



CITY COUNCIL WORK SESSION AGENDA

JANUARY 24, 2023 – 6:00 pm

1. CALL TO ORDER
2. 6:00 – PROPOSED HARDCOVER ORDINANCE UPDATE & DISCUSSION
3. 6:20 – COUNCIL WORK SESSIONS DISCUSSION
4. 6:30 – MINNEHAHA DISCUSSION
5. 6:40 – STREET SIGN DESIGN DISCUSSION
6. 6:45 – DOG LICENSING DISCUSSION
7. 6:50 – MISCELLANEOUS
8. 6:55 – ADJOURNMENT

Note: Agenda times are approximate



Ecological and Water Resources
1200 Warner Road
St. Paul, MN 55106

January 17, 2023

Dan Tolsma
City Administrator
City of Tonka Bay
4901 Manitou Rd
Tonka Bay, MN 55331

Re: Preliminary Comments on Tonka Bay Proposed Shoreland Amendment

Dear Mr. Tolsma:

Thank you for submitting your proposed shoreland ordinance amendment to me for preliminary review. A shoreland ordinance is an important land use regulation that helps to protect surface water quality, near shore habitat and shoreland aesthetics of Minnesota's public waters. The purpose of this review is to help you develop "near final" language that can be conditionally approved by the DNR in time for the public hearing.

Ordinance Evaluation

We have reviewed the following sections that you propose to amend in your draft ordinance received on November 23, 2022 for compliance with state shoreland rules (MR 6120.2500 – 6120.3900).

- Sections 1002 and 1070 of the Tonka Bay City Code with regard to impervious surface coverage

We had an opportunity to discuss the proposed ordinance amendment with you on December 19, 2022. This allowed DNR to better understand the city's proposal for implementation flexibility. As an outcome of the meeting, also on December 19, 2022, you provided a tabulation of lot sizes for all parcels within the city. We are aware the entire city is zoned shoreland.

Attached is the proposed ordinance amendment with my comments, color-coded as follows:

Red Comments. These comments explain why certain provisions do not meet the minimum standards in rule and must be changed to receive DNR approval. Please modify these provisions as requested into the near-final draft you submit for conditional approval.

Orange Comments. These are items where I have questions or need further clarification on intent or administration. Please respond to these items by modifying the text (showing mark ups) to improve clarity and/or with comments made directly on the attached proposed amendment. Once I receive additional information, I will be able to make a compliance determination on the provision.

Implementation Flexibility

Deviations may be possible in some situations. In these cases, offsetting higher standards on other provisions will be required.

The authority and process under which the DNR evaluates and approves deviations is outlined in Minnesota Rule 6120.2800, Subp 3. If you want to pursue deviations on these provisions, we will need to agree on the offsetting higher standards before the DNR will conditionally approve the ordinance. Please respond in writing to my suggested higher standards and/or propose other higher standards by returning the attached proposed ordinance with your higher standard ideas expressed as new ordinance language (showing mark ups) and/or comments. Feel free to call me to discuss in person. Once we have a higher standards agreement, I will send you an email documenting our agreement. At that time please follow these steps.

Next Steps

1. Revise the Ordinance and Submit it for Conditional Approval Review
Revise the ordinance based on my comments using the attached Word document to show all changes, and submit the near-final draft to me for conditional approval. Submit the draft at least 30-days prior to a public hearing to consider the ordinance. This will give me time to review your revisions and make a conditional approval decision in time for the public hearing. If the ordinance is substantially compliant with the rules, the DNR will conditionally approve the ordinance. Conditional approval means that no changes, or only minor changes are needed to receive final approval. If such changes are needed, they will be listed as conditions of approval in the letter. The terms of a higher standard solution agreement will also be included in the conditional approval letter. If the revised ordinance still contains provisions that significantly deviate from the minimum state standards, I will suggest changes that can achieve conditional approval but will not conditionally approve them until the changes have been made. Please send me the public hearing notice at least 10 days prior to the public hearing to consider ordinance amendments. Having the DNR's conditional approval at the time of the public hearing will expedite city council adoption and implementation.
2. Public Hearing to Consider the Ordinance
Hold the public hearing. The DNR's conditional approval is read and/or entered into the hearing record.
3. Adoption
The city council adopts the ordinance that was conditionally approved.

4. Final Review and Approval

Send the adopted ordinance to me within 10 days of adoption by the city council. I will review the adopted ordinance for consistency with the ordinance we conditionally approved. If the adopted ordinance is consistent, the DNR will send you a final approval letter and the ordinance will be effective. State rules require DNR final approval of shoreland ordinances and amendments for those ordinances to be effective.

Please call me if you have any questions on my comment and the review process. I'd be happy to discuss my comments and steps for receiving DNR approval. Please let me know your anticipated schedule for moving this project forward.

