

CITY OF INDEPENDENCE

Ordinance No. _____

An Ordinance Replacing Section 505 of the Independence City Code Regulating Shoreland Areas.

The City Council of the City of Independence Does Ordain:

Section I. Section 505 of the Independence City Code is deleted in its entirety and a new section 505 is adopted as follows:

Section 505 - Shoreland Management Ordinance

505.01. Shoreland Overlay District - Purpose and Authorization. The city recognizes the consequences to the public health, safety and general welfare from the indiscriminate use of the shorelands of public waters. The purpose of this district is to control the density and location of development in the shorelands of public waters of the city in order to preserve and enhance the quality of surface waters, preserve the economic and natural environmental characteristics of shorelands, and provide for the wise use of public waters and related land resources in the city. This section 505 is adopted in compliance with the Shoreland Development Act, Minnesota Statutes, sections 103F.201 et seq. and the regulations promulgated thereunder. It is intended to be in conformance with state requirements and to establish minimum standards for development within the shoreland overlay district.

505.03. Designation of the shoreland district. The shoreland district for the city shall include all land within the following distances of protected waters: (i) 1,000 feet from the ordinary high water level of a lake, pond, or flowage; or (ii) 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The shoreland district shall be shown on the official zoning map of the city.

505.05. Definitions. For the purposes of this section 505, words and terms shall have the following meanings, unless another meaning is clear from the context. Unless otherwise specified, all distances are to be measured horizontally.

Subd. 1. "Accessory use or structure" has the meaning assigned to it in section 510.05 subd. 2 of this code.

Subd. 2. "Bluff" means a topographic feature such as a hill, cliff, or embankment having the following characteristics:

- (a) part or all of the feature is located in a shoreland area;
- (b) the slope rises at least 25 feet above the ordinary high water level of the waterbody;
- (c) 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; and

- (d) the slope drains toward the waterbody.

An area with an average slope of less than 18 percent over a distance of 50 feet or more shall not be considered part of the bluff.

Subd. 3. “Bluff impact zone” means a bluff and land located within 20 feet from the top of a bluff.

Subd. 4. “Boathouse” means a structure designed and used solely for the storage of boats or boating equipment.

Subd. 5. “Building height” has the meaning assigned to it in section 510.05 subd. 10 of this code.

Subd. 6. “Building line” means a line parallel to a lot line or the ordinary high water level at the required setback beyond which no structure may extend.

Subd. 7. “Commercial use” means the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

Subd. 8. “Commissioner” means the commissioner of the Minnesota Department of Natural Resources.

Subd. 9. “Conditional use” has the meaning assigned to it in section 510.05 subd. 15 of this code.

Subd. 10. “Deck” means 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.

Subd 11. “Dwelling site” means a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Subd. 12. “Dwelling unit” has the meaning assigned to it in section 510.05 subd. 20 of this code.

Subd. 13. “Extraction” has the meaning assigned to it in section 510.05 subd. 24 of this code.

Subd. 14. “Forest land conversion” means the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Subd. 15. “Guest house” has the meaning assigned to it in section 510.05 subd. 37 of this code.

Subd 16. “Hardship” means (1) the property in question cannot be put to reasonable use under the conditions allowed by the official controls; (2) the plight of the landowner is due to

circumstances unique to landowner's property, not created by the landowner; and (3) the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of the official controls.

Subd. 17. "Height of building" has the meaning assigned it in section 510.05, subd. 10 of this code.

Subd. 18. "Individual sewage treatment system" has the meaning assigned it in section 710.05 subd. 9 of this code.

Subd. 19. "Industrial use" means the use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

Subd. 20. "Intensive vegetation clearing" means the complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Subd. 21. "Lot" has the meaning assigned to it in section 510.05 subd. 46 of this code.

Subd. 22. "Lot width" has the meaning assigned to it in section 510.05 subd. 55 of this code.

Subd. 23. "Nonconforming use" has the meaning assigned to it in section 510.05 subd. 80 of this code.

