

**Department of Community Planning and Economic Development – Planning Division**  
Zoning Code Text Amendment

**Date:** December 17, 2007

**Initiator of Amendment:** Council Member Schiff

**Date of Introduction at City Council:** August 30, 2007

**Ward:** All

**Planning Staff and Phone:** Steve Weckman, (612) 673-5849

**Intent of the Ordinance:** The purpose of the amendment is to revise the SH Shoreland Overlay District ordinances to ensure consistency with other sections of the zoning code and avoid redundant ordinances.

**Appropriate Section(s) of the Zoning Code:** Amending Chapter 551 related to Zoning Code: SH Shoreland Overlay District.

**Background:** Recent changes in the zoning code and redundant ordinance code provisions necessitate a revision of the text of the SH Shoreland Overlay District.

The purpose of the Shoreland Overlay District, as indicated in section 551.440 of the zoning code, is “to preserve and enhance the environmental qualities of surface waters and the natural and economic values of shoreland areas within the city, to provide for the efficient and beneficial utilization of those waters and shoreland areas, to comply with the requirements of state law regarding the management of shoreland areas, and to protect the public health, safety and welfare.”

Minnesota Statutes Chapter 103F sets forth a framework for municipal regulation of development in shoreland areas. As defined in statute, “shoreland” includes areas within 1,000 feet of the normal high watermark of a lake, pond, or flowage; and land within 300 feet of a river or stream or the landward side of a floodplain delineated by ordinance on the river or stream, whichever is greater. Staff at the Minnesota Department of Natural Resources (DNR) has reviewed the proposed text changes and has indicated that the changes are acceptable

**Purpose for the Amendment:**

**What is the reason for the amendment?**

**What problem is the amendment designed to solve?**

**What public purpose will be served by the amendment?**

**What problems might the amendment create?**

The proposed amendment is necessary to eliminate the redundancy of requiring both a conditional use permit and a variance for development near protected bodies of water or on or near the top of a steep

slope within the SH Shoreland Overlay District and reflect a recently approved change elsewhere in the zoning code. Both a variance and conditional use permit approval are now required to expand or build a new building within the Shoreland Overlay District even if the use does not otherwise require a conditional use permit. Staff believes that this was not intended and was an error in the drafting of the ordinance. The amendment will still require applicants to demonstrate compliance with the standards for granting variances, but the conditional use permit will no longer be required.

An unintended consequence of the recent residential infill zoning code amendment is that single and two-family dwellings in the Shoreland Overlay District are currently allowed to be thirty-five feet in height while such dwellings are restricted to thirty feet in height outside of the Shoreland areas. The proposed amendment will now reflect the recently approved height requirement of thirty feet for single- and two-family dwellings while retaining the height limit of thirty-five feet for other principal structures. This change will make the Shoreland Overlay District at least as restrictive as it is elsewhere in the City pertaining to one and two family residences.

The amendment will require a variance to expand or construct a single or two-family residence in excess of thirty feet in height regardless of location within the Shoreland Overlay District. Currently, applicants are allowed to file a conditional use permit to increase the maximum height of any principal structure in the Shoreland Overlay District. Contrary to the intent of the ordinance, it is currently somewhat easier to obtain approval to increase the height of a single- or two-family dwelling in the Shoreland Overlay District than it is to obtain the same approval outside the Shoreland Overlay District. The proposed changes rectify this situation.

Staff is also proposing to reorganize the chapter somewhat to improve readability and make the ordinance more user-friendly. No problems are anticipated upon adoption of the ordinance.

**Timeliness:**

**Is the amendment timely?**

**Is the amendment consistent with practices in surrounding areas?**

**Are there consequences in denying this amendment?**

The proposed amendment is timely in that these changes are needed to eliminate a longstanding requirement for redundant applications of both a CUP and variance for development near protected bodies of water or on or near steep slopes within the SH Shoreland Overlay district. The amendment incorporates the recently adopted changes to the height requirements for single and two-family residences make the current ordinances within the SH Shoreland Overlay district meet the requirements in the underlying zoning districts. The amendment will require a variance to expand or construct a single- or two-family residence in excess of thirty feet in height regardless of location within the Shoreland Overlay District.

Staff at the Department of Natural Resources (DNR) has reviewed the proposed changes and does not object to the proposed text change.

The consequences of denying the amendment would be that the City will continue to require duplicate applications for some land use proposals within the SH Shoreland Overlay district and the overlay ordinance will continue to be less restrictive than the height limits for single and two family residences outside of the Shoreland areas.

**Comprehensive Plan:**

**How will this amendment implement the Comprehensive Plan?**

The amendment will implement the following policies of the comprehensive plan.

**Policy 7.1.** Minneapolis will manage the use of the city’s environmental resources (including air, water, and land) in order to meet present needs while considering future concerns.

