If the authorized enforcement agency has been refused access to any part of the premises from which stormwater is discharged, and the City is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

L. Requirement to Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices.

The City will adopt requirements identifying Best Management Practices (BMPs) of any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

M. Watercourse Protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures

within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

N. Notification of Spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the City within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

O. Enforcement.

- a. Notice of Violation. Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:
- (1) The performance of monitoring, analysis, and reporting;
  - (2) The elimination of illicit connections or discharges;
  - (3) That violating discharges, practices, or operations shall cease and desist;
  - (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
  - (5) Payment of a fine to cover administrative and remediation costs;
  - (6) The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

P. Enforcement Measures After Appeal.

If the violation had not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 15 days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then representatives of the authorized enforcement agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

Q. Cost of Abatement of the Violation.

Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 15 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this article shall become liable to the City by reason of such violation.

R. Injunctive Relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. If a person has violated and continues to violate the provisions of this ordinance, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

S. Compensatory Action.

In lieu of enforcement proceedings, penalties, and remedies authorized by this Ordinance, the authorized enforcement agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

T. Violations Deemed a Public Nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

U. Criminal Prosecution.

Any person that has violated or continues to violate this ordinance shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to a criminal penalty of \$1,000.00 dollars per violation per day and/or imprisonment for a period of time not to exceed 90 days. The authorized enforcement agency may recover all attorney's fees, court costs, and other expenses associated with enforcement of this ordinance, including sampling and monitoring expenses.

**Subd. 5 Water Management Overlay Districts**

- A. Creation. The Water Management Overlay District is hereby created and is divided into the following subdistricts as shown on the Official Zoning Map or an attachment thereto: the Shoreland District, the Wetland Protection District, and the Storm Water District.
- B. Shoreland District. Land located within one thousand feet (1,000') from the ordinary high water level of the lakes classified in Subd. 6 and land extending from three hundred feet (300') from watercourses or the landward extent of the floodplain, whichever is farther.
- C. Wetland Protection District. All upland within fifty feet (50') of the wetland boundary of wetlands identified in the Water Resource Management Plan that drain to the waterbody.
- D. Official Zoning Map. The amended Official Zoning Map, with Water Management Overlay Districts, is hereby adopted by reference and declared to be a part of this Chapter.
- E. Maintenance of Records. Said Official Zoning Map shall be on file in the office of the Zoning Administrator. The Zoning Administrator shall maintain the necessary records to maintain and display the Official Zoning Map as amended.
- F. Boundaries. The boundaries of the overlay districts as shown on the Official Zoning Map are considered to be approximate and must be established on the ground at the time of any application for a permit, variance, planned unit development or subdivision of land.
- G. Allowable Land Uses. The existing zoning on the site shall specify the allowable land uses but all such uses must additionally comply with any more restrictive standards and criteria of this Chapter.
- H. Ordinary High Water Level. The OHWL for Long Lake is 944.3 feet.

**Subd. 6 Area Classifications**

- A. Shoreland Classifications. The following public waters of the City have been classified either consistent with the criteria found in Minnesota Regulations, part 6120.3300, or classified by the City when no classification was available from the Minnesota

Department of Natural Resources. The "shoreland area" for the water bodies listed in the table below shall be as defined in this Chapter and shown on the Official Zoning Map.

Shoreland Classification Table

Name	MnDNR ID#	Classification
Long Lake	27-160P	Recreational Development
Lake Long Lake Creek	From Section 35, T118N-R23W (Basin 27-160P) to Section 34, T118-R23W (City boundary)	Tributary Stream

- B. Wetland Protection Areas. Wetlands with a Wetland Overlay District are identified in the Water Resources Management Plan as shown in the National Wetlands Inventory.

**Subd. 7 Water Management Overlay District Lot Standards**

- A. Shoreland Overlay District Lot Standards. The following development standards are in addition to any standards that apply specifically to the underlying zoning district. In a shoreland district, where there is conflict between the underlying and overlying district standards, the most restrictive shall apply within the first tier of riparian development.

Shoreland Overlay District Lot Minimum Standards:

Structure Setback from OHWL (ft.)	
Long Lake	75
Long Lake Creek	75
DNR Wetlands	50

None of the lot area below the ordinary high water level may be included in calculating the minimum lot dimensions required by the zoning district. Only land above the ordinary high water level of public waters may be used to meet lot area standards. Lot width shall be measured at the ordinary high water level.