Subd. 24. "Ordinary high water mark" has the meaning assigned to it in section 510.05 subd. 59 of this code.

Subd. 25. "Public waters" has the meaning assigned to it in Minnesota Statutes, section 103G.005, subdivisions 15 and 15a.

Subd. 26. "Sanitary system" has the meaning assigned to "sanitary sewer" in section 710.05 subd. 25 of this code.

Subd. 27. "Setback area" has the meaning assigned to it in section 510.05 subd. 72 of this code.

Subd. 28. "Sewage treatment system" means a septic tank and soil absorption system or other individual or cluster type sewage treatment system as regulated in section 710 of this code.

Subd. 29. "Sewer system" has the meaning assigned to "public wastewater treatment system" in section 710.05 subd. 23 of this code.

Subd. 30. "Shore impact zone" means 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.

Subd. 31. "Shoreland" means land located within 1,000 feet from the ordinary high water

level of a lake, pond, or flowage, or land located within 300 feet from 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.

Subd. 32. “Steep slope” means 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 section 505. Where specific information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

Subd. 33. “Structure” has the meaning assigned to it in section 510.05 subd. 79 of this code.

Subd. 34. “Subdivision” has the meaning assigned to it in section 500.03 subd. 35 of this code.

Subd. 35. “Surface water-oriented commercial use” means 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.

Subd. 36. “Toe of the bluff” means the lower point of a 50-foot segment with an average slope exceeding 18 percent.

Subd. 37. “Top of the bluff” means the higher point of a 50-foot segment with an average slope exceeding 18 percent.

Subd. 38. “Variance” means any modification or variation of official controls where it is determined that, because of hardships, strict enforcement of the official controls is impractical.

Subd. 39. “Water-oriented accessory structure or facility” means 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.

Subd. 40. “Wetland” has the meaning assigned to it in Minnesota Statutes, section 103G.005, subdivision 19.

505.07. Water Bodies Included in the Shoreland Overlay District. In order to guide the wise development and utilization of shorelands of protected waters for the preservation of water quality, natural characteristics, economic values and the general health, safety and welfare, certain protected waters in the city have been given a shoreland management classification.

- (a) The regulations of the shoreland overlay district shall apply to all lands within 1000 feet of the ordinary high water level of the following public waters:

<u>NAME OF LAKE</u>	<u>CLASSIFICATION</u>	DNR PROTECTED WATERS
		<u>INVENTORY ID#</u>
Haughey	NE	27-187
Independence	RD	27-176
Ox Yoke	NE	27-178
Rebecca	NE	27-192
Robina	NE	27-188
Sarah	RD	27-191
Irene	NE	27-189
Fox	NE	27-925

NE - Natural Environment

RD - Recreational Development

- (b) The regulations of the shoreland overlay district shall apply to land located within 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. This applies to the following water courses:

A - Crow River

T - Pioneer Creek

T - Painter Creek

T - Unnamed tributary flowing from Robina Lake

T - Unnamed tributary flowing into south end of Lake Sarah

A =agricultural

T = tributary

505.09. Permitted Uses. Within the shoreland overlay district, no structure or land shall be used except for one or more of the uses allowed in the underlying zoning district as indicated on the official zoning map of the city, with the exception of feedlots, which shall be treated as a conditional use as described in Section 505.11. Permitted structures must comply with shoreland zoning provisions pursuant to section 505.13.

505.11. Conditional Uses.

- (a) Within the shoreland overlay district, no structure or use may be used as a conditional use except by conditional use permit issued pursuant to section 520.09, et seq. of this code and except as follows:
- 1) any conditional use allowed in the underlying zoning district; or
 - 2) grading of any property within the shoreland overlay district which disturbs land in excess of 50% of the total size of the parcel; or
 - 3) water-oriented accessory structures, subject to the following conditions:

- (a) only permitted in residential districts;
 - (b) not designed or used for human habitation and which do not contain sanitary facilities;
 - (c) not exceeding ten feet in height, with the exception of detached decks, which must not exceed eight feet above grade at any point;
 - (d) set back a minimum of 10 feet from the ordinary high water level and which does not occupy an area greater than 250 square feet, except that on shorelands adjacent to recreational development lots they may occupy an area up to 400 square feet if the width of the structure does not exceed 20 feet as measured parallel to the shoreline; and
 - (e) must be constructed or screened to reduce visibility from public waters and adjacent shorelands through the use of topography, color, increased setbacks or vegetation, assuming summer leaf-on conditions.
- 4) stairways, lifts and landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts are subject to the following conditions:
- (a) must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;
 - (b) landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Larger landings may be used for commercial properties, public open-space recreational properties, and planned unit developments;
 - (c) no canopies or roofs;
 - (d) may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
 - (e) must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
 - (f) 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

subitems a) to e) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1430.

- 5) feedlots, as defined in Section 510.05, Subd. 29 of this code.
- b) Applicants proposing a conditional use within the shoreland district must provide a plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation; and soil types. The following conditions shall apply within shoreland areas after a thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site is made to ensure:
 - 1) the prevention of soil erosion or other possible pollution of public waters, both during and after construction;
 - 2) the visibility of structures and other facilities as viewed from public waters is limited;
 - 3) the site is adequate for water supply and on-site sewage treatment; and
- c) The city council, upon consideration of the criteria listed above and the purposes of this section 505, shall attach such other conditions to the issuance of the conditional use permit as deemed necessary to fulfill the purposes of this section 505. Such conditions may include, but are not limited to, the following:
 - 1) increased setbacks from the ordinary high water level;
 - 2) limitations on the natural vegetation to be removed or a requirement that additional vegetation be planted; and
 - 3) special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

505.13. Zoning Provisions. Subdivision 1. General. The following standards shall apply to all proposed developments and subdivisions within the shoreland district of the protected waters listed in subsection 505.05. Where the requirements of the underlying zoning district as shown on the official zoning map are more restrictive than those set forth herein, then the more restrictive standards shall apply. Applicable zoning districts include Rural Residential (RR) and Agricultural (AG) as defined in sections 530.01 and 530.05 of this code.

Subd. 2. Lot Standards.

	Unsewered Areas			Sewered Areas		
	NE Waters	RD Waters	Tributary Streams	NE Waters	RD Waters	Tributary Streams
Lot Area*	2.5 acres	2.5 acres	2.5 acres	1.0 acre	1.0 acre	1.0 acre
Water frontage and lot width at building line	200 ft.	200 ft.	200 ft.	125 ft.	100 ft.	
Structure setback from ordinary high water mark	150 ft.	100 ft.	100 ft.	150 ft.	100 ft.	
Structure setback from roads and highways	85 ft from centerline or 50 ft. from right-of-way, whichever is greater					
Structure height limitation	35 ft	35 ft	35 ft	35 ft	35 ft	35 ft
Maximum lot area covered by impervious surface	25%	25%	25%	25%	25%	25%
Sewage system setback from ordinary high water mark	150 ft	75 ft (RR) 150 ft (AG)	75 ft (RR) 150 ft (AG)	125 ft.	75 ft.	

- (a) Commercial and industrial uses located on public waters which do not have water oriented needs shall be set back from the ordinary high water level twice the distance indicated above or shall be substantially screened from view from the water by topography or vegetation, assuming summer leaf-on conditions.
- (b) Notwithstanding anything herein to the contrary, on undeveloped single family residential lots where both adjacent lots are developed with existing principal structures, a new residential structure may be located the average setback of the adjacent structures from the ordinary high water level or reference lot standards table, whichever is greater, provided that all other requirements of this section 505 are met, and the building site is not within a shore or bluff impact zone.

Subd. 3. Bluff setbacks. Regardless of classification of the waterbody, structures must be set back a minimum of 30 feet from the top of a bluff. Structures and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

Subd. 4. Elevation of lowest floor.

