

**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

## CPED Planning Division Report

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.

## CPED Planning Division Report

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.