Sincerely,



Wes Saunders-Pearce
North Metro Area Hydrologist

Attachments:

Proposed Ordinance with DNR comments

c: Megan Moore, DNR District Manager
Ordinance.review.dnr@state.mn.us

CITY OF TONKA BAY
HENNEPIN COUNTY, MINNESOTA

ORDINANCE NO. 22-____

AN ORDINANCE AMENDING SECTIONS 1002 AND 1070 OF THE TONKA BAY
CITY CODE RELATED TO IMPERVIOUS SURFACE COVERAGE

THE CITY COUNCIL OF THE CITY OF TONKA BAY HEREBY ORDAINS AS
FOLLOWS:

Section 1. Definition of Impervious Surface. The City Council hereby amends Section 1002.02, Subd. 1. I. of the City Code by inserting the following double-underlined language prior to the definition of “Interim Use”:

Impervious surface. A constructed hard surface that prevents or retards entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development, including rooftops, sidewalks, patios, swimming pools, parking lots, concrete, asphalt or gravel driveways, permeable pavers, artificial turf, retaining walls, and other similar surfaces. Decks and deck stairs shall not be considered an impervious surface if the deck is constructed with a minimum 1/4 inch space between each plank and the deck is constructed over a pervious surface. Decks that do not meet these criteria shall be considered impervious.

Section 2. Impervious Surface Coverage. The City Council hereby amends Section 1070.11 of the City Code by removing the ~~striken~~ and inserting the double-underlined language as follows:

1070.11 IMPERVIOUS SURFACE COVERAGE.

Subd. 1. Maximum Allowable Coverage.

- a. The maximum impervious surface coverage for lots in all zoning districts within the Shoreland District shall be as set forth in Appendix A attached hereto and incorporated herein by reference is twenty-five (25) percent of the lot area.

Subd. 2. Required Treatment and Maintenance Plans.

- a. _____ No person may be eligible for a variance from the requirements of this section in accordance with Minn. Stat. § 462.357, subd. 6, unless they submit, as part of their variance application, a Stormwater Treatment Plan, which shall be reviewed and approved by the City Engineer. ~~The City Council shall review the proposed Stormwater Treatment Plan along with the recommendation of the City Engineer and shall determine whether the proposal provides a reasonable means of adequately treating the increased stormwater runoff expected to be created by the~~

Commented [SPW(1): The impervious surface coverage shown in Appendix A makes sense based on the city’s tabulation of parcels and lot sizes. However, the proposed Appendix A does not relate to land use. Maximum lot size for a Single Family Residential property is 15,000 square feet. What is the number of variances granted for impervious surface for residential land use in contrast to variances for nonresidential land uses? Where is the flexibility for impervious surface coverage needed most?

proposal portion of the proposed impervious surface that exceeds the maximum impervious surface coverage for the lot as set forth in Appendix A. If the City Council approves a variance to the requirements of this section, the property owner shall also be required to enter into a stormwater facilities maintenance agreement with the City in a form approved by the City.

Commented [SPW(2): What is the proposed offsetting higher standard for the desired flexibility in impervious surface? As drafted, this amendment raises the maximum impervious surface limit for a substantial number of parcels in the city. However, stormwater treatment is only required if the parcel exceeds the raised (relaxed) standard. This weakens the city’s current regulation.

b. In the event (1) a variance has been issued allowing a lot to exceed the maximum allowable impervious coverage, and (2) the lot’s owner proposes to reduce the amount of impervious surface coverage on the lot below the amount permitted by the approved variance, but in excess of the allowable maximum in accordance with Subd. 1 above, no stormwater treatment plan is required, and no additional variance is required.

For riparian properties, a potential offsetting higher standard could be restoring shoreland to provide a naturalized buffer strip. For a citywide approach, because the whole city is zoned shoreland district, perhaps a higher standard could be related to increasing shade tree density.

Subd. 3. In the event a lot owner proposes to reduce the amount of impervious surface coverage on their lot below the existing impervious surface coverage on the lot, but in excess of the allowable maximum in accordance with Subd. 1 above, no variance is required, but the lot owner must submit a Stormwater Treatment Plan, which shall be reviewed and approved by the City Engineer. The City Engineer shall determine whether the proposal provides a reasonable means of adequately treating the increased stormwater runoff expected to be created by the portion of the proposed impervious surface that exceeds the maximum impervious surface coverage for the lot as set forth in Appendix A.

Subd. 34. Limitations. No impervious surface coverage shall be placed, located or constructed within fifty (50) feet of the ordinary high water level, except for stairways, lifts and landings as allowed for in Section 1070.12 of this Ordinance.

Section 3. Appendix A. The City Council hereby amends Section 1070 of the City Code by adding “Appendix A”, a copy of which is attached hereto as Exhibit A.

Section 4. Severability. Should any section or part of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision will not affect the validity of the ordinance as a whole or any part other than the part declared invalid.

Section 5. Effective Date. This ordinance shall become effective immediately following adoption and publication as required by law.

Passed by the City Council of the City of Tonka Bay this ____ day of _____, 2022.

Adam Jennings, Mayor

ATTEST:
