

Lake Shamineau and Crookneck Lake Flood Protection Ordinance

Section 1 STATUTORY AUTHORIZATION AND POLICY

- 1.1 **Statutory Authorization.** This ordinance is adopted pursuant to the authorization and policies contained in [Minnesota Statutes, Chapter 103E](#), [Minnesota Regulations, Parts 6120.2500 - 6120.3900](#), and the planning and zoning enabling legislation in Minnesota Statutes, [Chapter 394](#).
- 1.2 **Policy.** The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Morrison County. This ordinance establishes regulations that allow for floodproofing of principle structures to the extent necessary to prevent lake water infiltration that affect structural integrity and the health, safety and welfare of the County's inhabitants.

Section 2 GENERAL PROVISIONS AND DEFINITIONS

- 2.1 **Jurisdiction.** The provisions of this ordinance apply to the shorelands of the public water bodies as classified by the Department of Natural Resources as Lake Shamineau (ID 49012700) and Crookneck Lake (ID 49013300).
- 2.2 **Enforcement.** The Morrison County Land Services Department is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances) constitutes a misdemeanor and is punishable as defined by law. Violations of this ordinance can occur regardless of whether a permit is required for a regulated activity listed in Section 4.2 of this ordinance.
- 2.3 **Severability.** If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.
- 2.4 **Abrogation and Greater Restrictions.** It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Notwithstanding the same provisions addressed within the Morrison County Land Use Control Ordinance, the provisions of this ordinance addressing the same shall prevail for the jurisdiction identified in Section 2.1. All other provisions within the Morrison

County Land Use Control Ordinance shall apply to the jurisdiction set forward within this ordinance.

2.5 **Definitions.** Unless specifically defined below or within the Morrison County Land Use Control Ordinance, words or phrases used in this ordinance shall be interpreted to give them the same meaning they have in common usage and to give this ordinance its most reasonable application. For the purpose of this ordinance, the words “must” and “shall” are mandatory and not permissive. All distances, unless otherwise specified, are measured horizontally.

2.51 **Building Height.** The vertical distance between the highest adjoining natural ground level at the building or ten (10) feet above the lowest natural ground level, whichever is lower, and the highest point of a flat roof of the highest gable of a pitched or hipped roof

2.52 **Expansion.** An expansion of a structure in any manner, including but not limited to, increase of width, footprint, size or livable volume.

2.53 **Floodproofing.** A combination of structural provisions, changes and adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

2.54 **Ordinary High Water Mark (OHW).** The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

2.54 **Principle Structure.** The primary or main building, as distinguished from subordinate, incidental or accessory structures or uses.

2.55 **Shore Impact Zone.** The land located between the ordinary high water level and a line parallel to it at a setback of fifty (50) feet.

Section 3 ADMINISTRATION

3.1 **Purpose.** The purpose of this Section is to identify administrative provisions to ensure the ordinance is administered consistent with its purpose.

3.2 **Permits.**

3.21 A land use permit is required for the activities authorized within this ordinance.

3.22 All work authorized through a land use permit under this ordinance must be completed by the sunset date of this ordinance.

3.3 **Application materials.** Application for permits and other zoning applications such as variances shall be made to the Morrison County Land Services Department on the forms provided. The application shall include the necessary information so that the Department can evaluate how the application complies with the provisions of this ordinance.

3.4 **Variances.** Variances may only be granted in accordance with [Minnesota Statutes, Section 394.27](#)

3.41 Any application made under this ordinance that is determined to require a variance, said variance shall follow the process of Section 505 of the Morrison County Land Use Control Ordinance.

3.5 **Nonconformities.**

3.51 All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to [Minnesota Statutes, Sections 394.36 Subd. 5](#) and other regulations of this community for additions; discontinuance of use; and intensification of use.

3.52 Increase in Building Height of nonconforming principle structures shall be allowed without a variance to the extent necessary to undertake floodproofing measures, as determined by the Land Services Department, Morrison County Soil and Water Conservation District and Department of Natural Resources. Increases in height under this provision shall not result in a gain in livable space.

