

## SECTION IV

### GENERAL PROVISIONS

#### **4.1 Application of the Ordinance.**

1. The provisions of this Ordinance shall be held to be the minimum requirements for the maintaining of the public health, safety and welfare of the inhabitants of the City of East Gull Lake, Minnesota.
2. Where the provisions of the Ordinance are either more restrictive or less restrictive than applicable provision of other laws, ordinances, statutes, resolutions, covenants or regulations of any kind, the more restrictive condition, standard or requirement shall prevail.
3. Except as this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed or altered and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this ordinance.
4. No newly constructed structure or newly approved use of property, subject to conditions of approval for a Variance, Conditional Use Permit or other land use application, shall be occupied or used, in whole or part, for any purpose until the Zoning Administrator and Planning Commission Member have conducted a final inspection of the subject property and a *Land Use Certificate of Compliance* has been issued. Any existing structure or use of property subject to conditions of approval for a Variance, Conditional Use Permit or other land use application shall have a *Land Use Certificate of Compliance* issued within twelve (12) months of the approval of the variance or Conditional Use Permit. The *Land Use Certificate of Compliance*, when issued, shall state that the building or use appears to be in compliance with the conditions of approval.
5. The provisions of this Ordinance shall be applicable to any subdivision of property within the City and within a two-mile area surrounding the City after the effective date of this Ordinance.
  - a. Subdivision by Plat or Condominium Plat shall be approved by the Planning Commission and Council.
  - b. Subdivision by metes and bounds shall be approved by the Planning Commission and Council if either of the resulting parcels is less than 20 acres and 500 feet of width for residential lots of 5 acres and 300

feet of width for commercial lots, and shall be limited to no more than one split of a parcel into two parcels in a three year period of time. An additional parcel for right of way or commonly owned driveway access may also be allowed. The proposed legal description for subdivision of land by metes and bounds shall be prepared and certified by a Registered Land Surveyor. Approval by the City Council shall be indicated by the stamp of approval affixed by the City Clerk to said legal description. The County recorder or Registrar of Deeds may accept each such Certificate for filing and recording upon compliance with these provisions.

6. Ambiguities in the Ordinance shall be resolved by interpretation of the Planning and Zoning Administrator. If an applicant wishes to appeal the interpretation of the Administrator, an appeal can be made, by a conditional application if applicable, through a hearing of the Planning Commission.

#### **4.2 Environmental Documents and Concurrent Permits.**

1. It shall be the property owner's responsibility to secure necessary concurrent permits such as Pollution Control Agency, State Waste Disposal Permits; Health Department Permits; DNR Planned Unit Development Permits; Corps of Engineers Permits, DNR Public Water Permits and DNR Water Appropriation Permits. Approval by the City does not imply approval by other agencies.
2. The City will prepare an Environmental Assessment Worksheet (EAW) where a proposed project exceeds the limits defined in the Environmental Quality Council's Rules and Regulations for Environmental review program or as requested by the Planning Commission or petitioned by the public.
3. The administration of an EAW or EIS shall be in accordance with the rules and regulations of the Minnesota Environmental Quality Board. The Zoning Administrator shall be responsible to the City Council and have the authority to administer the environmental document. The Planning Commission shall review each document and make recommendations to the City Council whose decision shall be final.

#### **4.3 Use of Pre-Existing Lots.**

1. A lot, pre-existing for which a Deed, recorded Contract for Deed or other legal conveyance or plat has been executed prior the effective date of the Ordinance shall be deemed a buildable lot without requiring a variance provided it has at least 80% of required lot area and lot width at the ordinary high water mark and building line, all the setbacks can be maintained, and sanitary provisions for well and sewage disposal can be maintained.
2. If two or more pre-existing contiguous lots in total could not be divided into two or more lots meeting the requirements of 4.3 (1), and are held by the same Owner on the effective date of the Ordinance, they will be considered one lot for building and zoning purposes. A covenant, duly filed and recorded, shall be required before a building permit is issued thereon.
3. Lots joined together for zoning permit applications shall not be divided in the future, but shall be tied together by restriction filed with the County Recorder.
4. Lots within the Sylvan Shores development shall be considered buildable, without a variance, if they contain at least 20,000 square feet of area.

#### **4.4 Non-conforming Structures and Uses.**

Any structure or use existing upon the effective date of the adoption of this Ordinance and which does not conform to the provisions of the Ordinance may be continued subject to the following:

1. No such use shall be expanded, enlarged or intensified except in conformity with the provisions of this Ordinance, with consideration for variances thereto.
2. Where a parcel is voluntarily redeveloped to the extent that 50% or more of the footprint building area, above the foundation, on the parcel, is removed, all non-conforming structures on the parcel must be modified to conform to the Ordinance.
3. If a non-conforming structure is destroyed, by any cause, to an extent exceeding 50% of its market value immediately prior to destruction and no building permit has been applied for within 180 days, the structure or its

replacement shall thereafter conform to this Ordinance. The City may impose reasonable conditions upon a building permit in order to mitigate impacts on adjacent properties.