- (a) Lakes, ponds and flowages. The elevation of the lowest floor shall be placed for lakes, ponds and flowages by (i) an evaluation of available flood information and consistent with statewide standards and criteria for management of flood plain areas of Minnesota (Minn. Regs. NR 87(e)(1)) or (ii) placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water elevation, whichever is higher. In those instances where sufficient data on known high water levels are not available, the ordinary high water mark shall be used.

- (b) Rivers and streams. The elevation for the lowest floor shall be placed for rivers and streams, by an evaluation of available flood information and consistent with statewide standards and criteria for management of flood plain areas of Minnesota (Minn. Regs. NR 87(e)(1)).

505.15. Substandard Lots. Lots of record in the office of the county register of deeds or registrar of titles prior to December 1, 1982, which do not meet the requirements of this section 505, may be allowed as building sites provided:

- (a) such use is permitted in the zoning district;
- (b) the lot of record is in separate ownership from abutting lands, and can meet or exceed 60% of the lot area and setback requirements of this section; and
- (c) all requirements of section 705 of this code regarding individual sewage treatment systems are complied with.

505.17. Subdivisions. No land shall be subdivided which is held unsuitable by the city for the proposed use because of flooding, inadequate drainage, soil and rock formations with severe limitations for development, severe erosion potential, unfavorable topography, inadequate water supply or sewage treatment capabilities, or any other feature likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

505.19. Sewage treatment. Subdivision 1. Connections to publicly-owned sewer systems must be made and used when available.

Subd. 2. All on-site sewage treatment systems shall be designed, installed and maintained in accordance with section 705 and must be set back from the ordinary high water level in accordance with the setbacks contained in section 505.13 of this code. All existing on-site sewage treatment systems in the shoreland district shall comply with section 705 of this code.

Subd. 3. Nonconforming sewage treatment systems.

- (a) A sewage treatment system not meeting the requirements of this section 505 must be upgraded, at minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary
- (b) The City has notified the commissioner of its program to identify nonconforming sewage treatment systems. The City will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the MPCA's Chapter 7080 for

design of on-site sewage treatment systems, shall be considered nonconforming high water level.

505.21. Water Supply. Subdivision 1. Domestic supply. Public or private supplies of water for domestic purposes shall conform to Minnesota Department of Health and Minnesota Pollution Control Agency standards for water quality.

Subd. 2. Public supply. Connections to public or municipal water supplies must be made and used where available.

Subd. 3. Private wells. Private wells shall be located in a manner to be free from flooding and the top shall be so constructed and located as to be above all possible sources of pollution. Wells already existing in areas subject to flooding shall be flood-proofed. No private well shall be located closer than three feet to the outside basement wall of a dwelling. The outside basement footing shall be continuous across the opening of the well alcove. No well shall be located closer than 15 feet to a property line. Private wells shall be located in accordance with the standards of the Minnesota health department standards MHD 217 "Location of Wells", (c)(1).

Subd. 4. Permit. No person, firm, or corporation shall install, or extend any private well without first obtaining a permit therefor from the zoning administrator of the city.

- (a) Application for permits shall be made in writing upon printed blanks or forms furnished by the zoning administrator and shall be signed by the applicant.
- (b) Each application for a permit shall include: (i) a file copy of the state report; (ii) correct legal description of the property on which the proposed installation, alteration, repair or extension is to take place; (iii) a plan of the site of reasonable scale and accuracy showing the location of any proposed or existing buildings, sewage treatment facilities and property lines; (iv) a complete plan of the water supply system showing the location, size and design of all parts of the system to be installed, altered, repaired or extended; (v) the name of the person, firm or corporation who is to install the system; (vi) any further information as required by the zoning administrator.

505.23. Shoreland Alteration. Subdivision 1. Roads and Parking Areas. Within the shoreland overlay district, roads and parking areas shall be located and constructed to retard the runoff of surface waters in accordance with the following:

- (a) Roads and parking areas shall meet the setback standards for structures established in section 505.13 of this code, but in no event closer than 50 feet to the ordinary high water level; and
- (b) Vegetation or other natural materials shall be used to screen parking areas from views from public waters.

