
CHAPTER 21. ENVIRONMENTAL OVERLAY DISTRICTS

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9-21-1 Purpose

The purpose of this Chapter is to protect environmentally sensitive areas within designated areas of the City of Savage.

9-21-2 Scope

These Districts shall overlay the established zoning districts so that any parcel of land lying in an Overlay District shall also lie in one (1) or more of the established zoning districts. Land within an Environmental Overlay District shall be subject to the requirements established in this Title, as well as restrictions and requirements established by other applicable ordinances and regulations of the City. Within each adopted Environmental Overlay District, all uses shall be permitted in accordance with the regulations for the underlying zoning district(s); provided, however, that such uses must satisfy the additional requirements established within this Chapter before development will be allowed.

9-21-3 Establishment of Districts

The following Environmental Overlay Districts are hereby established:

- A. Shoreland Overlay District
- B. Wetland Overlay District
- C. Bluffland Overlay District

9-21-4 Legislative Findings

- A. *Shoreland Overlay District.*

Statutory authorization. This Shoreland Overlay District is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules, Sections 6120.2500 to 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.

Policy. The uncontrolled use of shorelands 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.

Jurisdiction. The shoreland overlay district provisions of this Chapter shall apply to the

shorelands of the public water bodies as classified in Section 9-21-7-A. Pursuant to Minnesota Rules, Sections 6120.2500 to 6120.3900, no lake, pond, or flowage less than ten (10) acres in size in a municipality needs to be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the City, be exempt from this Chapter.

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.

- B. *Bluffland Overlay District.* There are areas within the City which, due to steep slopes or unstable soils, create ecological problems including siltation and pollution of water bodies and streams due to excessive erosion and runoff and present threats to the public safety in the form of landslide and mudslide dangers. Therefore, the purposes of this Title are:
1. To promote public safety by minimizing the hazards of steep slopes and unstable soils and promote public health by reducing the siltation and pollution of water bodies and streams.
 2. Promote the general welfare by preserving significant features of the natural character of slopes and conditioning development in a manner that minimizes the above enumerated threats to the health, safety and welfare of the citizens of the City.
- C. *Wetlands Overlay District.* Wetlands and public waters help maintain water quality, serve to reduce flooding and erosion, act as sources of food and habitat for a variety of fish and wildlife, and are an integral part of the community's natural landscape. Wetlands provide the aesthetic benefits of open space and can be used to provide a natural separation of land uses. It is the intent of this overlay district to establish a policy of sound stewardship through coordination of regulations, which conserve, protect, enhance, and result in the no net loss of these environmentally sensitive resources. In addition, it is the intent of the City to promote the restoration of degraded wetlands. This overlay district is adopted in part to implement the Wetland Conservation Act of 1991 (Minnesota Laws 1991, Chapter 354, as amended), and the accompanying rules of the Minnesota Board of Water and Soil Resources (Minnesota Rules, Chapter 8420, as amended).

9-21-5 Overlay Administration.

- A. *Administration.* Except as hereinafter provided, no one may perform any development in an Environmental Overlay District without first having demonstrated that the proposed activity will meet or exceed the additional performance standards contained in this Title. Any application for a development permit on land that is covered, in whole or in part, by this Title shall include a site plan. Other engineering data, such as surveys, soil studies, and other descriptive information, may also be required at the direction of the City. A specific description of the type, amount and location of the development, and a description of the ecological characteristics of the natural features contained on the property, as well as the conservation plan describing actions to be taken to mitigate detrimental effects of development may also be required. When the proposed development includes the construction or alteration of a structure, eight (8) sets of plans shall be submitted with the application.
- B. *Exceptions.*
1. Emergency work necessary to preserve life or property: A person may commence emergency work necessary to preserve life or property, provided that within ten (10) days following the commencement of that activity, he/she submit a site plan for review along with any other information, requested by the City necessary to determine if the performance standards contained in this Title were met. If upon this review it is determined that all of the performance standards were not met, a plan shall be submitted and implemented, following City approval, to restore the natural resources to meet the intent of the performance standards contained in this Title.
 2. Repair or normal maintenance.