4. Normal maintenance, repair, replacement or restoration of a building or other structure containing or relating to a lawful non-conforming use is permitted when the maintenance, repair, replacement or restoration does not intensify or increase the size or shape of the non-conforming building or use. The City may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent properties.
5. A lawful, non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming use has been changed, it shall not thereafter be altered to increase the non-conformity.
6. Sewage treatment systems shall be upgraded to a conforming status in conformance with the following schedule:
  - A. Upon issuance of any permit or variance for any improvement on, or use of, the property.
  - B. Upon determination that leakage to the surface or lake or into an adjacent well is occurring, or determination that the system is discharging into the ground at an elevation less than 3 feet above the highest known watertable.
  - C. Upon determination by Zoning Administrator that a system is inadequate for a change in occupation or use in the structure.
  - D. Upon notice by the Zoning Administrator that the City's records indicate the system is non-conforming.
  - E. Upon availability of a community sewer system to the property, connection to that system shall be made regardless of the conformance or non-conformance of the individual system.
7. Existing water orientated structures, including boathouses and sheds, may be replaced with a permit on the same parcel provided that:
  - A. There must be no increase in horizontal dimensions.
  - B. The structure must not exceed ten feet in height and must have a minimum of a 4:12 pitched roof.
  - C. The structure must meet a minimum setback of 10 feet from the ordinary high water mark.
  - D. The structure must be treated to significantly reduce the visibility, as viewed from public waters and adjacent shorelands, through the use of

vegetation, topography and/or color, assuming summer, leaf-on conditions.

- E. The structure shall be used for storage only and may not include elements designed for human habitation.
  - F. Storm water runoff from the structure shall be drained away from the lake. There shall be no direct flow of stormwater from the structure to adjacent water bodies.
8. Parcels with existing, non-conforming guest quarters established as of January 1, 2002, are allowed to continue the non-conforming use of one guest quarters without regard to lot size or dimension until such use is voluntarily discontinued. If a guest quarters has been established in a non-conforming structure and the non-conforming structure is destroyed, the use of a guest quarters may be reestablished on the parcel so long as the new structure conforms to all provisions of this Ordinance except lot size or dimension, from which it is hereby exempted and the use is reestablished within twelve (12) months of the destruction of the non-conforming structure.
9. Existing non-conforming signs, off-site or on-site, may be reconstructed, including support systems, provided the following:
- A. Permitting for reconstruction must be done by Conditional Use Permit.
  - B. The off-site sign must be directly related to a commercial establishment located entirely within the City of East Gull Lake.
  - C. The proposed off-site sign shall be visually compatible with the surrounding natural environment.
10. A one-time addition to a non-conforming principal structure shall be permitted subject to the following:
- A. Approval shall be granted through the Conditional Use Permit process.
  - B. The non-conformity is solely due to setbacks.
  - C. The addition is not within the shore impact zone.
  - D. The size of the addition shall not exceed 50% of the size of the structure it is being added to.
  - E. The total footprint of the structure, once the addition is completed, shall not exceed 2,500 square feet, including decks, porches, patios and other projections.
  - F. For reasons of structural integrity, a basement may be allowed under the addition only where a basement exists in the original structure.

- G. A landscaping plan is implemented that provides screening of the addition from adjacent properties, public roads, and the surface water.
- H. A storm water management plan is implemented that directs storm water away from adjacent properties and surface waters.
- I. The height of the addition shall not exceed the height of the existing structure.
- J. Beyond minor alterations needed to accommodate the addition, no structural modifications shall be made to the original structure.
- K. No permits shall be granted under this provision for homes constructed after July 1, 1995 or where a previous variance has been approved.
- L. All other provisions of the Ordinance must be complied with.

#### **4.5 Building Standards.**

1. All structures and appurtenances shall be constructed in accordance with the general standards of the building industry. The City does not examine plans nor assume liability for the structural stability or quality of any structures.
2. All dwelling units shall be a minimum of 18 feet wide and shall be placed on a foundation.
3. Sewage treatment systems shall conform to Minnesota Pollution Control Agency Standards - Chapter 7080. All sanitary systems shall be constructed by installers certified by the State of Minnesota to install individual sewage treatment systems. The septic tank or pressure sewer shall be no closer than 50 feet from any well. The drainfield shall be no closer than 50 feet from a well that is deeper than 50 feet or penetrates at least 10 feet of impervious material, or 100 feet from any other well. The bottom of the drainfield trench shall be 3 feet or more above the highest known water table. The trench and drop box method shall be used where feasible. Sewage tanks being abandoned shall be pumped and filled with soil.
4. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the MPCA. Private wells must be located, constructed, maintained and sealed in accordance with the water well construction code of the Minnesota Department of Health. All wells must be installed by a well driller licensed in the State of Minnesota. A log of each well shall be filed with the City within 45 days of the well being drilled.

5. The provisions of the Ordinance were prepared to be at least as restrictive as the "Statewide Standards for 'Management of Shoreland Areas'" effective July 3, 1989. Where the conditions of the Shoreland Standards are more restrictive, or in case of oversight, exclusion, or question in this Ordinance, the Shoreland Standards shall govern, except for applications involving non-conforming uses.