

To: Planning Commission  
From: Task Force  
Re: Monthly Report Regarding Minnesota Shoreland Rules and City Code Review  
Date: February 27, 2023

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## I. Status Update

### Background:

- a) In 1996 the DNR allowed greater concessions/flexibility in three areas of the shoreland rules in return for greater restrictions promised by the City. These are summarized in the 7 Factors Chart and referenced as the “3/7 Agreement.”
- b) The current code (2017 Code) has taken more flexibility than was granted for hardcover and WOAS and relaxed some of the promised greater restrictions. The 2017 Code was not submitted to the DNR for approval as required by statute.
- c) At its 1/23/23 meeting, the PC voted in favor of the TF’s proposal to update the DNR-approved 1996 Code so that it complies with all the shoreland rules in addition to the flexibility granted and the greater restrictions promised, the “3/7 Agreement.”

### Recently:

- d) At the 2/13/23 CC meeting the Chair of the PC reported on the PC discussion, recommendation and vote, but proposed that, in order for the City to operate the building permit process in compliance with the intent of the “3/7 Agreement” as soon as possible, interim amendments should be made to the 2017 Code addressing key areas where MB is out of compliance. These interim amendments would not address the entanglements of the 3/7 agreement areas that appear throughout the 2017 Code. The related areas of noncompliance would be addressed in the longer term complete 1996 code update that is to address compliance with all the shoreland rules.
- e) The CC did not vote on this alternative proposal but asked the TF and City Administrator to clarify with the DNR whether a 2-track approach would be acceptable. (i.e., short term interim Code amendments while the TF proceeds with a Code overhaul based on the 1996 DNR-approved Code). The DNR has agreed that, while it requires MB to bring its entire Code into compliance, it is amenable to short-term interim amendments to key areas.
- f) The TF acknowledges that simple interim amendments to the 2017 Code addressing the main areas summarized in the “3/7 Agreement” can be made. These simple amendments will not address the entanglements of the “3/7 Agreement” areas that appear throughout the 2017 Code.

## TF Observations:

By adopting interim amendments, the City can more quickly ensure that the building permit process better meets the intent of the “3/7 Agreement.”

The Chair of the PC has proposed amendments for review by the PC. The TF is in agreement with the proposals with a caveat that with respect to building height, City staff and consultants should provide input on whether change to the DNR ordinance language would cause confusion or a change in implementation.

The DNR has indicated its approval of the current 2017 language. More specifically, the TF understands that the recommendations of the PC chair, are as follows: TF envisions that the “3/7 Agreement” interim amendments would be reviewed by PC and recommended to CC as follows:

- i) Hardcover – remove credits. Use DNR definition of Impervious surface and consider returning to 1996 language.
- ii) Building Height - 2017 Code language has been deemed acceptable by the DNR.
- iii) WOAS - revert to 1996 language, adding lawn irrigation pump house. which has been deemed acceptable by the DNR.
- iv) Lot size requirement – no change needed
- v) Greater lot width - consider returning to 1996 language
- vi) Greater setback from the OHWL--consider returning to the 1996 language.
- vii) No boathouses permitted - no change needed
- viii) No guest houses - amendment complete
- ix) No septic systems — TF recommends adding add clarifying language to 2017 Code. This can be done as an interim amendment or in the 1996 Code update.
- x) No density credits for PUDs — TF recommends add clarifying language to 2017 Code. This can be done as an interim amendment or in the 1996 Code update.

g) The PC Chair has volunteered to manage this interim amendment process.

h) The TF awaits clarification, direction and approval from the PC and CC regarding this proposed two-track process.

## II. Additional Updates:

1. Update on discussion with DNR on 2/15/23.

Handout:

Summary of TF Call with DNR

2. Update on the second of the three areas of concession/flexibility granted by the DNR for Building Height. Information item, no PC direction needed.

Handout:

Building Height and Septic System Memo.

3. Update on one of 7 promises of greater restrictions by the City- Septic Systems Information Item, no PC direction needed.

Handout:

Building Height and Septic System Memo.