

TITLE XV: LAND USAGE

CHAPTER 153: SHORELAND MANAGEMENT

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§ 153.01 STATUTORY AUTHORIZATION AND POLICY.

(A) *Statutory authorization.* This chapter is adopted pursuant to the authorization and policies contained in M.S. Chapter 103F, Minn. Rules, parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in M.S. Chapter 462, as they may be amended from time to time.

(B) *Policy.* The uncontrolled use of shorelands of the City of Hastings, 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 Hastings. (Prior Code, § 16.01) (Am. Ord. 531, passed 4-4-2005)

§ 153.02 GENERAL PROVISIONS AND DEFINITIONS.

(A) *Jurisdiction and boundaries.*

(1) The provisions of this chapter shall apply to the shorelands of the public water bodies as classified in § 153.04.

(2) The shoreland within the City of Hastings is hereby established as the Shoreland Overlay District with its attendant regulations. The boundaries of the Shoreland District are established within 1,000 feet from the ordinary high water level of a lake, pond, or flowage that is greater than 10 acres in size and 300 feet from a river or stream, or the landward extent of a flood plain designated by ordinance on a river or stream, whichever is greater. The Shoreland Overlay Districts are specifically delineated on the Official Zoning Map of the City of Hastings, and is hereby adopted by reference and declared to be part of this chapter.

(3) The Shoreland Overlay District shall overlay the zoning districts established by Chapter 155. The regulations and requirements imposed by this chapter shall be in addition to those established for the underlying zoning districts and the conditions and regulations of any other applicable ordinance and regulation of the city. In the event of a conflict between ordinance requirements, the most restrictive provision shall apply.

(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 installation and maintenance of water supply and waste treatment systems, 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 chapter and other applicable regulations.

(C) *Enforcement.* The City of Hastings is responsible for the administration and enforcement of this chapter. Any violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special uses) shall constitute a misdemeanor and shall be punishable as defined by law. For each day, the violation continues a separate offense shall be declared. In the event of a violation or threatened violation of the chapter, the city may institute appropriate actions or proceedings to prevent, restrain, correct, or abate the violations or threatened violations and it is the duty of the City Attorney to institute the action.

(D) *Interpretation.* The boundaries of the Shoreland Overlay District shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed to the boundaries of the Shoreland Overlay Districts as shown on the Official Zoning Map, the rules established in Chapter 155 shall be followed.

(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. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

(F) *Definitions.* Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application. For the purpose of this chapter, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, shall be measured horizontally.

BLUFF. A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18% over a distance for 50 feet or more shall not be considered part of the bluff):

- (a) Part or all of the feature is located in a shoreland area;
- (b) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
- (c) The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30% or greater; and
- (d) The slope must drain toward the waterbody.

BLUFF IMPACT ZONE. A bluff and land located within 20 feet from the top of a bluff.

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

BUFFER. An area of natural, minimally maintained, vegetated ground cover abutting or surrounding a major waterway, public waters wetland, or wetland.

BUILDING LINE. A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

COMMERCIAL USE. The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

COMMISSIONER. The Commissioner of the Department of Natural Resources.

DECK. A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than 3 feet above ground.

DUPLEX, TRIPLEX, and QUAD. A dwelling structure on a single lot, having 2, 3, and 4 units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

DWELLING SITE. A designated location for residential use by 1 or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

EXTRACTIVE USE. The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under M.S. §§ 93.44 through 93.51, as they may be amended from time to time.

FOREST LAND CONVERSION. The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

HARDSHIP. The same as that term is defined in M.S. Chapter 462, as it may be amended from time to time.

HEIGHT OF BUILDING. The vertical distance between the highest adjoining ground level at the building or 10 feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

INDUSTRIAL USE. The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

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

LOT WIDTH. The shortest distance between lot lines measured at the midpoint of the building line.

NONCONFORMITY. Any legal use, structure, or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded, or authorized.

ORDINARY HIGH WATER LEVEL. The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

PUBLIC WATERS. Any waters as defined in M.S. Chapter 103G, as it may be amended from time to time.

RIPARIAN. Land or uses located adjacent to the bank of a river or lake.

SEMIPUBLIC USE. The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

SENSITIVE RESOURCE MANAGEMENT. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

SETBACK. The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

SEWAGE TREATMENT SYSTEM. A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in § 153.05.

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

SHORE IMPACT ZONE. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50% of the structure setback.

SHORELAND. Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.

SIGNIFICANT HISTORIC SITE. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of M.S. § 307.08, as it may be amended from time to time. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

SPECIAL USE. A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood.

