



CITY HALL

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January 19, 2012

Planning Commissioners
Winona, Minnesota 55987

Dear Commissioner:

The next meeting of the Planning Commission will be held on **Monday, January 23, 2012, at 4:30 p.m. in the Wenonah Room** of the Winona City Hall.

1. Call to Order
2. Minutes – December 12, 2011
3. Bicycle Ordinance
4. Draft Amendment – Sensitive Land Development Ordinance
5. Other Business
6. Adjournment

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Moeller".

Mark Moeller
City Planner

PLANNING COMMISSION MINUTES

DATE: December 12, 2011

TIME: 4:30 p.m.

PRESENT: Chairman Porter; Commissioners Boettcher, Gromek, Prosen, Briggs, Buelow, Ballard and Olson

ABSENT: Commissioner Eyden

STAFF PRESENT: City Planner, Mark Moeller

The meeting was called to order at 4:30 p.m. by Chairman Porter.

Approval of Minutes – November 14, 2011

The minutes from the Commission's meeting of November 14, 2011 were reviewed, and upon motion by Commissioner Gromek, and second by Commissioner Olson, were unanimously approved as submitted.

Public Hearing – Land Disturbance Activity Permit

Chairman Porter noted that the first formal item of business on this afternoon's agenda was a public hearing relating to a Land Disturbance Activity Permit request from Kim Eiken. Prior to opening the public hearing, he asked that the petitioner or a representative of the petitioner provide a summary of the requested action.

James Brooks, Lake City Minnesota, noted that he was a consulting forester, and had been working with Kim Eiken in presenting this request. Mr. Brooks explained that he formerly worked as a forester with the Minnesota Department of Natural Resources for 30 years, and upon retirement established a consulting business to assist property owners with timber appraisals, timber sales and log and dispute resolution. Given this role, he was contacted by an acquaintance of Ms. Eiken in early summer, and in walking her property, identified a number of trees, particularly oak and walnut that could be harvested. Of these, the decision had been made to not log oak trees at this time because of a relatively depressed market. However, since it is in high demand, a decision has been made to proceed with harvesting 16 walnut trees from the property.

Mr. Brooks emphasized that the tree or harvesting activity would utilize existing logging (other) trails that exist on the property. No new trails will be constructed. He also explained that although the activity would normally require the harvesting of a minimum of 40 trees to be profitable, he is currently working with a local logger who is willing to work with a smaller number.

Mr. Brooks further explained that the activity will include two landing sites for logs and, given winter harvesting activity, will have minimal impact on Bluff Lands. Once harvesting is completed, slash from trees would be retained on site for wildlife and natural degradation.

At this point, Chairman Porter thanked Mr. Brooks for his presentation, and called on Mark Moeller, City Planner to provide a summary of the staff report of this issue.

Mr. Moeller noted that this was the first Land Disturbance Activity Permit Application that has been received since the adoption of the City's Bluff Protection Ordinance in December of 2009. Given terms and conditions of that ordinance, "selective" tree harvesting activities are permitted activities within Bluff Impact Overlay Districts, provided that Planning Commission approval is granted. Although this is one of the few formal activities allowed within Bluff Impact Overlay Districts, it is an activity which, if properly conducted, can both sustain forest vitality and health, and meet resources (lumber) demands.

Given process, Mr. Moeller explained that this hearing had been preceded by a notice in the paper as well as notice to adjoining property owners. To date, no formal feedback had been received relative to these notices.

At this point, Mr. Moeller summarized staff discussion pertaining to those conditions that apply to this particular use. Given that analysis, staff had recommended approval of the request subject to the following conditions:

1. All work shall be carried out in conformance with the noted scope of the project, as presented in the original application. Again, under this scope, 16 walnut trees would be removed, and all activity would utilize existing trails on the property. No new trails would be constructed.
2. All work shall be carried out in conformance with best management practices, as currently recommended by the Minnesota Resources Council.
3. Responsible tree harvesting contractors shall have a valid City of Winona Tree Removal License. This license would be issued by the City Forester through the Public Works Department.

At this point, Chairman Porter opened the public hearing and called for any person who wished to speak to present first their name and address. There being no one present to speak for, or against, the proposal, the public hearing was closed. At this point, it was moved by Commissioner Olson and seconded to approve the Land Disturbance Activity Permit Application submitted by Kim Eiken subject to those conditions as outlined in the staff report. Commissioner Olson noted that in presenting this motion, he felt that it would be beneficial in sustaining site forest lands and would serve to meet local/area market demands for this type of lumber.

At this point, Chairman Porter called for Commission discussion.

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DECEMBER 12, 2011
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Commissioner Prosen asked if trees were being removed for economic or environmental reasons. Mr. Brooks replied that given the limited scope of this project, the higher emphasis was being placed on the economic value. He reiterated that the walnut tree species is probably the only one that could provide some economic value with removal of only 16 trees.

Commissioner Buelow asked if all trees would be removed and trucked from the top of the bluff. Mr. Brooks replied that this would be the case.

Commissioner Gromek stated that although potential impacts of this request are expected to be minimal, it will be a good test case of the adequacy of conditions pertaining to selective removal.

Chairman Porter asked if there were issues with burial grounds. Mr. Moeller noted that, under the City Bluff Protection Ordinance, burial ground issues become prevalent outside of the top of bluff definition. For permitted conditional activities within the Bluff Impact Overlay District, although formal considerations are not mandated, recognition has to be given to state laws requiring that if a burial site is discovered, no further disturbances can proceed until the site is authenticated. Given this activity, and the slopes on which it is occurring, it is highly questionable that burial sites would be encountered.

There being no further Commission discussion, the question was called. The vote of the Planning Commission was unanimous to approve the motion granting approval to the Land Disturbance Permit Activity Application by Kim Eiken.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned.

Mark Moeller
City Planner

PLANNING COMMISSION

AGENDA ITEM: 3. Bicycle Ordinance

PREPARED BY: Carlos Espinosa

DATE: January 23, 2012.

Introduction

Winona's City Code currently does not specifically address bicycling rules in the City. Although bicycling rules are primarily established through state statute, cities may adopt regulations consistent with state statutes and make additions according to local conditions. As part of the effort to define local bicycle rules and promote bicycling in Winona, the Planning Division has created a draft Winona Bicycle Ordinance in coordination with representatives from the Park and Recreation Department and the Police Department.

Ordinance Description

The attached draft bicycle ordinance is meant to help answer common questions about bicycling in Winona and clearly communicate local regulations. The draft ordinance includes the following provisions in accordance with state statute:

- Bicyclists are afforded the same rights and duties of motor vehicle drivers.
- Bicyclists must ride as close as practicable to the right-hand curb or edge of the roadway (except when passing another vehicle, turning left or avoiding safety hazards).
- Bicyclists are treated as pedestrians when inside a crosswalk (even when riding a bike).
- Bicyclists may ride a maximum of two abreast as long as traffic is not impeded.

To address local conditions and priorities, the draft ordinance:

- Removes the existing requirement for bicycle registration.
- Prohibits bicycling on the sidewalk in the central business district (see attached map). The definition of central business district is the same as City Code Section 62.25 which prohibits in-line skates, rollerskates, and skateboards in the same area. This provision does not apply when parking a bicycle or accessing a place of business.
- Allows bicycling on sidewalks is permitted outside the central business district, but is discouraged for those over age 16.
- Encourages using a helmet – especially for those under age 16.
- Encourages walking bicycles within crosswalks.

Next Steps

Staff is seeking the Commission's input regarding the draft ordinance before introducing it to the City Council. Because the ordinance is proposed to be located in Chapter 61, a public hearing is not required before the Planning Commission.

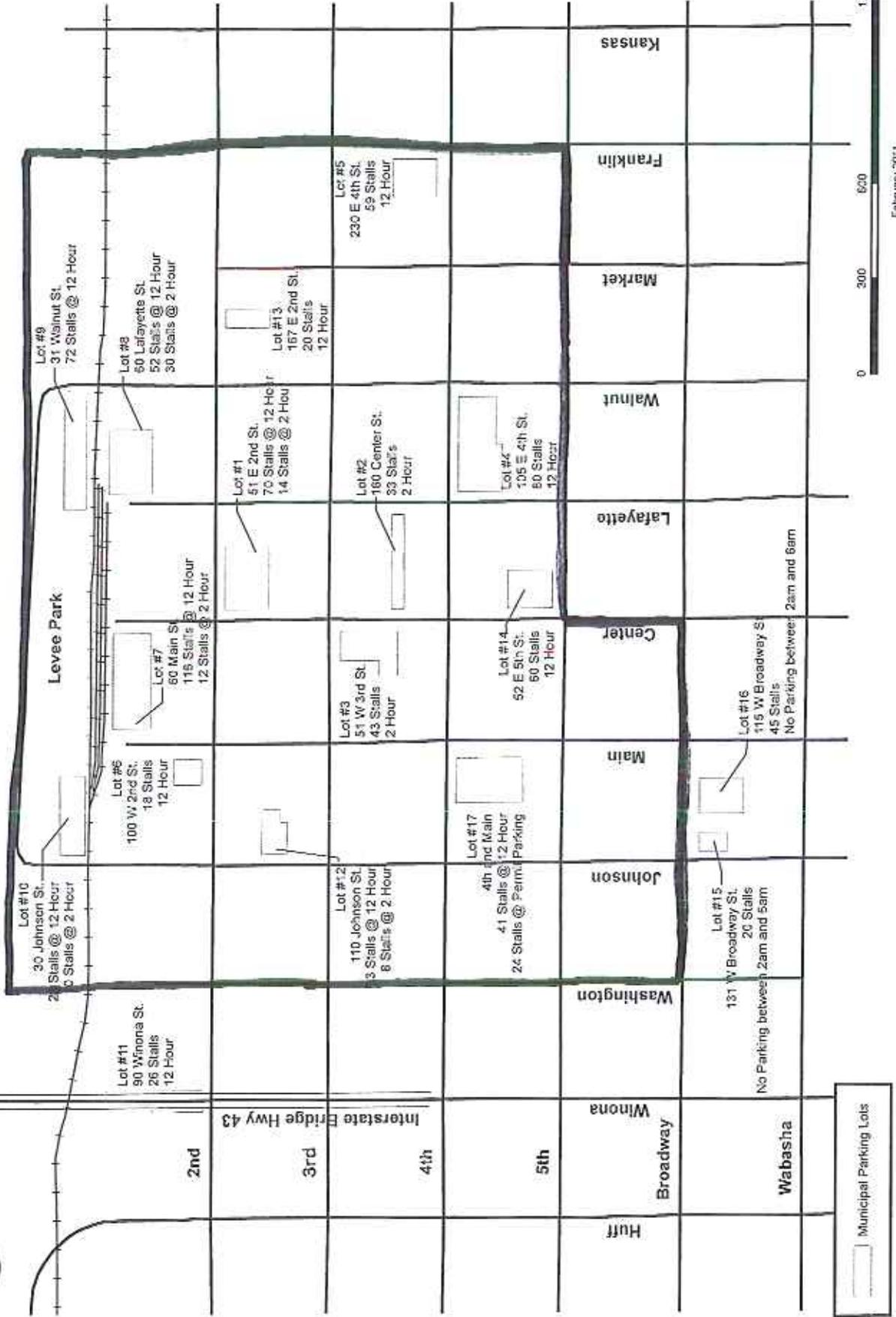
Attachments:

- 1) Map of CBD
- 2) Draft ordinance
- 3) Minnesota State Statutes 169.222

City of Winona

~~Downtown Municipal Parking Lots~~ CBO AS OFFERED IN SECTION 62.25 =

Mississippi River



AN ORDINANCE TO AMEND
THE CODE OF THE CITY OF
WINONA, MINNESOTA
1979

The City of Winona does ordain:

Section 1. That Section 61.53 of the City Code of Winona, Minnesota, 1979, which section is entitled "BICYCLES, REGISTRATION", be amended as follows:

61.53 BICYCLES, REGISTRATION. No person shall ride a bicycle upon any street, sidewalk, highway or other public property in the City unless such bicycle shall have been registered with the City prior to March 1, 1977, or shall be registered with the State on or after said date. (a) Established. The City of Winona hereby adopts Minnesota Statutes 169.222 in regard to the operation of bicycles in the City of Winona. In addition, the provisions below shall apply:

1. Use of a helmet and other forms of protective gear while operating a bicycle is strongly encouraged for all ages, especially those age 16 and under.
2. Walking alongside one's bicycle while within a designated crosswalk is encouraged.
3. The operation of bicycles is prohibited on sidewalks in the Central Business District except for parking a bicycle or accessing a place of business. For this ordinance, Central Business District is defined as the following:

The area located within the following described perimeter: Beginning at the intersection of Washington Street and Broadway, thence east to Center Street, thence north to Fifth Street, thence east to Franklin Street, thence north to the Mississippi River, thence west along the Mississippi River to the intersection of the Mississippi River and Washington Street extended, thence south on Washington Street to the point of beginning.
4. The operation of bicycles on sidewalks is permitted outside the central business district, but discouraged for persons over age 16.

This section shall ultimately be interpreted and enforced by local law enforcement in accordance with both Winona City Code and Minnesota State Statutes.

Section 2. That this ordinance shall take effect upon its publication.

Dated this _____ day of _____, 2012.

Mayor

Attested By:

City Clerk

City/ordinance/61.53-Bicycles.doc

169.222 OPERATION OF BICYCLE.

Subdivision 1. **Traffic laws apply.** Every person operating a bicycle shall have all of the rights and duties applicable to the driver of any other vehicle by this chapter, except in respect to those provisions in this chapter relating expressly to bicycles and in respect to those provisions of this chapter which by their nature cannot reasonably be applied to bicycles.

Subd. 2. **Manner and number riding.** No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped, except (1) on a baby seat attached to the bicycle, provided that the baby seat is equipped with a harness to hold the child securely in the seat and that protection is provided against the child's feet hitting the spokes of the wheel or (2) in a seat attached to the bicycle operator.

Subd. 3. **Clinging to vehicle.** Persons riding upon any bicycle, coaster, roller skates, toboggan, sled, skateboard, or toy vehicle shall not attach the same or themselves to any street car or vehicle upon a roadway.

Subd. 4. **Riding on roadway or shoulder.** (a) Every person operating a bicycle upon a roadway shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

- (1) when overtaking and passing another vehicle proceeding in the same direction;
- (2) when preparing for a left turn at an intersection or into a private road or driveway;
- (3) when reasonably necessary to avoid conditions, including fixed or moving objects, vehicles, pedestrians, animals, surface hazards, or narrow width lanes, that make it unsafe to continue along the right-hand curb or edge.

(b) If a bicycle is traveling on a shoulder of a roadway, the bicycle shall travel in the same direction as adjacent vehicular traffic.

(c) Persons riding bicycles upon a roadway or shoulder shall not ride more than two abreast and shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.

(d) A person operating a bicycle upon a sidewalk, or across a roadway or shoulder on a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal when necessary before overtaking and passing any pedestrian. No person shall ride a bicycle upon a sidewalk within a business district unless permitted by local authorities. Local authorities may prohibit the operation of bicycles on any sidewalk or crosswalk under their jurisdiction.

(e) An individual operating a bicycle or other vehicle on a bikeway shall leave a safe distance when overtaking a bicycle or individual proceeding in the same direction on the bikeway, and shall maintain clearance until safely past the overtaken bicycle or individual.

(f) A person lawfully operating a bicycle on a sidewalk, or across a roadway or shoulder on a crosswalk, shall have all the rights and duties applicable to a pedestrian under the same circumstances.

Subd. 5. **Carrying articles.** No person operating a bicycle shall carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handle bars or from properly operating the brakes of the bicycle.

Subd. 6. **Bicycle equipment.** (a) No person shall operate a bicycle at nighttime unless the bicycle or its operator is equipped with a lamp which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector of a type approved by the Department of Public Safety which is visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of headlamps on a motor vehicle. No person may operate a bicycle at any time when there is not sufficient light to render persons and vehicles on the highway clearly discernible at a distance of 500 feet ahead unless the bicycle or its operator is equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of headlamps on a motor vehicle. The reflective surfaces shall include reflective materials on each side of each pedal to indicate their presence from the front or the rear and with a minimum of 20 square inches of reflective material on each side of the bicycle or its operator. Any bicycle equipped with side reflectors as required by regulations for new bicycles prescribed by the United States Consumer Product Safety Commission shall be considered to meet the requirements for side reflectorization contained in this subdivision. A bicycle may be equipped with a rear lamp that emits a red flashing signal.

(b) No person shall operate a bicycle unless it is equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(c) No person shall operate upon a highway any bicycle equipped with handlebars so raised that the operator must elevate the hands above the level of the shoulders in order to grasp the normal steering grip area.

(d) No person shall operate upon a highway any bicycle which is of such a size as to prevent the operator from stopping the bicycle, supporting it with at least one foot on the highway surface and restarting in a safe manner.

Subd. 7. **Sale with reflectors and other equipment.** No person shall sell or offer for sale any new bicycle unless it is equipped with reflectors and other equipment as required by subdivision 6, clauses (a) and (b) and by the regulations for new bicycles prescribed by the United States Consumer Product Safety Commission.

Subd. 8. **Turning, lane change.** An arm signal to turn right or left shall be given continuously during the last 100 feet traveled by the bicycle before turning, unless the arm is needed to control the bicycle, and shall be given while the bicycle is stopped waiting to turn.

Subd. 9. **Bicycle parking.** (a) A person may park a bicycle on a sidewalk unless prohibited or restricted by local authorities. A bicycle parked on a sidewalk shall not impede the normal and reasonable movement of pedestrian or other traffic.

(b) A bicycle may be parked on a roadway at any location where parking is allowed if it is parked in such a manner that it does not obstruct the movement of a legally parked motor vehicle.

Subd. 10. **Bicycle events.** (a) Bicycle events, parades, contests, or racing on a highway shall not be unlawful when approved by state or local authorities having jurisdiction over that highway. Approval shall be granted only under conditions which assure reasonable safety for all participants, spectators and other highway users, and which prevent unreasonable interference with traffic flow which would seriously inconvenience other highway users.

(b) By agreement with the approving authority, participants in an approved bicycle highway event may be exempted from compliance with any traffic laws otherwise applicable thereto, provided that traffic control is adequate to assure the safety of all highway users.

Subd. 11. Peace officer operating bicycle. The provisions of this section governing operation of bicycles do not apply to bicycles operated by peace officers while performing their duties.

History: *1978 c 739 s 12; 1986 c 444; 1987 c 255 s 14; 1993 c 326 art 4 s 2; art 7 s 2; 1995 c 72 s 2*

PLANNING COMMISSION

AGENDA ITEM: 4. Draft Amendments – Sensitive Land Development Ordinance

PREPARED BY: Mark Moeller

DATE: January 23, 2012.

For Commission reference, the attached represents proposed final draft amendments to Section I, Appendix 1, of Chapter 42 (Sensitive Land Development Ordinance). Again, the focus of this effort is designed to reshape this ordinance in order to bring it in line with Bluff Protection, Shoreland, Stormwater Management, and other land protection provisions of City Code. Other purposes will serve to reduce redundancy and dual (conflicting) requirements that presently exist.

Since the Commission's last review of the proposal, it has been reviewed by the City Attorney, and additional changes made. As noted, some of these will require amendments to other code provisions. The proposal will be reviewed in more detail during Monday's meeting. Should it look acceptable, a formal hearing will be established for February 13th.

Attachments

I. ENVIRONMENTALLY SENSITIVE LANDS DEVELOPMENT ORDINANCE

1. Purpose and Intent

~~The purposes of the Environmentally Sensitive Lands Development Ordinance are to identify and protect environmentally sensitive lands in the City and to promote the public health, safety, and welfare by providing appropriate and reasonable controls for the development of such lands. Regulations of this ordinance are intended to:~~

In part, the City of Winona's identity is defined by a strong natural setting that, without limitation, includes forested bluffs and valleys, rivers and streams, and a diversity of plant and animal habitats. Pursuant to goals and objectives of the City Comprehensive Plan, the preservation of these natural resources for future generations, is highly recommended. The intent of this ordinance is to promote methods of conservation that will serve to achieve these goals, as well as those purposes of City Code Section 43.03, through the land platting process.

- ~~1. Protect people and property from hazardous conditions characteristic of environmentally sensitive lands and their development. Such hazards include rockfalls, rolling boulders, other unstable slopes, flooding, flood-related mudslides, subsidence, erosion, sedimentation, and unstable soils.~~
- ~~2. Protect and conserve significant natural and visual resources. Such resources include major rock outcrops, major ridges and peaks, wildlife habitat, unique vegetation, significant riparian habitats, wetlands, and rare and threatened species.~~
- ~~3. Protect the quality of resources, such as water quality, air quality, soils, and natural vegetation.~~
- ~~4. Minimize the public costs of providing public services and facilities, such as streets, water, sewer, emergency services, sanitation services, parks, and recreation.~~
- ~~5. Ensure that decisions regarding development in environmentally sensitive areas are based on the most complete and accurate information available.~~
- ~~6. Minimize the negative impacts of development by controlling their location, intensity, pattern, and design.~~
- ~~7. Retain the visual character of the natural landscape to the greatest extent feasible by regulating grading location, design, and treatment.~~
- ~~8. Maintain significant open spaces that provide view corridors and land-use buffers, protect landmarks, and maintain the City's natural setting.~~
- ~~9. Protect environmentally sensitive lands, while also recognizing the legitimate expectations of property owners and the City's overall economic goals.~~
- ~~10. Encourage innovative planning, design, and construction techniques for development within environmentally sensitive areas.~~

2. Natural State Areas (NSA) Established

The following environments shall be designated as NSA on any approved preliminary or final plat:

- * Any delineated wetland that is not to be impacted, or otherwise replaced, pursuant to MN Rules Chapter 8420.
- * Land located within a defined Bluff Impact Overlay District.
- * All lands located within 100 feet from the normal high water mark of any Special Water river or stream, as defined per Section 69.04. ~~In the case of all other water bodies listed, shore impact zones shall be NSA.~~ This requirement does not apply to water crossings, or limited water access if documented pursuant to requirements of Section 68.07 (K) (8).
- * Any other environment that is, following special study, or by state/federal law, required to be maintained in an undisturbed condition.

~~Land designated as Natural State Areas (NSA) shall be set aside, and maintained, as permanent undisturbed open space.~~

~~Once designated on either an approved preliminary, or final, plat, no person shall conduct any activity that would disturb topographic soil, or vegetative conditions of the NSA from those conditions which existed at the time of plat approval. The term "disturb" includes, but is not limited to, grading, filling, excavating, the constructing buildings, fences, driveways, sidewalks, patios, retaining walls, and public/private utilities on, or the cutting, mowing or removal of dead or living vegetation from the area, unless in conformance with Section 4. Land disturbance activity, within an NSA, unless in accordance with this section. The term "Land Disturbance Activity" shall be defined as a change in the use of land that would result in any form of topographic modification, increase in impervious surface coverage, or vegetative alteration. Land disturbance activity shall include, but not be limited to:~~

- a. ~~Any extent of grading, grubbing, filling, and excavating.~~
- b. ~~The construction of any structure, building, impervious walk/path, swimming pool, deck, patio, driveway, street, retaining wall, and public/private utility.~~
- c. ~~The establishment of formal lawns and gardens, or the cutting, thinning, and/or removal of existing living and dead vegetation.~~

~~This term shall not include the removal of diseased or dead vegetation, nor to home lawn, garden and landscaping maintenance activities established prior to NSA designations of a property.~~

This term shall not include:

- A. ~~Any NSA site condition representing an immediate safety hazard to persons or property. The City Planner, following consultation with qualified people, shall document such a hazard. Once documented~~ Following documentation of the hazard by the City Planner, or designated representative, the underlying property owner of the NSA shall be responsible for its immediate correction. This action may employ any reasonable method ~~provided that is consistent with the intent and purpose of this section, and will result in the least possible intrusion on remaining NSA lands~~ necessary to mitigate the

hazard, provided that adjacent NSA lands are not impaired. Should the property owner fail to correct the hazard, it may be abated in accordance with provisions of Chapter 32.

- B. The removal of noxious weeds, as defined by Minnesota Rules Section ~~1605.0730~~1505.0751, Subp. 8, from a designated NSA, provided that the method of removal is by hand pulling, hand cutting, and/or the hand application, excluding sprays, of appropriate herbicides. If the method of noxious weed removal involves the use of motorized or mechanical equipment, spraying, or the disturbance of vegetation which is not classified as noxious, ~~Planning Commission~~ approval shall be required pursuant to subpart 4.

~~Land designated as NSA, shall be maintained as permanent natural open space. Once established on the approved final plat, no person shall fill, excavate, construct buildings, fences, driveways, retaining walls, public/private utilities on, remove dead or living vegetation from, or mow, the area, unless in conformance with Section 4.~~

~~For purposes of this section, Natural State Areas shall include those environments specified within either Table A or B below:~~

TABLE A
(Natural State Area Requirements – All Environments)

100 Percent of the following environmental conditions shall be set aside as Natural State Areas (NSA):

- ~~— Defined wetlands~~
 - ~~— Watercourse floodways~~
 - ~~— Rare plant and animal habitats, as defined by Minnesota County Biological Survey (1996)~~
 - ~~— Shoreland Corridors as defined in the following schedule:~~
- | Average Slope within 100 feet from the Outer Limits of an Adjacent Floodway | *Width of Natural State Corridor – from Outer Limits of Adjacent Floodway |
|--|--|
| 11-29% | 0- 10% 50 Feet |
| 30%+ | 75 Feet |
| 30%+ | 100 Feet |
- ~~— Slopes with average grades exceeding 30% – See Table B~~

~~*Excluding public access to or over the water body provided that the purpose and intent of this section is complied with to the greatest extent possible.~~

TABLE B
Natural State Requirements B Slopes

~~In addition to the requirements of Table A, whenever a subdivision is proposed in an area in which the average slope off any lot is 10 percent and above, the following schedule shall be required for calculating Natural State Areas. Natural State requirements shall be applied to the development site as on a lot-by-lot basis:~~

~~_____ Natural State Area~~

<u>Percent Average Lot Slope</u>	<u>*Requirement Percentage</u>
10-14	30
15-19	35
20-24	45
25-29	65
30+	100

*The calculation of average slope shall be determined by use of the following formula:

$$\text{Average Slope} = \frac{.0023 \times I \times L}{A}$$

I = Contour interval (in feet)

L = Total length of contour lines (in feet) within subject parcel

A = Area (acres) of subject parcel

The intent of this section is that development should be permitted on those portions of a lot with the least slope grades and that Natural State Requirements will be applied first to those portions of the lot with the greatest slope grades. In no event shall significant portions of any lot, where those portions exceed slope grades of 25% be disturbed. For purposes of this section, the term "disturbed" shall have the same meaning described under Section 2.

Natural State Areas shall not include any easement which would result in the disturbance of native ground cover or other vegetation.

3. Determination of Maximum Density

If applicable, Natural State Areas may be used in calculating the maximum density of a lot. ~~Natural State Areas may be used, and to fulfill lot area and yard requirements, provided that they are not disturbed, unless in conformance with subpart 4. However, no structure shall be located closer than 75 feet from any limit of a defined floodway or wetland.~~

4. Disturbance of Natural State Areas

~~Once established on the an approved preliminary, or final, plat, no natural state area shall be disturbed, as defined under Section 2, for any public or private purpose unless approved by the Planning Commission. Any request to disturb a Natural State Area shall be submitted in writing to the Department of Community Development and shall be accompanied by plans or other materials which fully explain the intended action. Following receipt of the request, it shall be forwarded to any state or federal agency having jurisdiction over the environment, for applicable comment. Following receipt of these, the Planning Commission shall hold a public hearing which shall be preceded by a minimum of 10 days written notice to all property owners located within 150' from the area to be disturbed, abutting the parcel containing the disturbance, and to the official newspaper.~~

~~Prior to approving the request, the Planning Commission should seek the recommendation of the Citizens Environmental Quality Committee and must find that undue hardship exists and that approval will not adversely impact the purpose and intent of the natural state area. The Commission may apply any condition it deems appropriate to achieve these purposes, or needed to address noted concerns of any entity offering comment. For purposes of this section, the term "undue hardship" shall be the same as defined under Minnesota Statutes, Section 462.357 (Subd. 6)(2).~~

~~Unless associated with an exemption listed under Section 43.83 (c), or use otherwise subject to a specific exemption, or associated with any use listed under~~

Section 43.83 (F), no land disturbance activity shall be permitted on any established NSA designation.

Any person who feels that the strict enforcement of this section, would cause practical difficulties, because of circumstances unique to his/her property may request a variance from the Board of Adjustment. In cases where the management of ^a specific environment falls under the jurisdiction of a State, or Federal, or other agency, the Board shall seek ~~an opinion~~ required approvals, or opinion, from the agency, prior to acting on the variance.

~~Notwithstanding the foregoing, Planning Commission approvals shall not be required for the following activities:~~

~~5. Transfer of Natural State Areas~~

~~The Planning Commission may authorize a Natural State Area, as calculated from Table B, to be transferred from one lot to any other lot within the limits of a subdivision, provided that:~~

- ~~a. The Commission finds that a valid reason for the transfer exists and that the action will be consistent with the intent and purpose of this section.~~
- ~~b. The transfer of Natural State Area land may be applied to any part of the subdivision, excluding therefrom, any natural environment which is defined under Table A.~~
- ~~c. The transfer of Natural State Area land shall be permitted from any lot with an average slope which does not exceed 19%.~~
- ~~d. The transfer shall not result in a net loss of Natural State Area land to the subdivision.~~

6. Modification of Natural State Area

Following final plat approval, no boundary of a defined Natural State Area may be modified unless the modification is submitted to the Planning Commission and City Council for approval, pursuant to the requirements of Sections 42.03(e) and (f).

7. Preservation Method

The applicant for subdivision approval shall demonstrate to the satisfaction of the Planning Commission and City Council that a required Natural State Area will be permanently maintained. Methods acceptable for this purpose include: special agreements, easements, or donation or dedication to the City, or other public entity. Once the method of preservation is defined, it shall clearly be stated referenced on the final plat. Any agreement, easement, or other preservation document shall be recorded with the plat, and shall serve as a restriction to any the development of any parcel of the subdivision, which is subject to Natural State Requirements Area designation.

8. Review Criteria

~~During consideration of a subdivision, which is subject to Natural State Requirements, the Planning Commission shall investigate and ascertain whether the proposed subdivision complies with the following general criteria:~~

- ~~(a) That the plan is consistent with the intent and purpose of Chapters 42 and 43 of the Winona City Code.~~

- ~~(b) That properties adjacent to, or down slope/stream from, the subdivision will not be adversely affected.~~
- ~~(c) That the plan will protect and preserve natural features of the site which if disturbed, could adversely impact future residents of the development, and result in increased public maintenance costs.~~
- ~~(d) That grading of the site will complement natural land forms thereby preventing the need for excessive terracing.~~
- ~~(e) That the plan will be designed to harmonize with topographic, vegetative, and other natural characteristics of the site.~~
- ~~(f) That consideration is given to the view of hillsides as well as the view from hillsides.~~

Note: Although parts 9 and 10 are to be deleted from this section, it is proposed that language would be transferred to Code Sections 42.04 and 42.06 (required information for preliminary and final plats.)

~~9. Preliminary Plat B Additional Requirements~~

~~In addition to the requirements of City Code Section 42.04, the developer of any site, which is subject to the Natural State Requirements of Table A and Table B, shall submit the following with the preliminary plat:~~

- ~~a. Proposed Natural State Area calculations (reference to Table "A" or "B". The locations of Natural State Areas shall be clearly shown on the plat. Additionally, the developer shall submit any draft document, which will define the method of preserving Natural State Areas for their intended purpose.~~
- ~~b. A preliminary grading management plan. This plan shall be prepared by a registered civil engineer, licensed in the State of Minnesota, and shall include the following information:~~
 - ~~1. The total extent of areas to be disturbed.~~
 - ~~2. Proposed cut and fill areas along with proposed finished grade percentages.~~
 - ~~3. Proposed surface drainage patterns and runoff calculations, which are anticipated to occur as a result of development.~~
 - ~~4. Proposed ponding areas, which may be required to minimize adverse impacts on adjacent properties or public stormwater facilities.~~
 - ~~5. Proposed street grades/elevations.~~
 - ~~6. Anticipated erosion control measures, which will be required minimize the adverse effects on adjacent properties, defined Natural State Areas, and public facilities. In meeting this requirement, the developer shall clearly state the person who will be responsible for its implementation.~~
 - ~~7. Development timing.~~

~~8. In accordance with Section 7, the developer will permanently maintain Natural State Areas, and use methods to clearly identify and protect those areas throughout all construction phases of the development. Examples of field identification include fencing and/or construction tape/ribbon.~~

~~10. Final Plat – Additional Requirements~~

~~In addition to the requirements of City Code Section 42.06(b), the developer of any site, which is subject to the Natural State Requirements of Table A and Table B, shall submit the following with the final plat:~~

~~a. Final Natural State Area calculations. Additionally, all required Natural State Areas shall be clearly shown on the final plat.~~

~~b. A final grading management plan which, at a minimum, shall include those requirements of Section 9(b).~~

8. Natural State Areas B Field Identification

Upon preliminary plat approval, no portion of the development may be disturbed until such time that Natural State Areas are clearly field identified and protected pursuant to methods as outlined in the approved preliminary grading management plan. It shall be the responsibility of the developer and/or property owner to ensure that all Natural State Areas are clearly marked throughout all construction phases. Additionally, it shall be the responsibility of the developer, property owner, or, in the case of those public improvements which may be administered by the City of Winona, the City, to advise contractors of the location, purpose and intent of such areas, and to ensure that such areas are not disturbed. The corners of all required Natural State Areas shall be staked, in the field, with one-half inch diameter iron pipes prior to final plat approval. All such stakes shall remain in place and shall remain identifiable throughout any development of the site. If a stake is removed or lost, the underlying property owner of the Natural State Area shall be responsible for its replacement.

Ord. 3491 05/07/01 Ord. 3536 07-01-02.

9. Natural State Areas – Previous Approval

Any Natural State Area that was created prior to adoption of this ordinance shall continue to be managed and maintained in accordance with terms and conditions of its initial approval.

CHAPTER 69 - SHORELAND MANAGEMENT

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E. Severability

If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

F. 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.

G. 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.

Accessory structure or facility. Any building or improvement subordinate to the principal use that, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

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 percent over a distance for 50 feet or more shall not be considered part of the bluff):

- (1) Part or all of the feature is located in a shoreland area;
- (2) The slope rises at least 25 feet above the ordinary high water level of the waterbody;
- (3) 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 percent or greater~~ exceeds 25 percent; and
- (4) The slope must drain toward the waterbody.

Bluff impact zone: A bluff and land located within 20 feet from the top of a bluff.

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

Conditional 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 code exist, the use or development conforms to the comprehensive land use plan of the City, and the use is compatible with the existing neighborhood.

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 three feet above ground.

Duplex, triplex, and quad: A dwelling structure on a single lot, having two, three, and four units, respectively, being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living, and sanitation facilities.

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 percent 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 the ordinary high water level of 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 Minnesota Statutes, section 307.08. 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.

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 18 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

Structure. Any building or appurtenance, including decks, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

Subdivision. Land that is divided for the purpose of sale, rent, or lease.

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 such use.

Toe of the bluff: The lower point of a 50-foot segment with an average slope exceeding 18 percent.

Top of the bluff: The higher point of a 50-100-foot segment with an average slope exceeding 18 percent.

Variance: The same as that term is defined or described in Minnesota Statutes, Chapter 462.

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 such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

Wetland: A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition)

69.03 ADMINISTRATION

A. Notifications to the Department of Natural Resources

1. **Notice of Public Hearings.** Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days

of this section are different from those of the underlying zoning district, the more restrictive requirement shall apply.

C. Conditional Uses

All conditional uses and applicable attached conditions allowed and regulated by the applicable zoning district underlying the shoreland overlay district as indicated on the Official Zoning Map of the City shall be treated as conditional uses in the shoreland overlay district, subject to the provisions in Section 69.05 of this Chapter. Where requirements of this section are different from those of the underlying zoning district, the more restrictive requirement shall apply.

D. Prohibited Uses

Any uses which are not permitted or conditional uses as regulated by the applicable zoning district underlying this shoreland overlay district as indicated on the Official Zoning Map of the City are prohibited.

E. Certain Shoreland Areas Exempted from Certain Requirements of this Chapter – Urban Shoreland Zone

Minnesota Rules 6120.2800 provides for the flexible implementation of shoreland regulations under certain circumstances. The City of Winona finds that certain areas of shoreland existing within the community have been developed with an assortment of urban land uses for many years and much of that development does not meet the minimum standards contained within Chapter 6120 of the Minnesota Rules. Further, it has been determined that these shoreland areas are predominantly separated from public waters by man-made dike or levee systems. Based upon these findings, the shoreland areas identified on the Official Zoning Map as being within the area designated as Urban Shoreland Zone are exempted from meeting the following performance standards contained within this Chapter:

1. Lot width for lakes or rivers
2. Lot area for lakes
3. Structure setbacks from right-of-way lines
4. Height of structures if proposed height is compatible with underlying zoning
5. Impervious surface coverage of lots must not exceed 25 percent of the lot area.

Lots and structures located within the Urban Shoreland Zone shall not be considered as non-conforming if they are not in compliance with the exempted standards listed above. They shall be treated as non-conforming lots or structures if they are not in compliance with the other applicable standards contained within this Chapter and shall be treated as per the requirements of Section 69.06 of this Chapter with respect to the non-exempted shoreland standards.

F. Certain Shoreland Areas – Undisturbed Buffer Zone

An undisturbed buffer zone of not less than 100 linear feet from any special water (not including intermittent tributaries) shall be maintained at all times. Exemptions to this requirement may include water crossings, or vehicular water access, if an applicant fully documents, through a Storm Water Pollution Prevention Plan (SWPPP) the circumstances and reasons that the buffer encroachment is necessary. The SWPPP must show how potential water quality, scenic, and other environmental impacts of these exceptions will be minimized.

69.05 PERFORMANCE STANDARDS

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 the date of enactment of this Chapter for the lake and river/stream classifications are the following:

(6) all efforts shall be made to minimize the number of stairways, lifts, and landings to a water body by encouraging cooperative arrangements providing for the joint development and use of such facilities by riparian owners.

(7) 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 subsections (1) to (5) above are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.

d. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the value of the site unless adequate information about the site has been removed and documented in a public repository.

e. Steep Slopes. The City Manager or his/her designee 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 must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

3. Height of Structures. All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height. Structures located in areas that are required to be flood-proofed may have a height not greater than 25 feet higher than the lowest finished floor elevation allowed under applicable regulations.

C. Shoreland Alterations

All alterations of vegetation and topography will shall fully adhere to Chapter 68, and shall 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. If the shoreland includes a part of a Natural State Area as designated under Chapter 42 of the City Code, no alterations within the Natural State Area are permitted designation, the area shall be managed and maintained in accordance with City Code Chapter 42, Appendix 1, I.

1. Vegetation Alterations.

a. Exemption. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section 69.05 D of this Chapter are exempt from the vegetation alteration standards that follow.

b. Removal or Alteration of Vegetation. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Section 69.05 E.2, is allowed subject to the following standards:

(1) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed compliant with Section 68.04 of this Code.

(2) In shore and bluff impact zones and on steep slopes, no clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed unless necessary to mitigate a hazard to life/property and any vegetation removal within bluff impact zones must be compliant with an erosion and sediment control plan per Section 68.04 of this Code.

(3) The above provisions in (1) and (2) are not applicable to the removal of trees, limbs, or branches that are dead or diseased.

2. Topographic Alterations/Grading and Filling and Stormwater Management.

a. Stormwater Management. ~~The City of Winona Stormwater Management Chapter must be adhered to for~~ All grading, filling, excavation, and stormwater management activities, within the shoreland, must fully adhere to Chapter 68.

b. Grading and Filling Permit. Notwithstanding other requirements of ~~the Stormwater Management Chapter 68,~~ a grading and filling permit will also be required for:

- (1) the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and
- (2) the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

c. Additional Requirements. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals within the shoreland overlay zone:

- (1) Impervious surface coverage of lots must not exceed 25 percent of the lot area;
- (2) Fill or excavated material must not be placed in bluff impact zones;
- (3) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner of natural resources under Minnesota Statutes, Chapter 103G;
- (4) Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
- (5) 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.

d. Connections to Public Waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations may be given only after the commissioner of natural resources has approved the proposed connection to public waters.

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

1. Design. 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 field office technical guides of the local soil and water conservation district, or other applicable technical materials.

2. Setbacks. 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. Watercraft Access. 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 subsection are met. For private facilities, the grading and filling provisions of Section 69.05 C.2. of this Chapter must be met.

E. 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.

32.03 WEEDS.

(a) "Weeds" Defined. "Weeds" shall mean and include not only such noxious weeds as are enumerated in Minnesota Rules ~~1505.0730~~1505.0751 subp. 8, but also such undesirable, useless, uncultivated and troublesome plants as are commonly known as weeds to the general public and all pollen producing plants which are a hazard to hay fever sufferers. Ord. 3450 05/01/00

CHAPTER 42 - SUBDIVISION REGULATIONS

42.04 The Preliminary Plat

(d) Existing and Proposed Features to be Shown. The preliminary plat shall clearly show the following features and information:

(1) Name. The proposed name of the subdivision which shall not duplicate or closely approximate the name of any other subdivision in Winona County.

(2) Owners record. The names and addresses of the owner of record, the subdivider and the engineer or surveyor.

(3) Abutting owners. The name of adjacent subdivisions and the names of record owners of adjacent parcels of unplatted land.

(4) Boundary lines. The boundary lines, accurate in scale, of the tract to be subdivided.

(5) Streets, Other features. The location, widths and names of all existing or platted streets or other public ways within or adjacent to the tract, and other important features such as existing permanent buildings, large trees, watercourses, railroad lines, corporation lines, township lines, etc.

(6) Existing utilities. Existing sewers, water mains, culverts and other underground structures within the tract and immediately adjacent thereto with pipe sizes and grades indicated.

(7) Topography. Contours, normally with intervals of 2 feet references to U.S.G.S. datum, as required by the commission.

(8) Proposed Design, Streets, Grading, Utilities, Etc. The layout, names and widths of proposed streets, alleys and easements; the layout, numbers and approximate dimensions of proposed lots. Proposed street names shall not duplicate or closely approximate any existing street names in the City of Winona/City of Goodview, except extensions of existing streets. Within well defined areas or subdivisions, consideration should also be given to the development of specific themes for proposed street names. The proposed street names in the preliminary plat shall be reviewed by the planning commission as provided in Section 41.01 of this Code.

(9) Zoning. Zoning boundary lines if any, proposed uses of property and proposed front yard setback lines.

(10) Public Uses. All parcels of land intended to be dedicated or temporarily reserved for public use, or to be reserved in the deeds for the common use of property owners in the subdivision, with the purpose, condition, or limitations of such reservation indicated.

(11) North point, etc. North point, scale, date, title.

(12) Deed restrictions. Copies of any private restrictions to be included in the deeds should be attached to the preliminary plat. Ord. 3592 11-17-03

(e) A preliminary Stormwater Management, or Erosion and Sediment Control Plan meeting applicable standards of Chapter 68.

42.06 THE FINAL OR RECORD PLAT.

(b) Information to be Shown on Plat. In addition, the plat shall clearly show the following features and information:

(1) **Boundary lines.** The outside boundary lines shall be correctly designated on the plat and shall show bearings on all straight lines or angles at all angle points, and central angle, radii and arc length for all curves. The outside boundary lines of the plat shall close by latitude and departure with an error not to exceed one foot in 7500.

(2) **Recorded Streets.** The exact location and the width along the property line of all existing recorded streets intersecting or paralleling the boundaries of the tract.

(3) **Bearings, distances.** True bearings and distances to nearest established street bounds, patent or other established survey lines, or other official monuments, which monuments shall be located or accurately described on the plat. Any patent or other established survey or corporation lines shall be accurately monument marked and located on the plat, and their names shall be lettered on them.

(4) **Monuments.** Durable iron monuments shall be set at each angle and curve points on the outside boundary lines of the plat and at all block corners and at all intermediate points on the block lines indicating a change of direction in the lines. The plat shall indicate that the monuments have been set. There shall be shown on the plat all survey and mathematical information and data necessary to locate and retrace all interior and exterior boundary lines appearing thereon.

(5) **Layout.** The exact layout including:

- A. Streets and alley lines, their names, bearings, angles of intersection and widths.
- B. The length of all arcs, radii, points of curvature and tangent bearings.
- C. All easements and rights of way, when provided for or owned by public services.
- D. All lot lines with dimensions in feet and hundredths, and with bearings and angles to minutes if other than right angles to the street and alley lines. Ditto marks shall not be used on the plat for any purpose.

(6) **Lots and Block Numbers.** Lots numbered in numerical order. In tracts containing more than a block, the blocks shall be numbered in numerical order. In the case of resubdivision of lots in any block, such resubdivided lots shall be designated by their original number prefixed with the term most accurately describing such division, such as: W 1/2 of 3, 40' of 5, etc., or they shall be designated numerically, beginning with the number following the highest lot numbered in the block.

(7) **Property Offered for Dedication.** The accurate outline of all property which is offered for dedication for public use, and of all property that may be reserved by covenant in the deeds for the common use of the property owners in the subdivisions, with the purpose indicated thereon. All lands dedicated to public use other than streets or roads shall be marked "Dedicated to the Public". Streets and roads not dedicated shall be marked "Private Street".

(8) **Watercourses.** In case the subdivision is traversed by a watercourse, channel, stream or creek, the prior or present location of such watercourse, channel, stream or creek.

(9) **Setback Lines.** Setback building lines as fixed by the Zoning Ordinance or the official street map and any other setback lines or street lines established by public authority, and those stipulated in the deed restrictions.

(10) **Deed Restrictions.** Private restrictions, if any, including boundaries of each type of use restriction; and other private restrictions for each definitely-restricted section of the subdivision.

(11) **Name of Subdivision.** Name of subdivision and name or number of the larger subdivision or tract of which the tract now subdivided forms a part.

(12) **Adjoining Subdivisions, Lakes, etc.** Names and locations of adjoining subdivisions and location and ownership of adjoining unsubdivided property. Where provisions are made for access to an adjoining lake or stream, a sketch illustrating such access shall be submitted. The name and adjacent boundary lines of any adjoining platted lands shall be dotted on the plat.

(13) **Names of Owners, etc.** Names and addresses of the owner of record, the subdivider, and of the surveyor.

(14) **North point, etc.** North point, scale, date, title.

(15) **Statement concerning Lot Area.** Statement that any lot transferred will have a minimum width and area substantially the same as those shown on the plat, and that only one principal building will be permitted on any such lot. The area of each lot containing an area of one acre or more shall be shown on the plat.

(16) **Affidavits and Certificates.** Affidavits and certificates by a registered land surveyor to the effect that he has fully complied with the requirements of this chapter and the subdivision laws of the State of Minnesota surveying, dividing and mapping the land; that the plat is a correct representation of all the exterior boundaries of the land surveyed and the subdivision of it; that the plat represents a survey made by him and that all monuments indicated thereon actually exist and their location, size and material are correctly shown.

(17) **Owners Certificate.** A certificate by the owner of the land in substantially the following form: "As owner I hereby certify that I caused the land described on this plat to be surveyed, divided, mapped and dedicated as represented on this plat." This certificate shall be executed as a conveyance is executed.

(18) **Certificate of Taxes Paid.** A certificate issued by the authorized city and county officials to the effect that there are no unpaid taxes or unpaid special assessments on any of the lands included in the plat.

(c) A final Stormwater Management or Erosion and Sediment Control Plan meeting applicable standards of Chapter 68.

43.83 Bluff Protection

- (J) **Performance Standards – Variances.** Any person who feels that the strict enforcement of any part of this ordinance, would cause practical difficulties, because of circumstances unique to his/her property, may request a variance ~~to the standard~~ from the Board of Adjustment. ~~Any such request may be considered on its own merit, or concurrently with an application for a Land Disturbance Activity Permit, and in accordance with those procedures of Part H of this ordinance.~~ The consideration of a variance request shall be based upon those defined practical difficulties criteria contained in Minnesota Statutes, Section 462.357, subd. 6 (2), and any final action of the request shall be supported by findings.