- B. Wetland Overlay District Lot Standards.
  - a. The minimum lot area, width and depth requirements of the underlying land use zoning district within the City Code. Wetland areas may not be included in lot areas to meet the minimum lot area dimension. The minimum structure setback in a wetland overlay district is 50 feet from the wetland boundary.
  - b. Newly platted lots shall establish a 'buffer strip' from the wetland boundary to the building site. The buffer strip shall be not less than 25 feet wide and must be left in its natural vegetative condition for the purpose of filtering nutrients and providing wildlife habitat. Such buffer strip shall be defined on the ground by permanent monuments set on each property line and defined legally in a conservation easement to the City of Long Lake which sets forth

specific restrictions against filling and vegetative removal.

- C. Minimum Building Elevation. The minimum building elevation for habitable structures and garages shall meet the following elevation criteria, unless accurate information demonstrating that the lot will drain effectively and the buildings to be constructed on the lot will be protected from flood damage, is provided and approved by the City Engineer:
1. One and one-half (1 and 1/2) feet above the back of curb of the accessed street;
  2. Four (4) feet above the water table or one (1) foot above the one hundred (100) year flood elevation as determined by the City Engineer.
  3. Within a Water Management Overlay District:
    - a.) two feet (2') above the one hundred (100) year flood elevation; or
    - b.) three feet (3') above the highest known water level, or three feet (3') above the ordinary high water level, whichever is higher; or
    - c.) three feet (3') above the wetland boundary; or
    - d.) two feet (2') above the emergency overflow elevation
  4. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in 1. or 2. above provided there shall be no net loss of floodplain storage if:
    - a.) the structure is constructed of flood-resistant materials,
    - b.) electrical and mechanical equipment is placed above the elevation and,
    - c.) if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

**Subd. 8 Additional Shoreland Development Requirements**

- A. Shoreland Setback Exception. When more than one setback applies to a site, structures and facilities shall be located to meet the most restrictive setbacks. All other structure setback requirements shall be as stated in the underlying zoning district for each parcel.
- B. Bluff Impact Zone Restriction. Structures and accessory facilities, except stairways and landings, shall not be placed within bluff impact zones.
- C. Commercial and Industrial Structures. Commercial or industrial land uses without water-oriented uses shall be located on lots or parcels without public waters frontage.
- D. Planned Unit Development Approvals. Planned unit developments must meet the requirements of Section 5 of the city Zoning Code, Minnesota Rules Chapter 6120.3800, and must be approved by the Commissioner of Natural Resources. No preliminary approvals or sketch plan approvals can be obtained without first securing a report from the Commissioner that defines the degree of compliance with Chapter 6120.3800.
- E. Private Access Lot Requirements. Lots intended as controlled accesses to public

waters or as recreation areas for use by owners of nonriparian lots within subdivisions shall be allowed only as part of a conditional use permit or planned unit development and shall meet or exceed the following standards:

1. They shall be suitable in terms of physical access and potential slope erosion and vegetation damage for the intended uses of controlled access lots;
2. They shall have a specific lot size not less than twice the minimum lot width of the underlying zoning district.
3. They shall be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot and;
4. Covenants or 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. They may include other outdoor recreational activities that do not significantly conflict with general public use of the public water or enjoyment of normal property rights by adjacent property owners. Examples of the insignificant conflict activities include swimming, sunbathing, or picnicking. The covenants will not allow the parking of vehicles or watercraft 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.

F. Permitted Water-Oriented Accessory Structures. Each lot may have one water-oriented nonhabitable accessory structure not meeting the normal structure setback in Subd. 7 (A) of this Chapter if this water-oriented accessory structure complies with the following provisions:

a. Water Oriented Accessory Structure Dimensional Requirements:

- Maximum floor area: 250 square feet
- Maximum width as viewed from water: 12 feet
- Maximum height: 10 feet
- Setback from ordinary high water level: 10 feet\*

\* Also permitted for docks, and off-season storage, gazebos and docks.

b. Allowable Construction Materials. The structure or facility shall be constructed of material architecturally similar in design, texture, and color to the principal structure on the lot; the design shall be review by the Zoning Administrator prior to issuance of building permits.

c. Accessory Structure Screening. The structure shall be screened a minimum of fifty percent (50%) by opaque vegetation or topography on the three (3) walls seen from the lake with ecologically suited landscaping landward of the ordinary high water level from the lake.

d. Accessory Structure Restrictions.