STEEP SLOPE. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this chapter. Where specific information is not available, steep slopes are lands having average slopes over 12%, as measured over horizontal distances of 50 feet or more, that are not bluffs.

STRUCTURE. Anything constructed or erected with a fixed location on the ground. Among other things, structures include buildings, manufactured homes, and fences.

SURFACE WATER-ORIENTED COMMERCIAL USE. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of the use.

TOE OF THE BLUFF. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of bluff shall be determined to be the lower end of a 50-foot segment, measured on the ground, with an average slope exceeding 18%.

TOP OF THE BLUFF. The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of bluff shall be determined to be the upper end of a 50-foot segment, measured on the ground, with an average slope exceeding 18%.

WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY. A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of the structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks. (Prior Code, § 16.02) (Am. Ord. 531, passed 4-4-2005; Am. Ord. 2010-12, 3rd Series, passed 6-21-2010)

§ 153.03 ADMINISTRATION.

(A) Permits required.

(1) A shoreland permit is required for the construction of buildings or building additions (and including the related activities as construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by § 153.05. Application for a shoreland permit shall be made to the Planning Department on the forms provided. The application shall include the necessary information so that the Planning Department can determine the site's suitability for the intended use and that a compliant sewage treatment system will be provided.

(2) A shoreland permit authorizing an addition to an existing structure shall stipulate that an identified nonconforming sewage treatment system, as defined by § 153.05, shall be reconstructed or replaced in accordance with the provisions of this chapter. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this chapter and shall be punishable as provided in § 153.09.

(B) Variances.

(1) Applications for variances from this chapter shall be administered in accordance with the procedures in Chapter 155 and reviewed in accordance with M.S. § 462.357, as it may be amended from time to time, in addition to the following.

(a) All variance requests shall be accompanied by a land use application.

(b) Variance applications shall be submitted to the Department of Natural Resources in accordance with division (C) below.

(c) Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest.

(d) The Board of Adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in division (C) below 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.

(2) For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

(C) Notifications to the Department of Natural Resources.

(1) Copies of all notices of any public hearings to consider variances, amendments, or special use permits from the requirements of this chapter must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least 10 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 and subdivisions/plats, and final decisions granting variances or special use permits from the requirements of this chapter must be sent to the Commissioner or the Commissioner's designated representative and postmarked within 10 days of final action.

(D) Special use permits.

(1) All uses that require a special use permit by the underlying zoning district or any other ordinance shall comply with the requirements of Chapter 155 in addition to the following.

(a) All special use permit applications shall be accompanied by a land use application.

(b) Special use permit applications shall be submitted to the Department of Natural Resources in accordance with division (C) above.

(c) Applications for special use permits shall be administered in accordance with the procedures in Chapter 155 and reviewed in accordance with M.S. § 462.357, as it may be amended from time to time.

(2) A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must 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; and
- (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.

(3) Conditions may be imposed in the granting of a special use permit to ensure compliance, protect adjacent properties and the public interest, and to fulfill the purposes of this chapter. The 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; and
- (c) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas. (Prior Code, § 16.03) (Am. Ord. 531, passed 4-4-2005)

§ 153.04 SHORELAND CLASSIFICATION SYSTEM.

(A) *Shoreland Classification System.* The public waters of Hastings have been classified below consistent with the criteria found in Minn. Rules, part 6120.3300, as it may be amended from time to time, and the Protected Waters Inventory Map for Dakota and Washington County, Minnesota. Pursuant to Minn. Rules, chapters 6120.2500 - 6120.3900, no lake, pond, or flowage less than 10 acres in size need be regulated by this chapter but shall be subject to the requirements of Chapter 152. The shoreland classification in the City of Hastings are as follows:

- (1) Lakes:
 - (a) Natural Environment Lake - Lake Rebecca; and
 - (b) Recreational Development Lake - Lake Isabel.

(2) Rivers and streams:

(a) Transition Rivers - Mississippi and Vermillion Rivers; and

(b) Tributary Streams - Sand Coulee Flowage (All protected watercourses in the City of Hastings not given a classification in division (A)(2)(a) above shall be considered "Tributary.")

(B) *Land use district descriptions.* The land uses allowable for the Shoreland District shall follow the permitted, accessory, and special use designations of the underlying zoning district of the property contained in Chapter 155, Chapter 151, and the Mississippi River Corridor Area Ordinance, except that agricultural feedlots shall not be permitted in any district. In the event there is a conflict between the regulations of these ordinances, the most restrictive ordinance shall apply. (Prior Code, § 16.04) (Am. Ord. 531, passed 4-4-2005)

§ 153.05 ZONING AND WATER SUPPLY/SANITARY PROVISIONS.