- C. *Enforcement.* The Zoning Administrator, or his or her designee, 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 conditional and interim uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this Chapter can occur regardless of whether or not a permit is required for a regulated activity pursuant to this Chapter.
- D. *Variances.* Variances may only be granted in accordance with Minnesota Statute, Chapter 462. A variance may not circumvent the general purposes and intent of this Title. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and public interest. The City Council shall hear and decide requests for variances in accordance with Section 9-2-9 of this Title. 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 shall also include the City Council's summary of the public record/testimony and the findings of facts and conclusions that supported the issuance of the variance.
- E. *DNR notification.* Copies of all notices of public hearings to consider variances, rezonings, preliminary plats, amendments, or conditional uses under local shoreland management controls must be sent to the Commissioner of Natural Resources or the Commissioner's designated representative and postmarked at least ten days before the hearing. A copy of approved amendments and subdivision plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner and postmarked within ten (10) days following final action.
- F. *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 City and shall not be deemed a limitation or repeal of any other powers granted by Minnesota Statutes.
- G. *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 provisions of this Title inconsistent with this Chapter are hereby repealed to the extent of the inconsistency only.

9-21-6 Shoreland Overlay District Standards.

- A. *Shoreland Management Classification.* In order to guide the wise development and utilization of shorelands of protected waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and welfare, certain protected waters in the City have been given a shoreland management classification. These protected waters of the City have been given shoreland classifications as follows and are depicted on the Department of Natural Resources Protected Waters map for Scott County:

<u>Natural Environment</u>	<u>DNR I.D. Number</u>
Rice Lake	70-25
<u>Recreational Development</u>	
Dan Patch Lake	70-16
Cate's Lake	70-18
Hanrehan Lake	70-19
Twin Lakes	259W
McColl Pond	70-17
<u>General Development</u>	
Credit River	NA
Eagle Creek	NA
<u>Transitional River</u>	
Minnesota River - adjacent to P-1 zoning	NA

Urban River

Minnesota River - adjacent to I-2 zoning

NA

- B. The shorelands of the City of Savage are hereby designated as a Shoreland Overlay District. The purpose of the Shoreland Overlay District is to provide for the wise utilization of shoreland areas in order to preserve the quality and natural character of these protected waters of the City.
1. *Permitted uses.* All permitted uses allowed and regulated by the applicable zoning district underlying this shoreland overlay district as indicated on the official zoning map of the City.
 2. *Conditional uses.* All conditional uses and applicable attached conditions allowed and regulated by the applicable zoning district underlying this shoreland overlay district as indicated on the official zoning map of the City.
 3. *Substandard uses.* Any uses of shorelands in existence prior to the date of enactment of this Section which are permitted within the applicable zoning district, but do not meet the minimum lot area, setbacks, or other dimensional requirements of this Title, are substandard uses. Substandard uses, excluding substandard sanitary facilities, shall be allowed to continue; however, any structural alterations or additions to a substandard use that will increase the substandard dimensions shall not be allowed.
 4. *Prohibited uses.* Any uses that are not permitted or conditional uses as regulated by the applicable zoning district underlying this shoreland overlay district as indicated on the official zoning map of the City.
- C. *Lot and building requirements.* The following standards shall apply to all shorelands of the protected waters listed in Section 9-21-7-A within the City. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, then the more restrictive standards shall apply. It is noted that the only Natural Environment Water in Savage is Rice Lake, whose shoreland area is entirely within a federally protected wildlife area.
1. *Unsewered areas.* Only single-family uses are allowed as new development within unsewered areas, in accordance with the following standards:

UNSEWERED AREAS		
	Recreational Development Waters	General Development Waters
Lot Area (sq. ft.)	40,000	20,000
Water Frontage and Lot Width at Building Line	150 ft.	100 ft.
Structure Setback from Ordinary High Water Mark	100 ft.	75 ft.
Structure Setback from Roads and Highways	50 ft. - Federal, State or County 20 ft. - Municipal or Private	
Structure Height Limitations	35 ft.	35 ft.
Maximum Lot Coverage by Impervious Surface	30%	30%
Sewage System Setback from Ordinary High Water Mark	75 ft.	50 ft.

Sewered areas. All provisions for unsewered areas shall apply to sewerred areas except for the following, which shall supersede the provisions applied to unsewered areas:

SEWERED AREAS*						
	Recreational Development Waters			General Development Waters		
	Single Family	Duplex	Multi-Family	Single Family	Duplex	Multi-Family
Lot Area (sq. ft.)						
Water Front Lots	20,000	35,000	15,000	15,000	26,000	12,000
Other Lots	15,000	26,000	10,000	10,000	17,500	8,000/DU
Water Frontage & Lot Width at Building Line	75 ft.	135 ft.	250 ft.	75 ft.	135 ft.	250 ft.
Structure Setback from Ordinary High Water Mark	75 ft.	75 ft.	75 ft.	50 ft.	50 ft.	50 ft.
Structure Setback from top of Bluff	30 feet					
Structure Height Maximum	25 feet					
Impervious Surface Maximum	30%					

One (1) water-oriented accessory structure may be located no closer than ten feet (10) feet from the ordinary high water mark of protected waters.