3.53 In the event floodproofing activities result in a principle structure height of greater than 25 feet, then a native buffer equal to 15 feet per foot the principle structure is over 25 feet shall be installed, and maintained, along the shoreline. Additional vegetative screening may be required as part of the application. Native buffer design must be included in the land use permit application.

3.6 **Notifications to the Department of Natural Resources.**

3.61 All amendments to this shoreland ordinance must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules.

3.62 All notices of public hearings to consider variances or ordinance amendments under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least ten (10) days before the hearings.

3.63 All approved ordinance amendments and final decisions approving variances under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten

days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

Section 4 SHORELAND CLASSIFICATION AND LAND USES

4.1 Shoreland Classification.

4.11 To ensure that shoreland development on Lake Shamineau and Crookneck Lake is regulated consistent with the classifications assigned by the commissioner under [Minnesota Rules, part 6120.3300.](#), both lakes have the classification of General Development.

4.2 Land Uses.

4.21 For the purposes of this ordinance, the uses addressed within shall be limited to those necessary to floodproof the principle structure. These uses shall be regulated as Permitted Uses with Performance Standards.

Section 5 METHODS OF FLOODPROOFING

5.1 Purpose. To provide consistency with Minnesota Rule 6120, with accepted floodproofing standards and protect the health, welfare and safety of the citizens of Morrison County

5.11 In order to accomplish its purposes, this ordinance includes regulations to:

1. Protect the principle structure with topographic alterations
2. Elevate the principle structure on fill
3. Elevate the principle structure through floodproofing methods alternative to fill
4. Principle structure relocation

5.2 Topographic Alterations/Grading and Filling and Elevation on Fill.

5.21 Grading and filling activities regulated herein shall apply to actions necessary for floodproofing the existing principle structure on the lot. Other grade and fill activities within the jurisdiction of this ordinance shall be addressed within the Morrison County Land Use Control Ordinance.

5.22 Permit Requirements.

A. Grading, filling, excavations and elevation require a permit from the Land Services Department. The permit application must contain, at a minimum, the following information and meet the following standards:

(1) A design prepared by a registered professional engineer that contains the following:

(a) Site plan that includes location of property lines, shore impact zone and location of structures

(b) Total quantity of proposed grade and fill within the shore impact zone and outside the shore impact zone

(c) Fill material type

(d) Existing and finished slope percentage

(e) Erosion control plan

(f) Analysis of water movement on the lot, impacts to neighboring property and necessary stormwater controls

(g) Vegetation plan

(h) For grade and fill beneath the principle structure, existing and proposed elevation of the lowest floor of the principle structure above the Ordinary High Water Mark or highest known water level, whichever is greater

(i) For grade and fill beneath the principle structure, existing and proposed Building Height of Principle Structure

B. Land alterations must be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction by:

(1) Limiting the amount and time of bare ground exposure;

(2) Using temporary ground covers such as mulches or similar materials;

(3) Establishing permanent vegetation cover as soon as possible;

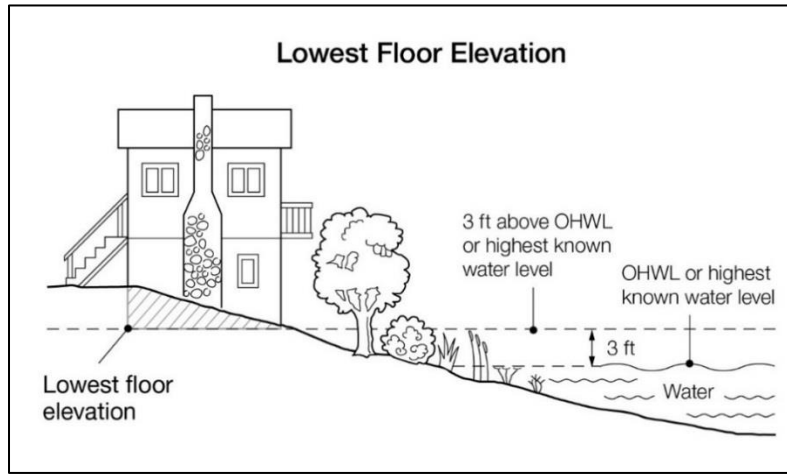
(4) Using sediment traps, vegetated buffer strips or other appropriate techniques;