(A) *Lot area and width standards.* The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex, and quad residential lots created after 6-16-1994 for the lake and river/stream classifications are the following.

(1) *Unsewered lakes.*

(a) *Natural environment (Lake Rebecca).*

	<i>Riparian Lots</i>		<i>Non-Riparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	80,000	200	80,000	200
Duplex	20,000	300	160,000	400
Triplex	60,000	400	240,000	600
Quad	200,000	500	320,000	800

(b) *Recreational development (Lake Isabel).*

	<i>Riparian Lots</i>		<i>Non-Riparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	40,000	150	40,000	150
Duplex	80,000	225	80,000	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490

(2) Sewered lakes.

(a) Natural environment (Lake Rebecca).

	<i>Riparian Lots</i>		<i>Non-Riparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
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) Recreational development (Lake Isabel).

	<i>Riparian Lots</i>		<i>Non-Riparian Lots</i>	
	<i>Area</i>	<i>Width</i>	<i>Area</i>	<i>Width</i>
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245

(3) River/stream lot width standards. The lot width standards for single, duplex, triplex, and quad residential developments for the 2 river/stream classifications are:

	<i>Transition</i>	<i>Tributary Without Sewer</i>	<i>Tributary With Sewer</i>
Single	150	100	75
Duplex	375	150	115
Triplex	500	200	150
Quad	625	250	190

(4) Additional special provisions.

(a) Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in of this section can only be used if publicly owned sewer system service is available to the property.

(b) Subdivisions of duplexes, triplexes, and quads on natural environment lakes must also meet the following standards:

1. Each building must be set back at least 200 feet from the ordinary high water level;

2. Each building must have common sewage treatment and water systems in 1 location and serve all dwelling units in the building;
3. Watercraft docking facilities for each lot must be centralized in 1 location and serve all dwelling units in the building; and
4. No more than 25% of a lake's shoreline can be in duplex, triplex, or quad developments.

(c) 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 must meet or exceed the following standards.

1. They must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots.
2. If docking, mooring, or over-water storage of more than 6 watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond 6, consistent with the following table:

<i>Controlled Access Lot Frontage Requirements</i>	
<i>Ratio of lake size to shore length (acres/mile)</i>	<i>Required increase in frontage (percent)</i>
Less than 100	25
100-200	20
201-300	15

<i>Controlled Access Lot Frontage Requirements</i>	
<i>Ratio of lake size to shore length (acres/mile)</i>	<i>Required increase in frontage (percent)</i>
301-400	10
Greater than 400	5

3. They must 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; and
4. Covenants or other equally effective legal instruments must 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 must 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 include swimming, sunbathing, or picnicking. The covenants must 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 must require centralization of all common facilities and activities in the most suitable

locations on the lot to minimize topographic and vegetation alterations. They must 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.

(d) Multiple-family residential developments that contain 5 or more dwelling units per building or lot shall be allowed per special use permit.

(5) *Substandard lots of record.* Any lot of record filed in the office of the County Recorder on or before 6-16-1994 that does not meet the lot area and/or lot width standards of this chapter may be allowed as a building site, provided that:

(a) The lot meets all the standards of the underlying zoning district;

(b) The lot has been in separate ownership from abutting lands at all times since it became substandard; and

(c) All setback, impervious surface, and dimensional requirements of this section are complied with.

(B) *Placement, design, and height of structures.*

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

(a) *Structure and on-site sewage system setbacks (in feet) from ordinary high water level*.*

<i>Classes of Public Waters</i>	<i>Setbacks*</i>		
	<i>Structures</i>		<i>Sewage Treatment System</i>
	<i>Unsewered</i>	<i>Sewered</i>	
Lakes			
Natural Environment	150	150	150
Recreational Development	100	75	75
Transition	150	150	100
Tributary	100	50	75

NOTES TO TABLE:
 * One water-oriented accessory structure designed in accordance with § 153.02 may be set back a minimum distance of 10 feet from the ordinary high water level.

(b) *Additional structure setbacks.* The following additional structure setbacks apply, regardless of the classification of the water body:

<i>Setback From</i>	<i>Setback (in feet)</i>
Top of bluff	30
Unplatted cemetery	50

(c) *Bluff impact zones.* Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

(d) *Uses without water-oriented needs.* Uses without water-oriented needs must 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 Chapter 151 when flood plain regulations are applicable to the site. Where no flood plain delineation exists, the lowest floor must be located at least 3 feet above the highest known water level or 3 feet above the ordinary high water level; whichever is greater.