Structures and accessory structures, except stairways, landings, and docks, must not be placed within shore and bluff impact zones.

Non-water oriented commercial, industrial, public, and semi-public uses must have either a setback double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography.

D. *Substandard lots.*

1. Lots of record in the office of the Scott County Registrar of Deeds prior to January 12, 1989, which do not meet the requirements of Section 9-21-7-C, may be allowed as building sites, provided:

a. Such use is permitted in the zoning district.

The lot is in separate ownership from abutting lands. If, in a group of two (2) or more contiguous lots under the same ownership any individual lot does not meet the requirements of Section 9-21-7-C, 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 one (1) or more contiguous lots so they equal one (1) or more parcels of land, each meeting the requirements of Section 9-21-7-C as much as possible.

All other sanitary and dimensional requirements of this shoreland ordinance are complied with insofar as practical.

The minimum size and length of water frontage for substandard lots of record to be considered buildable shall be ten-thousand (10,000) square feet in area and sixty (60) feet in width.

- E. *Roads and parking areas.* Roads and parking areas shall be located to retard the runoff of surface waters and nutrients in accordance with the following criteria:
1. Where feasible and practical, all roads and parking areas shall meet the setback requirements established for structures in Section 9-21-7-C.
 2. In no instance shall these impervious surfaces be placed less than fifty (50) feet from the ordinary high water mark unless deemed necessary by the City Engineer.
 3. Roads, driveways, and parking areas are not allowed in bluff or shoreland impact zones; with the exception of boat launching ramps that have vegetative screening.
 4. Natural vegetation or other natural materials shall be used to screen parking areas when viewed from the water.
- F. *Design criteria/elevation of lowest floor.*
1. Structures shall be placed at an elevation consistent with the City's flood plain management controls.
 2. In areas not regulated by flood plain management controls, the elevation to which the lowest floor, including basements, shall be placed shall be determined as follows:
 - a. In accordance with Section 5.3.4 of the Water Resources Management Plan, adopted by the Savage City Council on August 6, 2007, or any subsequently adopted Water Resources Management Plan.
 - b. For lakes, ponds, and flowages by (a) an evaluation of available flood information and consistent with Statewide Standards and Criteria for Management of Flood Plain Areas of Minnesota; or (b) placing the lowest floor at a level at least two (2) feet above the highest known water level. In those instances where sufficient data on known high water levels are not available, the one (1) percent storm event high water level or regional flood level for the adjacent water or wetlands which have positive outlets shall be used.
 - c. For rivers and streams, by an evaluation of available flood information and consistent with Statewide Standards and Criteria for Management of Flood Plain Areas of Minnesota.
 - d. Water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood resistant materials to the elevation, and electrical and mechanical equipment is placed above the elevation.
- G. *Exceptions to structure setback requirements.*
1. Setback requirements from the ordinary high water mark shall not apply to piers and docks. Location of piers and docks shall be controlled by applicable state and local regulations.

On undeveloped shoreland lots that have two (2) adjacent lots with existing principal structures on both such adjacent lots, any new residential structure may be set back the average setback of the adjacent structures from the ordinary high water mark or fifty (50) feet, whichever is greater, provided all other provisions of the shoreland overlay district are complied with.

H. *Conditional uses.*

1. Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures, and criteria and conditions for review of conditional uses established community-wide. Also applicable for shoreland areas are evaluation of the waterbody, topography, vegetation, and soil conditions to ensure:

- a. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

The visibility of structures and other facilities as viewed from public waters is limited.

The site is adequate for water supply and on-site sewage treatment, and

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.

The City Council, upon consideration of the criteria listed above and the purposes of this Title, shall attach such conditions to the issuance of the conditional use permit as it deems necessary to fulfill the purpose of this Title. Such conditions may include, but are not limited to:

- a. Increased setbacks from the ordinary high water level.

Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and

Special provisions for the location, design, and use of structure, sewage treatment systems, watercraft launching and docking areas, and vehicular parking areas.