**Policy 7.4.** Minneapolis will encourage the planting and preservation of trees and other vegetation.

**Policy 7.5.** Minneapolis will protect and sustain its water resources.

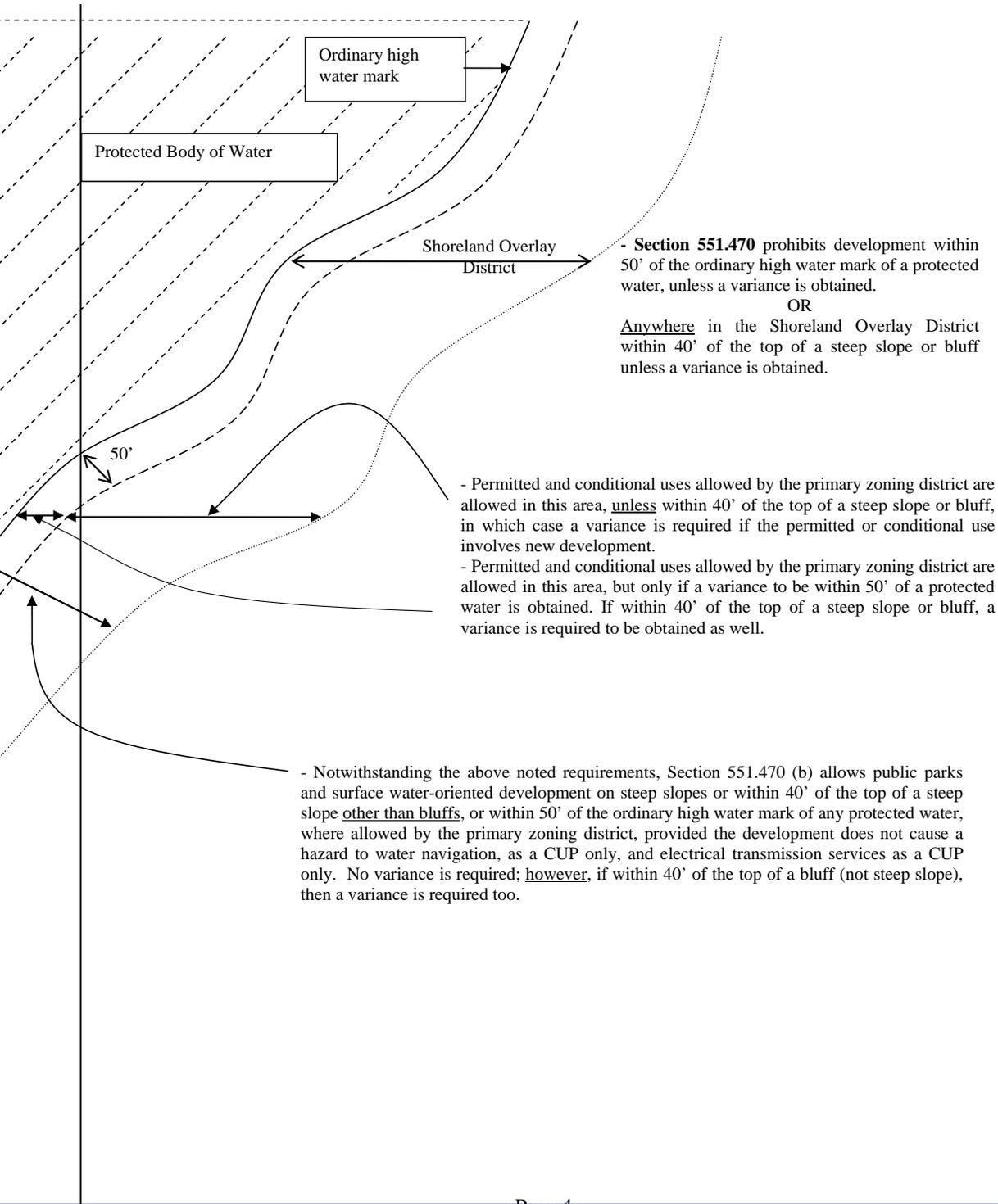
**Policy 9.8.** Minneapolis will maintain and strengthen the character of the city’s various residential areas.

The amendment is consistent with the comprehensive plan as it would continue to protect the City’s land and water resources by maintaining strict development standards on or near steep slopes and near protected bodies of water within the Shoreland Overlay District.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the text amendment:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and the City Council adopt the above findings and **approve** the zoning code text amendment.

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Ordinary high water mark

Protected Body of Water

Shoreland Overlay District

- **Section 551.470** prohibits development within 50' of the ordinary high water mark of a protected water, unless a variance is obtained.  
OR  
Anywhere in the Shoreland Overlay District within 40' of the top of a steep slope or bluff unless a variance is obtained.