(b) *Water-oriented accessory structures.* Each lot may have 1 water-oriented accessory structure not meeting the normal structure setback of this chapter if this water-oriented accessory structure complies with the following provisions:

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

6. As an alternative for general development and recreational development waterbodies, 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 400 square feet provided the maximum width of the structure is 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 must meet the following design requirements:

1. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, and public open-space recreational properties;
2. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, and public open-space recreational properties;
3. Canopies or roofs are not allowed on stairways, lifts, or landings;
4. Stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
5. Stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
6. Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of divisions (B)(2)(c)1 through (B)(2)(c)2 above are complied with in addition to the requirements of Minn. Rules, Chapter 1340, as it may be amended from time to time.

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

(e) *Steep slopes.* The City of Hastings 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 buildings and structures shall comply with the height standards of the underlying zoning district or 35 feet, whichever is more restrictive, except as follows: buildings in the DC - Downtown Core Zoning District may be allowed a maximum building height of 47 feet or 756.5 feet above sea level; whichever is greater, provided the following.

(a) The building contains no more than 4 stories.

(b) The building is setback a minimum of 150 feet from the ordinary high water level.

(c) The building has been designed to be compatible with the historic character of the DC District.

(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 division (G) below 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 divisions (F)(3) and (F)(4) below, 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 special 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;
and

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, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.

(b) Public roads and parking areas are regulated by division (D) below.

(c) Notwithstanding divisions (C)(2)(a) and (C)(2)(b) above, a grading and filling permit will be required for:

1. The movement of more than 10 cubic yards of material on steep slopes or within shore or bluff impact zones; and

2. The movement of more than 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, special use permits, variances, and subdivision approvals:

1. Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland. (This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as the Vermillion River Watershed Management Organization, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant shall submit any necessary applications as required by other agencies.):

- 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; and
 - f. Noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.
2. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
 3. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
 4. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
 5. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
 6. Fill or excavated material must not be placed in a manner that creates an unstable slope;
 7. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30% or greater;
 8. Fill or excavated material must not be placed in bluff impact zones;
 9. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner;
 10. Alterations of topography must only be allowed if they are accessory to permitted or special uses and do not adversely affect adjacent or nearby properties; and
 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 3 feet horizontal to 1 foot vertical, the landward extent of the riprap is within 10 feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed 3 feet.

(e) Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the Commissioner has approved the proposed connection to public waters.

(D) *Placement and design of roads, driveways, and parking areas.*

(1) Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the Hastings Watershed Management Plan and the Vermillion River Watershed Management Organization, as may be amended from time to time, or other applicable technical materials.

(2) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

(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 division (C)(2) above must be met.

(E) *Storm water management.* The following general and specific standards shall apply in addition to any other applicable city codes.

(1) *General standards.*

(a) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain storm water runoff before discharge to public waters.

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

(c) When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and human-made materials and facilities.

(d) All development shall be consistent with the City of Hastings Watershed Management Plan, Chapter 152 of this code, and the requirements of the Vermillion River Watershed Management Organization.

(2) *Specific standards.*

(a) Impervious surface coverage of lots must not exceed 25% of the lot area, except as follows. Impervious surface coverage may be permitted to exceed 25% on property that was platted before 6-16-1994 or property zoned DC - Downtown Core upon approval of a special use permit by the City of Hastings that demonstrates compliance with the following:

1. All applicable provisions of Chapter 152;
2. All structures and treatments shall be installed for the treatment of storm water runoff in accordance with the City of Hastings Watershed Management Plan;
3. Improvements that will result in an increased rate of runoff directly entering a public water shall have all structures and practices in compliance with Chapter 152 in place for the collection and treatment of storm water runoff or will be constructed in conjunction with a special use permit application;
4. The lot shall be served by municipal sewer and water; and
5. Storm water is collected and treated in compliance with Chapter 152 and best management practices. The treatment may be comprised of either on-site control, access to the city's storm water control system, or a combination of both, to be approved by the Public Works Director.

(b) When constructed facilities are used for storm water management, documentation must be provided by a qualified individual that they are designed and installed consistent with the City of Hastings Watershed Management Plan, Chapter 152 of this code, and the requirements of the Vermillion River Watershed Management Organization.

(c) New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(d) An existing site which is being altered, remodeled, or expanded without expanding the existing impervious surface may be allowed, provided that, where appropriate and where necessary, structures and practices for the treatment of storm water runoff are in compliance with Chapter 152.

(F) *Special provisions for commercial, industrial, public/semipublic, agricultural, forestry, and extractive uses and mining of metallic minerals and peat.*

(1) *Standards for commercial, industrial, public, and semipublic uses.*

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

1. In addition to meeting impervious coverage limits, setbacks, and other zoning standards in this chapter and Chapter 155, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;

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

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 County Sheriff;

b. Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than 10 feet above the ground, and must not exceed 32 square feet in size or consistent with those provisions contained in Chapter 155, whichever are more restrictive. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and

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 must 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) *Agriculture use standards.* 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 the 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 50 feet from the ordinary high water level.