1. The roof shall not be used as a deck or used as a storage area.
2. The structure or facility shall not be designed or used for human habitation and shall not contain utility systems.

e. Stairways, Chair Lifts, and Stair and Deck Landings. Stairways and chair lifts shall

be used 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 chair lifts shall 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. Stair and deck landings for stairways and chair lifts on residential lots shall not exceed forty eight (48) square feet in area. Landings larger than forty eight (48) square feet may be used for commercial properties and public open-space recreational properties;
3. Canopies or roofs shall not be permitted on stairways, chair lifts, or stair or deck landings;
4. Stairways, chair lifts, and stair or deck landings shall 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, chair lifts, and stair or deck 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, and
6. Facilities such as ramps, chair lifts, or mobility paths for physically handicapped persons shall be permitted for achieving access to shore areas, provided that the dimensional and performance standards of subsections 1 through 5 are complied with in addition to the requirements of Minnesota Rules, chapter 1340.

G. Steep Slopes, Visibility And Erosion. The Public Works Director shall evaluate possible soil erosion impacts and development visibility from public waters prior to issuance of a permit for construction of roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions shall be attached to the permit to prevent erosion and preserve existing vegetation, screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

H. Height of Structures. All structures in residential districts shall not exceed thirty-five feet (35') in height.

I. 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. The Public Works Director shall review all roads and parking areas to ascertain they are designed and constructed to minimize and control erosion to public waters, consistent with the field office technical guides of the Minnesota Pollution Control Agency, or other comparable technical materials and best management guidelines.
2. Roads, driveways, and parking areas shall meet structure setbacks outlined in Subd. 7 (A) and shall not be placed within bluff and shore impact zones.

J. Conditional Uses in Shoreland Areas. Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures of this Code. 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 soil conditions on the site shall be made to ensure 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 types, uses, and numbers of watercraft that the project will generate can be safely accommodated on the site;
4. The impact the proposed use may have on the water quality of the water body is not excessive.

K. Conditions Attached To Conditional Use Permits. The City Council, upon consideration of the criteria listed above and the purposes of this Chapter may attach such conditions to the issuance of the conditional use permits as it deems necessary. Such conditions may include, but are not limited to, the following:

1. Increased setbacks from the ordinary high water level;
2. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
3. Special provisions for the location, design, and use of structures, watercraft launching and docking areas.

L. Nonconforming Uses, Lots, and Structures in Shoreland Areas. All legally established nonconformities as of the date of this Code amendment may continue, but they shall be managed according to applicable State statutes and the City Zoning Code for the subjects of alterations and additions, repair after damage, discontinuance of use and intensification of use. The following standards apply to nonconforming lots and uses in the shoreland management areas:

1. Construction On Nonconforming Lots Of Record. Vacant, undeveloped lots of record in the office of the County Recorder on or before January, 1999 that do not meet the requirements of this Chapter may be allowed as building sites without variances from lot size requirements provided; the use is permitted in the zoning district; all sanitary requirements of the City Code are complied with insofar as practical; and the minimum lot size and length of water frontage shall be not less than seventy percent (70%) of standard lot water frontage requirements; the lot has been in separate ownership from abutting lands since the above referenced date.
2. Combining of Nonconforming Lots. If, in a group of two (2) or more contiguous lots under one ownership since January, 1999, any individual lot does not meet the requirements of Subd. 7, the lot shall not be considered as a separate parcel of land for the purposes of development. The lot shall be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of this Chapter.
3. Additions/Expansions to Nonconforming Structures. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of this Chapter. Any deviation from these

requirements may only be authorized by a variance.

4. Deck Additions to Nonconforming Structures. Deck additions may be allowed, without a variance, to a structure which does not meet the required setback from the ordinary high water level, if all of the following criteria and standards are met:
  - a. the structure existed prior to January 1999,
  - b. 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, and
  - c. the new 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 the deck shall be constructed of materials similar to the materials of the principal structure, wood, or earth tone; and the new deck shall not be roofed or screened.

M. Subdivisions in Shoreland Areas. Subdivisions in shoreland management areas are subject to the following criteria in addition to the overall subdivision requirements of the City of Long Lake:

1. Land Suitability. Each lot created through subdivision, including planned unit developments authorized by the City of Long Lake shall be suitable in its natural state for the proposed use with minimal alteration as defined by a suitability analysis. Suitability analysis shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, availability of sewer and water, 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 shall conform to all official controls of this community. A subdivision shall 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. Each lot shall meet the minimum lot size and dimensional requirements of Subd. 7.
3. Information Requirements. Sufficient information shall be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:
  - a. Topographic contours at two foot (2') intervals or less from City public works 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 soil information to determine suitability for building and public utilities for every lot from the most current existing sources or from field investigations such as soil borings or other methods;
  - d. Information regarding adequacy of domestic City 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 storm water runoff and erosion, both during and after construction activities;

- e. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
  - f. A line or contour representing 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 an on-site storm water ponding area is required by a project to store surface water runoff, the City may require easements over natural drainage or ponding areas for future maintenance of storm water and significant wetlands.

**Subd. 9 Erosion and Sediment Control for Land Disturbance Activities**

- A. Manner of Work. All land disturbing or land filling activities or soil storage shall comply with the requirements of Section 19, Subd. 25 of this Ordinance.
- 1. General Requirements. All land disturbing or land filling activities or soil storage shall be undertaken in a manner designed to minimize surface runoff, erosion and sedimentation. Whenever the issuing authority determines that any land disturbing activity on any private property has become a hazard to life and limb, or endangers the property of another, or adversely affects the safety, use, slope, or soil stability of a public way, publicly controlled wetland, or watercourse, then the owner of the property upon which the land disturbing activity is located, or other person or agent in control of said property, upon receipt of notice in writing from the issuing authority, shall within the period specified therein repair or eliminate such conditions.
  - 2. Erosion Control Provisions for All Permits. All permits issued by the City of Long Lake involving any excavation, fill or grading, including all building permits shall contain an attached page of special provisions that specifies at a minimum:
    - a. That the permittee is responsible for the cleanup and any damages resulting from soil eroded from the building site onto public streets, storm sewer systems, any adjoining private property, or any public waters, shoreland or wetland;
    - b. That the permittee shall install and maintain either silt fencing along the lot boundaries where runoff is possible to public streets, storm sewer systems, any adjoining private property, or any public waters, shoreland or wetland; or maintain a temporary mulch on all exposed soil at a rate specified by the City Engineer; and
    - c. a general diagram of a typical lot development that shows the direction of drainage on the lot, the locations of silt fence, areas that are to receive a temporary mulch, a rock and gravel pad for parking construction vehicles and a schedule for permanent seeding or sodding.
- B. Erosion and Sediment Control Performance Standards. The design, testing, installation, and maintenance of erosion and sediment control operations and facilities shall adhere to the most current requirements of the Minnesota Pollution

Control Agency (MPCA) Construction General Permit.

- C. Permit Required. Except as otherwise provided in the Uniform Building Code, as adopted by the City of Long Lake, no person may grade, fill, excavate, store, stockpile or dispose of earth materials or perform any other land disturbing or land filling activity without first obtaining a building permit from the Building Inspector. Annual maintenance permits are available for maintenance projects greater than five hundred (500) square feet. No fill or excavation in a wetland overlay district may occur unless the Minnehaha Creek Watershed District has approved a replacement plan, issued a no-loss determination, or determined that the activity is exempt from the Wetland Conservation Act Rules, Chapter 8420. Questions relating to wetland type, location, area, functions and values must be referred to the technical advisory panel established by Minnesota Statutes Section 103G.2242 as amended.

**Subd. 10     **Vegetation Removal****

- A. Except for driveways, sidewalks, patios, areas occupied by structures or areas which have been improved by landscaping, all areas shall be covered by plants or vegetative growth.
- B. Vegetation Removal. Prior to the cutting of oak and elm trees, the City Forester shall be consulted for guidance on timing of cutting and proper disposal to minimize transfer of diseases to healthy trees.
- C. Vegetation Alterations in Shoreland Areas.
  - 1. Exemption. Vegetation alteration necessary for the construction of structures and roads and parking areas regulated by Sections 1016.14 through 1016.16 of this Chapter are exempt from the vegetation alteration standards that follow.
  - 2. Vegetation Alteration Standards. 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 outside of the impact zones is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the City Engineer Hennepin County Soil and Water Conservation District.
    - b. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees may be allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of lawns and new vegetation, stairways and landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced; and
    - c. The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

**Subd. 11 Post-Construction Stormwater Management**

A. Statutory Authority and Purpose.

The Post-Construction Stormwater Management performance standards are authorized under Minnesota Statutes enacted in 2009, Chapter 115 Water Pollution Control Act, 115.03 Powers and Duties.