- Permitted and conditional uses allowed by the primary zoning district are allowed in this area, unless within 40' of the top of a steep slope or bluff, in which case a variance is required if the permitted or conditional use involves new development.  
- Permitted and conditional uses allowed by the primary zoning district are allowed in this area, but only if a variance to be within 50' of a protected water is obtained. If within 40' of the top of a steep slope or bluff, a variance is required to be obtained as well.

- Notwithstanding the above noted requirements, Section 551.470 (b) allows public parks and surface water-oriented development on steep slopes or within 40' of the top of a steep slope other than bluffs, or within 50' of the ordinary high water mark of any protected water, where allowed by the primary zoning district, provided the development does not cause a hazard to water navigation, as a CUP only, and electrical transmission services as a CUP only. No variance is required; however, if within 40' of the top of a bluff (not steep slope), then a variance is required too.

**AN ORDINANCE  
OF THE  
CITY OF MINNEAPOLIS**

By Schiff

**Amending Title 20, Chapter 551 of the Minneapolis Code of Ordinances relating to Zoning Code: Overlay Districts.**

**The City Council of the City of Minneapolis do ordain as follows:**

**Section 1. That Section 551.470 of the above-entitled ordinance be amended to read as follows:**

~~**551.470. Location of development.** The following conditions shall apply to development within the SH Overlay District:~~

- ~~(1) Development shall not be located within fifty (50) feet of the ordinary high water mark of any protected water, except where approved by a conditional use permit as provided in this article and Chapter 525, Administration and Enforcement.~~
- ~~(2) Development shall not be located on a steep slope or bluff, or within forty (40) feet of the top of a steep slope or bluff, except where approved by a conditional use permit as provided in this article and Chapter 525, Administration and Enforcement.~~

**551.470. Location of development.** (a) Location prohibited except as authorized by variance. Except as allowed in section (b) below or where approved by a variance as provided in this article and Chapter 525, Administration and Enforcement, development in the SH Overlay District shall be prohibited on steep slopes or within forty (40) feet of the top of a steep slope or bluff, and shall not be located within fifty (50) feet of the ordinary high water mark of any protected water. Development authorized by variance shall be subject to the following:

- (1) Development must currently exist on the steep slope or within forty (40) feet of the top of a steep slope within five hundred (500) feet of the proposed development.
- (2) The foundation and underlying material shall be adequate for the slope condition and soil type.
- (3) The development shall present no danger of falling rock, mud, uprooted trees or other materials.

(4) The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with the surrounding physical context.

(b) Location restricted except as authorized by conditional use permit. Conditional uses authorized in the primary zoning district are also authorized in the SH Overlay District and are subject to section (a) above. Notwithstanding section (a) above, the following uses may be allowed in all areas of the SH Overlay District by conditional use permit rather than variance as provided in this article and Chapter 525, Administration and Enforcement.

(1) Public parks and surface water-oriented development on steep slopes or within forty (40) feet of the top of a steep slope, other than bluffs, or within fifty (50) feet of the ordinary high water mark of any protected water, where allowed by the primary zoning district, provided the development does not cause a hazard to water navigation.

(2) Electrical transmission services of under two hundred twenty (220) kilovolts, subject to the following conditions:

a. When routing transmission services, all of the following shall be avoided where practicable:

1. Steep slopes, streams, rivers, valleys and open exposures of water, wetlands, wooded areas, ridge crests and open space recreation areas.
2. Soils susceptible to erosion, which would create sedimentation and pollution problems, and areas of unstable soils which would be subject to extensive slippage.
3. Areas with high water tables, especially if construction requires excavation.

b. The structural design of transmission services shall consider the following:

1. Underground placement shall be preferred in order to minimize visual impact. If above ground placement is proposed, the applicant shall describe the economic, technological or land characteristics which make underground placement infeasible.
2. If above ground placement is necessary, the appearance of any structures shall be made as compatible as practicable with the natural area with regard to height, width, materials used and color.
3. The cleared portion of the right-of-way shall be kept to a minimum.
4. Crossing points over protected waters shall be consolidated with other public facilities and rights-of-way so that the smallest area possible is devoted to crossing.

c. In the construction of transmission service, effective erosion and sedimentation control programs shall be conducted during all clearing, construction or reconstruction operations in order to prevent the degradation of surface waters and adjacent lands.

d. Right-of-way maintenance shall comply with the following:

1. Natural vegetation of value to fish or wildlife, which does not pose a hazard to or restrict reasonable use of the utility, shall be allowed to grow in the right-of-way.
2. Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs and low- growing trees shall be planted and maintained on the right-of-way.
3. Chemical control of vegetation shall be avoided. Where such methods are necessary, chemicals used and the manner of their use shall be in accordance with rules, regulations and other requirements of all state and federal agencies with authority over the use, and best management practices shall be followed.