- I. *Shoreland alterations.* The removal and alteration of natural vegetation shall be restricted to prevent erosion into protected waters, fix nutrients in the soil, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat. Removal of natural vegetation in the shoreland overlay district shall be subject to the following provisions:

1. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking area regulated by Section 9-21-7-E of this Title are exempt from the vegetation alteration standards that follow.

Removal or alteration of vegetation, except for agricultural cultivating and grazing and forest management uses, is allowed subject to the following standards:

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

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, access paths, bench 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;

Along rivers, existing shading of water surfaces is preserved; and

The above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety concerns.

All tree removal shall be in accordance with the requirements of the Savage Tree Preservation Ordinance (Ord. 395).

J. *Grading and filling.*

1. A separate grading/filling permit is not required for the construction of structures, sewage

treatment systems, and driveways that are under validly issued construction permits. However, the standards of this Section shall be applied to the issuance of such permits.

Notwithstanding item 1 above, a permit will be required for the grading or filling of material in accordance with Chapter 27.

Grading and filling in shoreland areas or any alteration of the natural topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties. A permit for such work may be granted subject to the conditions that:

- a. The smallest amount of bare ground is exposed for as short a time as feasible.

Temporary ground cover, such as mulch, is used and permanent ground cover, such as sod, is established.

Methods to prevent erosion and trap sediment are employed.

Fill is stabilized to accepted engineering standards.

Fill or excavated material shall not be placed in bluff impact zones.

The placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.

Excavations on shorelands where the intended purpose is connection to a protected water shall require a permit from the City Engineer before construction is begun. Such permit may be obtained only after the Commissioner of Natural Resources has issued a permit to work in the beds of protected waters.

- K. *Protected water alteration.* Any work that will change or diminish the course, current or cross-section of a protected water or wetland shall be approved by the Commissioner of Natural Resources, and such approval shall be construed to mean the issuance by the Commissioner of Natural Resources of a permit under the procedures of Minnesota Statutes, Section 103.G and other related statutes.
- L. *Sewage treatment required.* Any premises intended for human occupancy shall be provided with an adequate method of sewage treatment to be maintained in accordance with acceptable practices.
- M. *Public/municipal facilities.* Public or municipal collection and treatment facilities shall be used where available.
- N. *MPCA standards.* 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, adopted by reference and made part of this Title. On-site systems must be set back from the ordinary high water level in accordance with the setbacks contained in Section 9-21-7-C.
- O. *Permit requirement - individual systems.* No person, firm or corporation shall install, alter, repair or extend any individual sewage treatment system without first obtaining a permit from the Building Official.
1. Application for permits shall be made in writing upon printed forms furnished by the Building Official and shall be signed by the applicant.

Each application for a permit shall include: a correct legal description of the property on which the proposed installation, alteration, repair or extension is to take place; a plan of the site of reasonable scale and accuracy showing the location of any proposed or existing buildings, sewage treatment facilities, property lines; a complete plan of the water supply system showing the location, size and design of all parts of the system to be installed, altered, repaired or extended; the name of the person, firm, or corporation who is to install

the system; any further information as required by the Building Official.

All individual sewage treatment systems within the shoreland overlay district shall be designed, installed, and maintained in accordance with the MPCA.

Any installation, alteration, repair or extension of an individual sewage treatment system shall be inspected to ensure compliance by the Building Official or a qualified inspector following completion of the work but prior to covering of the system.

- P. *Nonconforming individual sewage systems.* All existing sewage treatment systems within shoreland areas which are inconsistent with the standards referenced in Section 9-21-7-N of this Title, as well as any sanitary facility found to be a public nuisance, shall be brought into conformance or discontinued, 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. The procedures and timeframes for such corrections when a variance or permit is not requested shall be as outlined within Section 4, Chapter 7, of the Savage City Code, said ordinance regulating individual sewage disposal systems.
- Q. *Water supply.* Public or private supplies of water for domestic purposes shall conform to Minnesota Department of Health standards for water quality.
- R. *Private well – permit.* No person, firm or corporation shall install, alter, repair or extend any private well without first obtaining a permit from the Building Official.
1. Application for permits shall be made in writing upon printed blanks or forms furnished by the Building Official and shall be signed by the applicant.

Each application for a permit shall include: a correct legal description of the property on which the proposed installation, alteration, repair or extension is to take place; a plan of the site of reasonable scale and accuracy showing the location of any proposed or existing buildings, sewage treatment facilities, property lines; a complete plan of the water supply system showing the location, size, and design of all parts of the system to be installed, altered, repaired or extended; the name of the person, firm, or corporation who is to install the system; any further information as required by the Building Official.
- S. *Private wells – flooding.* Private wells shall be located in a manner to be free from flooding and the top shall be so constructed and located as to be above all possible sources of pollution. Wells already existing in areas subject to flooding shall be flood-proofed.
- T. *Private wells – location.* No private well shall be located closer than three (3) feet to the outside wall of a dwelling. The outside basement footings shall be continuous across the opening of the well alcove. No well shall be located closer than fifteen (15) feet to a property line.
- U. *Private wells - MPCA standards.* Private wells shall be located in accordance with the standards of the Minnesota Health Department standards MHD 217 Location of Wells, (c)(1).
- V. *Subdivisions.* No land shall be subdivided which is held unsuitable by the City for the proposed use because of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities, or any other feature likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.
1. *Submittal required.* Copies of all plats within the shoreland overlay district shall be submitted to the Commissioner of Natural Resources no later than ten (10) days prior to the public hearing by the City.

Planned Unit Development (PUD). Altered zoning standards may be allowed as exceptions to this Title for PUD's provided preliminary plans are approved by the Commissioner of Natural Resources prior to their approval by the City, and further provided:
 - a. The PUD is connected to a municipal sanitary sewer.

- b. Open space is preserved through the use of restrictive deed covenants, public dedications, or other methods.
- c. The following factors are carefully evaluated to ensure the increased density of development is consistent with the resource limitations of the protected water:

- Suitability of the site for the proposed use;
- Physical and aesthetic impact of increased density;
- Level of current development;
- Amount and ownership of undeveloped shoreland;
- Levels and types of water surface use and public accesses;
- Possible effects on overall public use.

Any commercial, recreational, community, or religious facility allowed as part of the planned development shall conform to all applicable federal and state regulations including, but not limited to, the following:

- Licensing provisions or procedures;
- Waste disposal regulations;
- Water supply regulations;
- Building codes;
- Safety regulations;
- Regulations concerning the appropriation and use of Protected Waters as defined in Minnesota Statutes 1974, Chapter 105;
- Applicable regulations of the Minnesota Environmental Quality Board.

The final plan for a planned unit development shall not be modified, amended, repealed or otherwise altered unless approved in writing by the developer, the municipality, and the Commissioner.

There are centralized shoreline recreation facilities such as beaches, docks, and boat launching facilities.

9-21-7 Shoreland Protection - Local

In addition to shoreland requirements for DNR Protected Waters as set forth in this Title, the following regulations shall apply to parcels of land bordering other lakes and ponds that normally contain standing water.

- A. Application of the requirements listed below shall be to type 4 and 5 wetlands according to the standard classification system of the Department of the Interior, Fish and Wildlife Service. A summary classification is as follows:

Type 4 - Inland Deep Fresh Marsh: Soil is covered by six (6) inches to three (3) feet of water during the growing season. May comprise shallow lake basins or may border open water. Best breeding habitat in the country, and important feeding places.

Type 5 - Inland Open Fresh Water: Shallow ponds and reservoirs usually less than 10 feet deep, and fringed by a border of vegetation used extensively for nesting.

- B. *Building setback*. No principal building shall be located within fifty (50) feet of the ordinary high water mark of the above wetlands.

9-21-8 Wetlands Overlay District Standards.

No development shall be allowed or development permit issued unless the Council finds that the proposed development complies with the following:

- A. *State regulations.* The Wetland Conservation Act of 1991 (Minnesota Laws 1991, Chapter 354, as amended) and that accompanying rules of the Minnesota Board of Water and Soil Resources (Minnesota Rules, Chapter 8420, as amended) are incorporated herein by this reference and any future amendments adopted by legislation.
- B. *Comprehensive Wetland Management Plan (CWMP).* Wetlands shall be subject to the requirements established in the City of Savage Comprehensive Wetland Management Plan as well as other restrictions and requirements established by other applicable City ordinances and regulations.
- C. *Delineation of wetlands.* A wetland is land that meets the definition of "wetlands" set forth in this Title. Wetland locations and wetland types as established by officially adopted City maps shall be prima facie evidence of the location and type of wetland. If an applicant questions whether a wetland exists or disputes its delineation, the applicant shall have the burden to supply detailed information for review supporting the applicant's position. The applicant shall provide appropriate technical information, including but not limited to, topographical survey and soil data deemed necessary for the City to determine the exact wetland boundary. The City shall make a determination of the delineated wetland boundary or if the boundaries need to be corrected on City plans and maps based upon the data that is supplied. Data for wetland determination shall be certified by a qualified wetland consultant. The applicant may appeal the City's determination of the wetland boundary and type to the City Council. Wetland boundaries shall be identified by permanent monumentation acceptable to the City. In residential subdivisions, a monument is required for each lot. In other situations, a monument is required for each three-hundred (300) feet of wetland boundary.
- D. *No net loss.* To achieve no net loss of wetland areas and public values, except as provided under this Title or authorized by a wetland alteration permit issued by the City, a person may not drain, grade, fill, remove healthy native vegetation, or otherwise alter or destroy a wetland of any size or type. Any alteration to a wetland, permitted by a wetland alteration permit, must be fully mitigated so that there is no net loss of wetlands.
- E. *Standards.* The following standards apply to all land within and abutting a wetland:
 - 1. Septic and soil absorption system must be setback a minimum of seventy-five (75) feet from a wetland.
 - 2. The lowest ground floor elevation shall be a minimum of two (2) feet above the elevation of the wetland boundary.
 - 3. Docks shall be elevated six (6) to eight (8) inches above the water surface.
 - 4. Access across a wetland shall be by means of a boardwalk or dock and only upon approval of a wetland alteration permit.
 - 5. The MPCA Urban Best Management Practices shall be followed.
 - 6. The standards of the City's Comprehensive Wetland Protection and Management Plan shall be followed.
- F. *Wetland buffer strips.* A buffer strip shall be established and maintained abutting all wetlands and public waters as outlined in the Comprehensive Wetland Protection and Management Plan. Plant species shall be selected from wetland and upland plants to provide habitat for various species of wildlife. The dimensions of the buffer strips may be adjusted by the City based upon the quality of the wetland and public waters, local topographic conditions, and the type and design of development being proposed. In addition, a minimum twenty-five (25) foot structure setback and fifteen (15) foot deck/porch setback shall be required from the wetland/stormwater pond buffer in all residential districts, to ensure usable green space and to limit potential disturbance of the buffer.
- G. *Wetland alteration.* A permit shall not be issued unless the proposed development complies within

the mitigation provisions of this Title, as well as the standards, intent, and purpose of this Section and the City's Comprehensive Wetland Protection and Management Plan. An applicant for a permit to alter a wetland shall adhere to the following principles in descending order of priority:

1. Avoiding the direct or indirect impact of the activity that may destroy or degrade the wetland.
 2. Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation.
 3. Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland activity and its implementation.
 4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity.
 5. Replacing unavoidable impacts to the wetlands by restoring or creating substitute wetland areas having equal or greater public value as set forth in Minnesota Rules, Sections 8420.0530 to 8420.0630 and the City's Comprehensive Wetland Protection and Management Plan.
- H. *Permit required.* Drainage, grading, filling, removal of healthy native vegetation, or otherwise altering or destroying a wetland and any land within five (5) feet of a delineated wetland boundary requires a permit. Activity in a wetland requiring a permit includes, but is not limited to:
1. Construction of new streets and utilities.
 2. Creation of ponds or dams and alterations of the natural drainageways of water courses. This shall only be allowed as part of a mitigation project, or to restore or improve the function and value of the wetland.
 3. Installation of boardwalks.
 4. Discharge of stormwater runoff in a manner that impacts the wetland.
- I. *Filling.* When a permit is issued allowing filling in a wetland, the following standards shall be followed:
1. Filling must be consistent with the City's Comprehensive Wetland Protection and Management Plan.
 2. Filling shall not cause the total natural nutrient stripping capacity of the wetland to be diminished to an extent that is detrimental to any area river, lake, or stream.
 3. Only fill free of chemical pollutants and organic wastes may be used.
 4. Filling in wetland areas will not be permitted during waterfowl breeding season or fish spawning season, unless it is demonstrated to the City's satisfaction that the wetland is not used for waterfowl breeding or fish spawning.
 5. Filling in wetland areas must be mitigated in accordance with the requirements of this Title and the City's Comprehensive Wetland Protection and Management Plan and state and federal Laws.
- J. *Dredging/excavation/grading.* When a wetland alteration permit is issued allowing dredging, excavating, or grading in a wetland, the following standards shall be followed:
1. The dredging will not have a net adverse effect on the ecological and hydrological characteristics of the wetland.
 2. It shall be located as to minimize the impact on vegetation.
 3. It shall not adversely change water flow.
 4. The size of the dredged area shall be limited to the minimum required for the proposed action.
 5. Disposal of the dredged material is prohibited within the wetland area, except to create

islands that have been approved by the City as part of the mitigation plan.

6. Disposal of any dredged material shall include proper erosion control and nutrient retention measures.
7. Dredging in any wetland area is prohibited during waterfowl breeding season or fish spawning season, unless it is demonstrated to the City's satisfaction that the wetland is not used for waterfowl breeding or fish spawning.
8. Dredging in wetland areas must be mitigated in accordance with the requirements of this Title if the activity results in a loss of functional wetland. Dredging to create water quality improvement basins may be allowed by the City where reasonable alternatives are not available or where the wetland is of low quality and designated for this purpose by the City's Comprehensive Wetland Protection and Management Plan.

K. *Mitigation.*

1. *Intent.* Where wetland alteration is approved and mitigation is required, mitigation must result in an improvement to the wetland function and value. Mitigation plans must address water quality, improvement, and maintenance of pre-existing hydrological balance and wildlife habitat. The wetland function and value will include improvement of water quality, maintaining hydrological balance, and provision of wildlife habitat. Mitigation will be performed at ratios required by state law to achieve replacement of the wetland function and value and as outlined in the City's CWPMP.
2. *Mitigation standards.* Mitigation of wetlands for function and value should be restored, created, and enhanced to have the following characteristics:

Relatively stable water levels subject to natural fluctuations.

Pretreatment of inflow waters to improve quality.

High level of upland/lowland intermingling.

A ratio of open water to aquatic vegetation between 1:1 and 1:2.

High degree of intermingling of open water and aquatic vegetation.

High level of plant species diversity.

Restoration of native plant species in upland and lowland areas.

Undisturbed upland/lowland edge (i.e., buffer).

Meandered wetland edge.

Irregular bottom contours - mix of shallow and deep water.

Shallow side and bottom slopes - preferable 10:1 to 30:1 around and within wetland; steeper slopes may be used to provide open water and greater vegetation variability.

Mitigation techniques.

- a. Mitigation shall be performed at a ratio required by state and federal laws.

Mitigation shall result in no net loss to the wetland function and value. The wetland function and value will include improvement of water quality, maintaining hydrological balance, and provision of wildlife habitat.

Mitigation shall provide a buffer strip as set forth in this Title. The buffer strip acreage may be included in the total acreage for mitigation purposes to the extent allowed pursuant to Minnesota Rules, Section 8420.0540. Buffers must be posted with markers & approved the City.

Mitigation shall maintain or enhance the wetland hydrological balance through the following:

Restoration of drained or partially drained wetlands.

Restoration of degraded wetlands.

Creation of new wetlands.

If storm water is channeled into a wetland, mitigation shall provide for pretreatment of water prior to it entering the wetland to maintain water quality.

The buffer strip landscape shall provide for wildlife cover and utilize a diversity of native flora (i.e., trees, shrubs, grasses, herbaceous plants) to encourage wildlife diversity, provide visual variety, and provide nesting and food for wildlife habitat.

Wetland mitigation should be undertaken on-site. If this is not feasible as demonstrated to the City, mitigation should occur in accordance with the requirements of the Comprehensive Wetland Protection and Management Plan and the Wetland Conservation Act.

L. *Construction management and long-term wetland maintenance.*

1. The permit holder shall follow the urban best management practices to minimize direct impacts due to erosion and construction practices and to safeguard wildlife habitat.
2. The permit holder shall conduct a monitoring program in accordance with the requirements of the Wetland Conservation Act. A letter of credit in the amount of the estimated construction costs of the mitigation plan from the permit holder shall be held to ensure compliance. The letter of credit may be reduced if the City approves the mitigation construction and the permit holder provides the City with as-built plans showing compliance with the approved mitigation plans. On an annual basis, the permit holder shall submit a monitoring report prepared by a certified wetland professional to the City for review. The annual report of monitoring shall be required until the mitigation site meets the intent of the replacement plan as determined by the City Engineer. At the end of the monitoring period, the City will release the letter of credit if the permit holder demonstrates that the functions and values of the impacted wetland have been replaced. Where feasible, the City shall require the permit holder to satisfy long-term management requirements.

M. *Application and issuance of permit.*

1. The applicant for a permit shall furnish the information required by the City including, but not limited to, a site plan, topographic data, hydrological data, and functions and value of the impacted wetland for the review of a wetland alteration permit application. The City Engineer shall use discretion regarding the level and complexity of information required to review the request. A wetland alteration permit shall not be issued without having been first reviewed by the City Engineer and approved by the City Council following requirements and time schedules of Minnesota Rules, Section 8420.0230. The applicant shall have the burden of proving that the proposed use or activity complies with the purposes, intent, and other provisions of this article. The Council may establish reasonable conditions which are specifically set forth in the permit to ensure compliance with requirements contained in this Title. Such conditions may, among other matters, limit the size, kind, or character of the proposed work; require the construction of other structures; require replacement of vegetation and wetland function and value; establish required monitoring procedures and maintenance activity; state the work over time; require the alteration of the site design to ensure buffering; and require the provision of a performance security.

The City Engineer or his or her designee shall serve on the technical evaluation panel. Decisions under this Title must not be made until after receiving the determination of the technical evaluation panel regarding wetland public values, location, size, and/or type if the City Council, the landowner, or a member of the technical evaluation panel asks for such determinations. This requirement does not apply to wetlands for which such data is included in an approved comprehensive wetland protection and management plan per Minnesota Rules, Section 8420.0650. The City Council may seek and consider

recommendations, if any, made by the technical evaluation panel in making replacement plan decisions.

Decisions made under this Title concerning implementation of the Wetland Conservation Act may be appealed to the Board of Water and Soil Resources under Minnesota Rules, Section 8420.0250.

The application for a permit under this Chapter shall be accompanied by a permit fee to be determined by resolution of the City Council.

- N. *Inspection of work.* The City may cause inspection of work for which a wetland alteration permit is issued, at the applicant's expense, to be made periodically during the course of such work and shall cause final inspection to be made following the completion of the work.
- O. *Expiration and renewal of permit.*
1. Unless other time periods are specified by the City Council, the person issued a wetland alteration permit shall begin and complete the development authorized by the permit within one (1) year after the date the City Council approves the permit application.
 2. The permittee shall provide written notice to the City twenty-four (24) hours prior to the commencement and completion of the development project. No project shall be deemed to have been completed until approved by the City after receipt of notice of completion.
 3. If the permittee fails to commence work on the development within the time specified in this Section, the permit shall be void. The City Council may renew a void permit at its discretion. If the City Council does not renew the permit, the holder of the void permit may make original application for a new permit.
 4. The permittee may make written application to the City Council for an extension of the time to commence work, but only if the permittee submits the application prior to the date already established to commence work. The application of an extension shall state the reasons the permittee requires an extension.
- P. *Exemptions.* Activities exempted by Minnesota Rules, Section 8420.0122 shall be exempted from the provisions of this Title. However, certificates of exemption must be obtained from the City prior to starting work.

9-21-9 Bluffland Overlay District Standards.

- A. It is the intent of this Title to preserve significant landforms such as river and stream valleys and bluffs and other steep areas in their natural state. In furtherance of this intent, the placement of structures upon land having a vertical slope in excess of thirty-three and one-third (33 $\frac{1}{3}$) percent shall be prohibited. Removal of natural vegetation and alterations to the existing land contour in areas over thirty-three and one-third (33 $\frac{1}{3}$) percent shall also be prohibited.
- B. A setback of forty (40) feet shall be required for structures along the Minnesota River bluff from the point at which the gradient reaches thirty-three and one-third (33 $\frac{1}{3}$) percent.
- C. A setback of twenty-five (25) feet shall be required for structures along the Credit River bluff and the bluff areas adjacent to other wetlands within the community from the point at which the natural gradient is thirty-three and one-third (33 $\frac{1}{3}$) percent.
- D. Within planned unit development districts, setbacks may be modified further with consideration given to construction methods that will preserve the natural features and prevent erosion as well as considerations related to building height. If a building exceeding three (3) stories in height is proposed, the setback from the established bluff line shall be increased so that the setback is not less than one-half ($\frac{1}{2}$) the height of the building.
- E. The City Engineer must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads,

driveways, structures, or other improvements on steep slopes. When determined necessary, conditions may be attached to issued permits to prevent erosion and to preserve existing vegetation screening of vehicles, structures, and other facilities as viewed from the surface of public waters.

- F. A minimum setback of fifty (50) feet is required for ponds, infiltration areas, and individual sewage treatment systems (ISTS) from the point at which the natural gradient is thirty-three and one-third (33 1/3) percent.
- G. No new discharge points are allowed on any bluff face where the natural gradient is thirty-three and one-third (33 1/3) percent or steeper.