B. Applicability

All stormwater management and erosion and sediment control activities shall comply with all applicable requirements of Category I and II below.

1. Category I

- a. Land disturbing activities on sites that are one acre or greater in size.

2. Category II

- a. Single Family Homes – construction or reconstruction;
- b. New Development *less than one acre* in size; or that
- c. Redevelopment of a site that is *less than one acre* in size.

C. Stormwater Volume Reduction Performance Goals

Any applicant for a permit resulting in site disturbance as described in Subd. 11.B, above, must meet the following stormwater performance goals:

1. Category I:

- a. The applicant must provide a detailed plan for and/or narrative describing how the applicant meets the requirements of the Minnehaha Creek Watershed District. In the case of provisions in this ordinance and requirements of watershed district that overlap or conflict, the strictest provisions shall apply to the activities.

2. Category II:

- a. The applicant must provide a detailed plan and/or narrative describing the Best Management Practices that will be incorporated in the development to reduce runoff volume and improve water quality.

D. Flexible Treatment Options for Sites with Restrictions

Applicant shall fully attempt to comply with the appropriate performance goals described above and as per defined in the Minnehaha Creek Watershed District. Options considered and presented shall examine the merits of relocating project

elements to address, varying soil conditions and other constraints across the site. If full compliance is not possible due to any of the factors listed below, the applicant must document the reason. If site constraints or restrictions limit the full treatment goal, the following flexible treatment options shall be used:

Volume reduction techniques considered shall include infiltration, reuse & rainwater harvesting, and canopy interception & evapotranspiration and/or additional techniques included in the MIDScalculator and the Minnesota Stormwater Manual.

Higher priority shall be given to BMPs that include volume reduction. Secondary preference is to employ filtration techniques, followed by rate control BMPs.

Factors to be considered for each alternative will include:

- a. Karst geology
- b. Shallow bedrock
- c. High groundwater
- d. Hotspots or contaminated soils
- e. Drinking Water Source Management Areas or within 200 feet of drinking water well
- f. Zoning, setbacks or other land use requirements
- g. Excessive cost
- h. Poor soils (infiltration rates that are too low or too high, problematic urban soils)

E. Stormwater Runoff Water Quantity Standards

1. For all development sites (new development, redevelopment and linear development) the site design shall provide on-site treatment during construction and post-construction to ensure no increase in offsite peak discharge for the 2-year, 24-hour storm event, the 10-year, 24-hour storm event, and the 100-year, 24-hour storm event.

F. Design Standards and Resources

1. All volume control practices and site design specifications shall conform to the current version of the Minnesota Stormwater Manual.
2. All erosion and sediment control requirements shall conform to the current requirements of the NPDES/SDS Construction Stormwater permit.
3. Wherever possible, new development projects shall be designed using the Better Site Design Techniques of the current version of the Minnesota Stormwater Manual.

G. Review Process

The City of Long Lake shall review applications with the assistance of a qualified water quality professional to ensure conformance with the provisions of this

ordinance.

H. Operations, Inspection, and Maintenance

1. Applicant's Responsibility. The applicant is responsible for operation, inspections, and maintenance during and after construction for all privately owned practices on the site. Operation, inspection, and maintenance shall conform to the Minnesota Stormwater Manual and as per maintenance agreements established with the City of Long Lake and the Minnehaha Creek Watershed District.
2. Community Inspections. The City of Long Lake reserves the right to conduct inspections on a regular basis to ensure that both stormwater and erosion and sediment control measures are properly installed and maintained prior to and during construction, and at the completion of the project.
3. Right-of-Entry. The issuance of a permit under the ordinance should constitute a right-of-entry for the City of Long Lake or its assigns to enter the construction site during active construction and when construction is complete.