(3) *Forest management standards.* The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Non-Point 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 must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations in addition to any requirements contained in Chapter 155. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.

(b) *Setbacks for processing machinery.* Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.

(G) *Water supply and sewage treatment.*

(1) *Water supply.* Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

(2) *Sewage treatment.* Any premises used for human occupancy must be provided with an adequate method of sewage treatment in compliance with Chapter 150, as follows.

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

(b) All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080," a copy of which is hereby adopted by reference and declared to be a part of this chapter.

(c) On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in division (B)(1).

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

1. Depth to the highest known or calculated ground water table or bedrock;
2. Soil conditions, properties, and permeability;
3. Slope; and
4. The existence of lowlands, local surface depressions, and rock outcrops.

(e) Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with division (G)(2) above.

(H) *Buffers.*

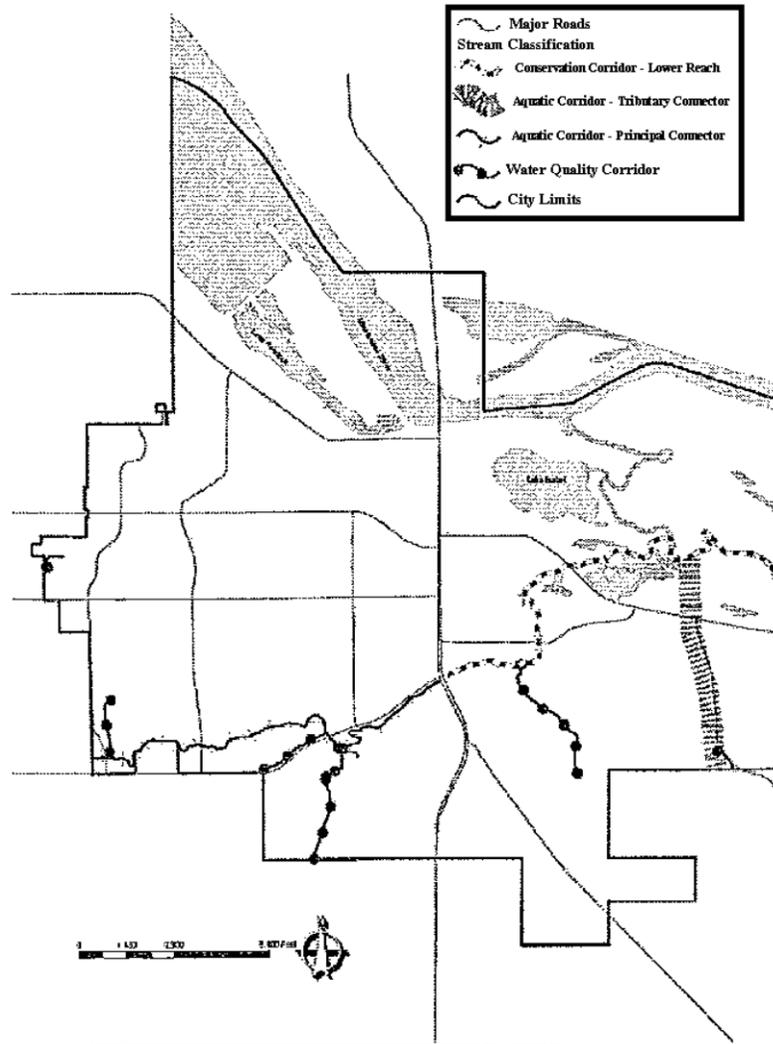
(1) *Purpose.* It is the policy, objective, or action to:

(a) Require buffers, acting as filter strips around every wetland based on its management classification.

(b) Avoid fragmentation of natural areas and corridors when feasible and mitigate when unavoidable.

(c) To protect shoreland areas from chemical, physical, biological, or hydrological changes so as to prevent significant adverse impacts.