Subd. 2. Alteration of vegetation or topography shall be regulated to prevent soil erosion, preserve shoreland aesthetics, preserve historic sites, prevent bank slumping, and protect fish and

wildlife habitat. Vegetation alteration necessary for the construction of structures and individual sewage treatment systems or for the construction of roads and parking areas shall be exempt from the vegetation alteration standards of this subdivision but only if such construction is pursuant to a validly issued permit. Removal or alteration of vegetation, except for agricultural and forest management uses, is allowed, subject to the following standards:

- (a) Intensive vegetation clearing within the shore impact zone and bluff impact zone shall not be allowed.
- (b) In the shore impact zone and bluff impact zone, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees shall be allowed to provide a view to the water from the principal dwelling and to accommodate the placement of permitted accessory structures or facilities, provided that:
 - (1) the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - (2) along tributary streams, existing shading of water surfaces is preserved; and
 - (3) the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.

Subd. 3. Surface water-oriented commercial uses and industrial, public or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters and must meet the following standards:

- (a) In addition to meeting impervious coverage limits, setbacks and other zoning standards presents elsewhere in this code, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
- (b) Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.
- (c) Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - (1) No advertising signs or supporting facilities may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the County Sheriff.
 - (2) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must

not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters.

- (3) other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

Subd. 4.

- (a) Grading, filling and excavation necessary for the construction of structures, individual sewage treatment systems, roads, or driveways under validly issued construction permits for these facilities shall not require the issuance of a separate grading and filling permit under this section 505 but shall be accomplished in accordance with the provisions of the city code.
- (b) public roads and parking areas are regulated by section 505.23 subd. 1 of this code.
- (c) Notwithstanding items a) and b) above, a grading and filling permit will 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.
- (d) 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:
 - (1) Filling or grading of wetlands shall be permitted only in compliance with applicable state law;
 - (2) The smallest amount of bare ground is exposed for as short a time as feasible.
 - (3) Temporary ground cover such as mulch is used and permanent ground cover such as sod is established.
 - (4) Methods to prevent erosion and trap sediment are employed.
 - (5) Fill is stabilized to accepted engineering standards.
 - (6) Any alterations below the ordinary high water level must first be authorized by the commissioner under Minnesota Statutes, section 103G;
 - (7) Placement of natural rock riprap and retaining walls, where allowed shall comply with regulations adopted pursuant to Minnesota Statutes, section

103G.245. Natural looking riprap shall only be used for the correction of an established erosion problem that cannot be controlled through the use of native vegetation, slope stabilization using mulch, biomat, or similar bioengineered means. Riprap and retaining walls used for ornamental purposes only for terracing natural slopes shall be prohibited within the shore impact zone.

- (e) Connections to public waters. Excavations on shorelands where the intended purpose is connection to a protected water shall require a permit from the zoning administrator before construction is begun. Such permit may be obtained only after the commissioner of natural resources has issued a permit to work in the beds of protected waters.

Subd. 5. Steep slopes. No structure, individual sewage treatment system, road, driveway or other improvement may be constructed on a steep slope prior to evaluation by the zoning administrator of such improvement with respect to soil erosion and visibility from public waters. The zoning administrator may require Best Management Practices to prevent soil erosion or to preserve existing vegetative screening.

Subd. 6. Stormwater Management.

- (a) When possible, existing natural drainageways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain stormwater runoff before discharge to public waters wetlands and public waters that are designated on the protected waters inventory maps prepared under Minnesota Statutes, Section 103G.201. Development shall be planned and constructed in a manner which will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas shall be stabilized and protected as soon as possible and facilities or methods shall be used to retain sediment on the site.
- (b) When development density, topographic features, and soil and vegetation conditions are not sufficient to handle stormwater runoff adequately using natural features and vegetation, various types of Best Management Practices such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

Subd. 7. Agriculture and Excavation Standards.