- (5) Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;
- (6) Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
- (7) Fill or excavated material must not be placed in bluff impact zones;
- (8) Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under [Minnesota Statutes, Section 103G](#);
- (9) Alterations of topography are only allowed if they do not adversely affect adjacent or nearby properties;

C. For elevation of the Principle Structure on fill, the following additional requirements apply:

- (1) Elevation of the Principle Structure on fill is allowed if the Principle Structure is located 50 feet or greater from the ordinary high water level.
- (2) Technical evaluations must be done by a qualified engineer or hydrologist consistent with [Minnesota Rules, parts 6120.5000 to 6120.6200](#) governing the management of flood plain areas.
- (3) The elevation to which the structure is placed must be so that the lowest floor, including basement, is at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher (see figure 1)

Figure 1



(3) The fill shall extend at a minimum 3:1 slope beyond limits of the structure.

D. Grading or filling of any wetland must receive written approval from the Morrison County Soil and Water Conservation District and comply with applicable Wetland Conservation Act requirements.

5.3 Elevation of Principle Structure through Floodproofing Methods Alternative to Fill

5.31 The use of methods other than fill to elevate structures above the regulatory flood protection elevation. This includes the use of: stilts, pilings, filled stem walls, or above-grade, internally flooded enclosed areas such as crawl spaces or tuck under garages, meeting the standards in Section 5.32.

5.32 Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood; and 3) it is used solely for parking of vehicles, building access or storage. These alternative elevation methods are subject to the following additional standards:

(a) Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and include a minimum of two openings on at least two sides of the structure. The

bottom of all openings shall be no higher than one foot above grade, and have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice.

5.33 Elevation under Section 5.31 cannot result in a gain of livable or functional square footage or volume.

5.34 If the Principle Structure is nonconforming, Section 3.5 applies.

5.35 Elevation by Physical Means requires a land use permit. The permit application must contain, at a minimum, the following information and meet the following standards:

(1) A design prepared by a registered professional engineer that contains the following:

(a) Site plan that includes location of property lines, shore impact zone and location of structures

(b) Existing and proposed elevation of the lowest floor of the principle structure above the Ordinary High Water Mark or highest known water level, whichever is greater

(c) Foundation design including material type, footings, frost protection, etc.

(d) Erosion control plan

(e) Analysis of water movement on the lot, impacts to neighboring property and necessary stormwater controls

(f) Vegetation plan

5.4 Principle Structure Relocation

5.41 Principle Structures may be relocated with a land use permit on the same parcel, or a contiguous parcel under common ownership, to the extent needed to alleviate flood damage.

5.42 Principle Structures not meeting the required OHW setback can be relocated further away from the OHW without a variance under this ordinance.

5.43 Should relocation of a Principle Structure encroach on any other setback (ie, road right of way, property line, etc.) a variance will be required pursuant to Section 505 of the Morrison County Land Use Control Ordinance.

5.44 Relocation permit applications shall include a plan to restore the original location of the structure back to vegetation and natural grade.

Section 6 EFFECTIVE DATE, SUNSET DATE, SIGNATURES

6.1 Effective Date. This ordinance shall be in full force and effect from and after December 11, 2018, the date of this ordinance’s passage and publication according to law.

6.2 Sunset Date. This ordinance shall sunset on December 10, 2020.

6.3 Signatures.

Chairman, Morrison County Commissioners

Date

ATTEST

Clerk, Morrison County Board