(2) *Areas of Affect.* For any lot created after March 22, 2007, a buffer shall be maintained around the perimeter of identified waterways. The buffer provisions shall not apply to any lot of record created prior to March 22, 2007 until such lot is subdivided, and as long as the lots created are eligible for Green Acres or Agricultural Preserve. Buffer strips shall apply whether or not the major waterway, wetland, or public waters wetland is on the same lot as a proposed development. Buffer regulations apply to waterways identified in the figure below:



(3) *Buffer Widths.*

<i>Stream Classification</i>	<i>Buffer Width in Feet</i>
Conservation Corridor - Lower Reach	150
Aquatic Corridor - Principal Connector	100
Aquatic Corridor - Tributary Connector	50
Water Quality Corridor	30

(4) *Provisions.*

(a) Where acceptable natural vegetation exists in buffer areas, the retention of such vegetation in an undisturbed state is required unless approval to replace such vegetation is received. A buffer has acceptable vegetation if it:

1. Has a continuous, dense layer of perennial grasses that has been uncultivated or unbroken for at least five consecutive years; or,
2. Has an overstory of trees and/or shrubs that has been uncultivated or unbroken for at least 5 consecutive years; or,
3. Contains a mixture of the plant communities in 1 or 2 above that has been uncultivated or unbroken for at least 5 years.

(b) Buffers shall be staked and protected in the field prior to construction unless the vegetation and the condition of the buffer are considered inadequate. Existing conditions vegetation will be considered unacceptable if:

1. Topography or sparse vegetation tends to channelize the flow of surface water. or
2. Some other reason the vegetation is unlikely to retain nutrients and sediment.

(c) Where buffer vegetation and conditions are unacceptable, or where approval has been obtained to replant, buffers shall be replanted and maintained according to the following criteria:

1. Buffers shall be planted with native seed mix approved by the City, with the exception of a one-time planting with an annual nurse or cover crop. Plantings of native forbs and grasses may be substituted for seeding. All substitutions must be approved by the City. Grouping\clusters of native trees and shrubs of species and at densities appropriate to site conditions, shall also be planted throughout the buffer area.

2. The seed mix and plantings shall be installed according to City specifications. The selected seed mixes and plantings for permanent cover shall be appropriate for the soil site conditions and free of invasive species.

3. Buffer vegetation (both natural and created) shall be protected by erosion and sediment control measures during construction.

4. During the first 5 full growing seasons, except where the City has determined vegetation establishment is acceptable, the owner or applicant must replant buffer vegetation where the vegetative cover is less than 90 percent. The owner or applicant must assure reseeded or replanting if the buffer changes at any time through human intervention or activities.

(d) Where a buffer is required, the City shall require the protection of the buffer under a conservations easement, or include the buffer in a dedicated outlot as part of platting and subdivision approval, except where the buffer is located in a public transportation right-of-way. The buffer shall also be monumented to clearly designate the boundaries of all new buffers within the new residential subdivision. A monument shall consist of a post and a buffer strip sign approved by the City.

(e) Alterations, including building, storage, paving, routine mowing, burning, plowing, introduction of noxious vegetation, cutting, dredging, filling, mining, dumping, grazing livestock, agricultural production, yard waste disposal, or fertilizer applications are prohibited within any buffer. Periodic mowing or burning, or the use of fertilizers and pesticides for the purpose of managing and maintaining native vegetation is allowed with the approval of the City. Noxious weeds may be removed and mechanical or spot herbicide treatments may be used to control noxious weeds, but aerial or broadcast spraying is not acceptable. Prohibited alterations would not include plantings that enhance the natural vegetation or selective clearing or pruning of trees or vegetation that are dead, diseased or pose similar hazards, or as otherwise clarified in Paragraph (f).

(f) The following activities shall be permitted within any buffer, and shall not constitute prohibited alterations:

1. Use and maintenance of an unimproved access strip through the buffer not more than 10 feet in width, for recreational access to the waterway and the exercise of riparian rights;

2. Structures that exist when the buffer is created.

3. Placement, maintenance, repair, or replacement of public roads and utility and drainage systems that exist on creation of the buffer are required to comply with any subdivision approval or building permit obtained from the City so long as any adverse impacts of public road, utility, or drainage systems on the function of the buffer have been avoided or minimized to the extent practical;

4. Clearing, grading and seeding is allowed if part of an approved Wetland Replacement Plan, or approved Stream Restoration Plan.

5. Construction of a multi-purpose trail, including boardwalks and pedestrian bridge, provided it is constructed to minimize erosion and new impervious surface, and has an undisturbed area of vegetative buffer at least ten feet in width between the trail and the wetland or public waters wetland edge, or the bank of the major waterway; or where needed to cross the major waterway, the minimum impact alignment is used.

6. The construction of underground utilities such as water, stormwater, and sanitary sewers and pipelines provided the minimum impact alignment is used, the area is stabilized in accordance with Paragraph (b) above, and setbacks established in the Floodplain Alterations Rule Criteria are met.

7. Stormwater management facilities provide the land areas are stabilized in accordance with Paragraph (b) above, and alterations prohibited in Paragraph (e) above are upheld.