- (a) Agricultural uses shall be permitted if steep slopes, bluff impact zones, and shore impact zones are maintained in permanent vegetation. The shore impact zone for parcels with permitted agricultural use shall be the area within a line parallel to and 50 feet from the ordinary high water level. New feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.
- (b) All mining and excavation uses shall be conducted in accordance with the

requirements of sections 828.59 and 828.63 of this code. Processing machinery shall be located consistent with setback standards for structures from ordinary high water levels of public waters.

Subd. 8. Alteration of course, current or cross-section. Any work which will change or diminish the course, current or cross-section of a protected water or wetland shall be approved by the commissioner of natural resources, and such approval shall be construed to mean the issuance by the commissioner of natural resources of a permit under the procedures of Minnesota Statutes, section 105.42 and other related statutes.

505.25. Cluster Developments

Subd. 1. Cluster developments are allowed as a conditional use in the rural residential zoning district, described in Section 530.05 Subd. 6 of this code and the official zoning map. Any cluster developments proposed in the shoreland zone must meet the conditional use provisions as outlined in Section 505.11 of this code.

Subd. 2. The applicant for a cluster development in the shoreland district must submit the following documents prior to final action being taken on the application request:

- (a) A site plan in conformance with Section 520.09 Subd. 2 of this code, which also shows surface water features, existing and proposed structures and other facilities, and land alterations.
- (b) Deed restrictions, covenants, permanent easements or other instruments that:
 - (1) properly address future vegetative and topographic alterations, construction of additional buildings, and beaching of watercraft; and
 - (2) ensure the long-term preservation and maintenance of open space in accordance with the criteria specified in Section 530.05 Subd. 6b of this code; and
 - (3) Those additional documents as requested by the City of Independence which are necessary to explain how the cluster development will be designed and will function.

505.27. Development permits required. No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a permit subject to the requirements of the zoning code and the building code. No mining, dredging, filling, grading, paving, excavation, or drilling operations shall be commenced until a permit has been obtained from the city.

505.29. Enforcement. This section 505 is enforced by the zoning administrator in accordance with the procedures of the zoning code. The zoning administrator shall review all development permit applications to determine whether the proposed use lies in the flood plain or shoreland district. Permit applications for uses to be located in the shoreland district shall not be granted unless they comply with provisions of this section 505. The zoning administrator shall determine

that all federal and state permits have been obtained by the applicant prior to granting any city permit. Failure to obtain a federal or state permit shall constitute grounds for denial of a city permit.

505.31. Variances. Variances from the requirements of this section 505 may only be approved in compliance with the requirements of sections 520.19 et seq. of this code provided, however, that economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this section. A variance will not be granted for projects which are attempting to circumvent the general purposes and intent of this section 505. No variance may be granted which would allow any use that is prohibited in the zoning district in which the property is located or on any property which does not have a conforming individual sewage treatment system. Conditions may be imposed in the granting of a variance to ensure compliance with this section 505 and to protect adjacent properties and the public interest, including requiring that a non-conforming individual sewage treatment system be made conforming.

505.33. Notice to Commissioner.

- (a) Copies of all notices regarding any public hearings to consider variances, conditional use permit, zoning amendment, plat or other subdivision of property or other approval authorized or required by this section 505 affecting land within the shoreland overlay district shall be sent to the commissioner or the commissioner's designated representative. Any notice required to be sent to the commissioner shall be postmarked at least 10 days prior to the hearing. A copy of notice to consider a plat or other subdivision of property shall include a copy of the proposed plat or subdivision.
- (b) A copy of all approved zoning amendments, subdivisions, variances and conditional use permits affecting land within the shoreland overlay district shall be sent to the commissioner or the commissioner's designated representative and postmarked within 10 days after final action or approval. When a variance has been approved despite the commissioner's recommendation of denial, the copy of the final action required by this paragraph shall be accompanied by a summary of the public record and testimony regarding the matter and the findings of fact and conclusions which support the issuance of the variance.

Section II. This Ordinance shall become effective upon its adoption and publication.

Adopted by the city council of the city of Independence this _____ day of _____, 2008.

Marvin Johnson, Mayor

Attest:

Toni Hirsch, City Administrator