**Section 2. That Section 551.480 of the above-entitled ordinance be amended to read as follows:**

**551.480. Height of structures.** Except for structures subject to a more restrictive maximum height limitation in the primary zoning district, tThe maximum height of all structures within the SH Overlay District, except for single and two-family dwellings, shall be two and one-half (2.5) stories or thirty-five (35) feet, whichever is less. The maximum height of single and two-family dwellings shall be two and one-half stories or thirty (30) feet, whichever is less. The height limitation of accessory structures and single and two-family dwellings may be increased by variance, as provided in Chapter 525, Administration and Enforcement. The height limitation of all other principal structures may be increased by conditional use permit, as provided in Chapter 525, Administration and Enforcement. In addition to the conditional use standards contained in Chapter 525, the city planning commission shall consider, but not be limited to, the following factors when determining maximum height:

- (1) Access to light and air of surrounding properties.
- (2) Shadowing of residential properties or significant public spaces.
- (3) The scale and character of surrounding uses.
- (4) Preservation of views of landmark buildings, significant open spaces or water bodies.

**Section 3. That Section 551.490 of the above-entitled ordinance be amended to read as follows:**

**551.490. Conditional uses and variances.** (a) *Evaluation criteria.* In addition to the conditional use and variance standards contained in Chapter 525, Administration and Enforcement, the city planning commission and board of adjustment shall consider the following:

- (1) The prevention of soil erosion or other possible pollution of public waters, both during and after construction.
- (2) Limiting the visibility of structures and other development from protected waters.
- (3) The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.

~~(b) Uses allowed. In addition to the conditional uses allowed in the primary zoning district, the following conditional uses may be allowed in the SH Overlay District, subject to the provisions of Chapter 525, Administration and Enforcement:~~

- ~~(1) Development on steep slopes or within forty (40) feet of the top of a steep slope, other than bluffs, where allowed by the primary zoning district, provided the development is not located within fifty (50) feet of the ordinary high water mark of any protected water and there is development on the steep slope within five hundred (500) feet of the proposed development, subject to the following conditions:
  - ~~a. The foundation and underlying material shall be adequate for the slope condition and soil type.~~
  - ~~b. The development shall present no danger of falling rock, mud, uprooted trees or other materials.~~
  - ~~c. The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with surrounding architectural features.~~~~
- ~~(2) Public parks and surface water-oriented development on steep slopes or within forty (40) feet of the top of a steep slope, other than bluffs, or within fifty (50) feet of the ordinary high water mark of any protected water, where allowed by the primary zoning district, provided the development does not cause a hazard to water navigation.~~
- ~~(3) Electrical transmission services of under two hundred twenty (220) kilovolts, subject to the following conditions:
  - ~~a. When routing transmission services, all of the following shall be avoided where practicable:
    - ~~1. Steep slopes, streams, rivers, valleys and open exposures of water, wetlands, wooded areas, ridge crests and open space recreation areas.~~
    - ~~2. Soils susceptible to erosion, which would create sedimentation and pollution problems, and areas of unstable soils which would be subject to extensive slippage.~~
    - ~~3. Areas with high water tables, especially if construction requires excavation.~~~~~~

- b. ~~The structural design of transmission services shall consider the following:
  1. ~~Underground placement shall be preferred in order to minimize visual impact. If above ground placement is proposed, the applicant shall describe the economic, technological or land characteristics which make underground placement infeasible.~~
  2. ~~If above ground placement is necessary, the appearance of any structures shall be made as compatible as practicable with the natural area with regard to height, width, materials used and color.~~
  3. ~~The cleared portion of the right-of-way shall be kept to a minimum.~~
  4. ~~Crossing points over protected waters shall be consolidated with other public facilities and rights-of-way so that the smallest area possible is devoted to crossing.~~~~
- c. ~~In the construction of transmission service, effective erosion and sedimentation control programs shall be conducted during all clearing, construction or reconstruction operations in order to prevent the degradation of surface waters and adjacent lands.~~
- d. ~~Right-of-way maintenance shall comply with the following:
  1. ~~Natural vegetation of value to fish or wildlife, which does not pose a hazard to or restrict reasonable use of the utility, shall be allowed to grow in the right-of-way.~~
  2. ~~Where vegetation has been removed, new vegetation consisting of native grasses, herbs, shrubs and low-growing trees shall be planted and maintained on the right-of-way.~~
  3. ~~Chemical control of vegetation shall be avoided. Where such methods are necessary, chemicals used and the manner of their use shall be in accordance with rules, regulations and other requirements of all state and federal agencies with authority over the use, and best management practices shall be followed.~~~~