8. The area of shallow vegetated infiltration and biofiltration facilities, and water quality ponds not to exceed 50 percent of the pond area, adjacent to wetlands and major waterways may be included in buffer averaging provided the facilities do not encroach into the minimum buffer width, and the land areas are stabilized in accordance with Paragraph (b) above, and alterations prohibited in Paragraph (e) above are upheld.

(5) *Exceptions.*

(a) Buffers do not apply to lots of record created prior to March 22, 2007 that are less than one acre in size.

(b) Buffers do not apply to existing outlots that receive preliminary plat approval prior to March 22, 2005.

(c) Where a stream meandering project has been completed, the buffer width shall be established by the City and shall be no less than the minimum.

(6) *Permit requirements.* The following exhibits shall accompany the permit application.

(a) Construction plans and specifications showing the delineated wetland edge, buffer strip location(s), the location of buffer monuments and the location of any temporary fencing required.

(b) A narrative description of each buffer strip identifying its current condition.

(c) A legal description and drawing of each buffer strip, signed forms for conservation easement; or record of an administrative land split, preliminary plat or final plat demonstrating that the buffer area is contained in a dedicated Outlot.

(d) A landscaping and vegetation management plan according to Paragraph (4)(c) above, including a compliance monitoring and certification plan and a cost estimate, for buffer strips with unacceptable vegetation as defined by Paragraph (4)(b) above or where grading in a buffer strip is proposed. (Prior Code, § 16.05) (Am. Ord. 531, passed 4-4-2005; Am. Ord. 534, passed 5-16-2005; Am. Ord. 2010-12, 3rd Series, passed 6-21-2010) Penalty, see § 10.99

§ 153.06 NONCONFORMITIES.

(A) *Generally.* All legally established nonconformities as of the date of this chapter may continue, but they will be managed according to applicable state statutes and Chapter 155 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.

(B) *Construction on nonconforming lots of record.*

(1) Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the requirements of § 153.05(A) may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this chapter are met.

(2) A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.

(3) If, in a group of 2 or more contiguous lots under the same ownership, any individual lot does not meet the requirements of § 153.05(A) the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the 1 or more contiguous lots so they equal 1 or more parcels of land, each meeting the requirements of § 153.05(A) as much as possible.

(C) Additions/expansions to nonconforming structures.

(1) All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of § 153.05(B). Any deviation from these requirements must be authorized by a variance pursuant to § 153.03.

(2) 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:

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

(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;

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

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

(D) Nonconforming sewage treatment systems.

(1) A sewage treatment system not meeting the requirements of § 153.05(G)(2) must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

(2) The City of Hastings will require upgrading or replacement of any nonconforming system identified within a reasonable period of time which will not exceed 2 years. Sewage systems installed according to all applicable local shoreland management standards adopted under M.S. Chapters 103A through 103G, as it may be amended from time to time, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming. (Prior Code, § 16.06) (Am. Ord. 531, passed 4-4-2005) Penalty, see § 10.99

§ 153.07 SUBDIVISION/PLATTING PROVISIONS.

(A) *Land suitability.* Each lot created through subdivision pursuant to Chapter 154 shall be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the city shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the city.

(B) *Consistency with other controls.* Subdivisions must conform to all official controls of this community including, but not limited to, Chapter 155. A subdivision will not be approved where a later variance from 1 or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with § 153.05(G)(2) can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of § 153.05(B), including at least a minimum contiguous lawn area, which is free of limiting factors sufficient for the construction of 2 standard soil treatment systems. Lots that would require use of holding tanks must not be approved.

(C) *Information requirements.* Sufficient information must be submitted by the applicant for the city to make a determination of land suitability. In addition to the requirement contained in Chapter 154, the information shall include at least the following:

(1) Topographic contours at 10-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;

(2) The surface water features required in M.S. § 505.02, Subdivision 1, as it may be amended from time to time, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;

(3) Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;

(4) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling storm water runoff and erosion, both during and after construction activities;

(5) Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and

(6) A line or contour representing the ordinary high water level, the toe and the top of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

(D) *Dedications.* When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of storm water and significant wetlands.

(E) *Platting.* All subdivisions that create 5 or more lots or parcels that are 2½ acres or less in size shall be processed as a plat in accordance with M.S. Chapter 505, as it may be amended from time to time. All subdivisions shall comply with the requirements of Chapter 154. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.

(F) *Controlled access or recreational lots.* Lots intended as controlled accesses to public waters or for recreational use areas for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria in § 153.05(A)(4)(c). (Prior Code, § 16.07) (Am. Ord. 531, passed 4-4-2005) Penalty, see § 10.99

§ 153.08 PLANNED RESIDENTIAL DEVELOPMENTS.

(A) *Applicability.* New projects built on undeveloped land, redevelopment of previously built sites, and conversion of the use of existing buildings and lands that contain multiple-family units, multi-use structures, mixed residential and commercial uses, cluster developments, and other similar projects may be developed as a planned residential development (PRD) in accordance with the provisions of Chapter 155, as follows.

(1) Properties zoned DC - Downtown Core are subject to the PRD provisions of Chapter 155, and are exempt from the provisions of this section.

(2) All other properties are subject to the provisions in divisions (A)(1) above and (D) below.

(3) Only areas served by municipal water and sanitary sewer service may be developed as a PRD.

(B) *Density.* The density of development for each project shall not exceed the density established for the property within the 2020 Comprehensive Plan, as amended from time to time.

(C) *Special use permit and site plan review.* All projects that are developed as a PRD shall require both special use permit and site plan approval in accordance with the provisions of Chapter 155. Notice of the application shall be sent to the Department of Natural Resources in accordance with § 153.03.

(D) *Density calculation.* Density increases for all proposed shoreland PRDs (with the exception of properties zoned DC) shall be evaluated using the following procedures and standards.

(1) *Shoreland tier calculations.* The project parcel must be divided into tiers by locating 1 or more lines approximately parallel to a line that identifies the ordinary high water level (OHWL) at the following intervals, proceeding landward:

<i>Shoreland Tier Dimensions</i>	<i>Sewered (in feet)</i>
Recreational Development Lake - Lake Isabel	267
Natural Environment Lake - Lake Rebecca	320
All River Classes	300

(2) *Net area calculation.* The net area within each tier is next calculated by subtracting all wetlands, bluffs, and land below the ordinary high water level of public waters.

(3) *Base density calculation.* The net area within each tier is divided by the residential lot area standards for lakes or rivers as established in § 153.05(B) to determine a base density.

(4) *Bonus density calculation.*

(a) Properties are eligible for a bonus density based as follows:

<i>Shoreland Tiers (landward from the OHWL)</i>	<i>Maximum Density Increase Within Each Tier (as a percent)</i>
First	50
Second	100
Third - Fifth	200

(b) The density for the development shall not exceed the density established for the property within the 2020 Comprehensive Plan, as amended from time to time.

(E) *Open space.*

(1) All PRDs must contain open space that comprises at least 50% of the total project area that shall be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means.

(2) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented structures or facilities, shall not be included in the computation of minimum open space.

(3) Open space may 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 the dwelling units or sites, or the public.

(5) The Shore Impact Zone, based on the normal structure setback, must be included as open space. At least 50% of the Shore Impact Zone area of expansions to existing developments; or at least 70% of the Shore Impact Zone area of new developments must be preserved in their natural or existing state.

(F) *Design criteria.*

(1) *Clustering.* Dwelling units or site must be clustered into 1 or more groups and located on suitable areas of the development.

(2) *Building setbacks.* Each building must be setback a minimum of 225 feet from the ordinary high water level of rivers and 300 feet from the ordinary high water mark of lakes. All other setbacks established in § 153.05 shall not be eligible for deviation under the terms of the PRD.

(3) *Building setbacks for increased densities.* Maximum density increases shall only be allowed if structure setbacks from the OHWL are increased in accordance with this section or the impact on the water body is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the city and the setback is at least 25% greater than the minimum setback established in § 153.05.

(4) *Shore recreation facilities.* Shore recreation facilities including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps must be centralized and located in suitable areas. Evaluation of suitability shall include consideration of land slope, water depth, vegetation, soils, depth to ground water and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft shall not exceed 1 for each allowable dwelling unit or site within the first Shoreland Tier, as determined by § 153.04(A). 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 tiers.

(5) *Visibility.* Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, and/or color (assuming summer leaf-on conditions). Vegetative and topographic screening must be preserved if existing or may be required to be provided.

(G) *Administration and management.*

(1) *Generally.* Before final approval of a PRD, adequate provision shall be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the PRD.

(2) *Open space preservation.* Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means shall be provided to ensure long-term preservation and maintenance of open space.

(3) *Development organization and functioning.* All PRDs shall establish an owners association and covenants or suitable organization acceptable to the city to ensure the maintenance of all property and facilities held in common ownership for the development. (Ord. 531, passed 4-4-2005) Penalty, see § 10.99

§ 153.98 VIOLATIONS.

Every person violates a section, subdivision, paragraph or provision of this chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when the failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof. (Prior Code, § 16.99) (Am. Ord. 531, passed 4-4-2005) Penalty, see § 10.99)