



## Olmsted County Planning Department

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July 12, 2021

**To: Oronoco Township Planning Advisory Commission**

**From: Olmsted County Planning Staff**

**Re: Oronoco Township Shoreland Update**

### **Summary of Shoreland Update**

The shoreland section of the Olmsted County Zoning Ordinance was created in 1982. Oronoco Township adopted most of these regulations verbatim, with the exception of the River Corridor District. State statutes and Rules have been amended since its inception, but the ordinance was not updated. Olmsted County updated the shoreland regulations, effective June 1, 2021. The proposed changes will bring the Oronoco Township Zoning Ordinance into conformance with state regulations. The Minnesota Department of Natural Resources has provided a model ordinance for communities to use as a guide in creating ordinances. Planning staff has incorporated the model ordinance into our ordinance. Below is a summary of the changes in each article of the ordinance.

DNR Staff, Nicole Lehman and Matt Bauman, have reviewed the draft documents and must approve the ordinance modifications prior to the Oronoco Township Board approving the text amendments.

#### Article 1

Article 1 is primarily housekeeping. It deletes redundancy in other articles.

#### Article 2

The changes in Article 2 include updates to definitions, adding figures to help explain the definitions.

#### Article 4

Article 4 corrects the variance findings in shoreland there are no substantive changes.

#### Article 9

Article 9 has the most changes within the ordinance. The tables of shoreland classifications has been updated. A land use table has been created. The updates include the addition of a mitigation section. Another new section is subdivision procedures for the shoreland district. The article now includes shoreland Planned Unit Developments (PUDs). This has been used in the past for special districts that do not conform to minimum lot size requirements within the shoreland district.

### **Schedule of Update**

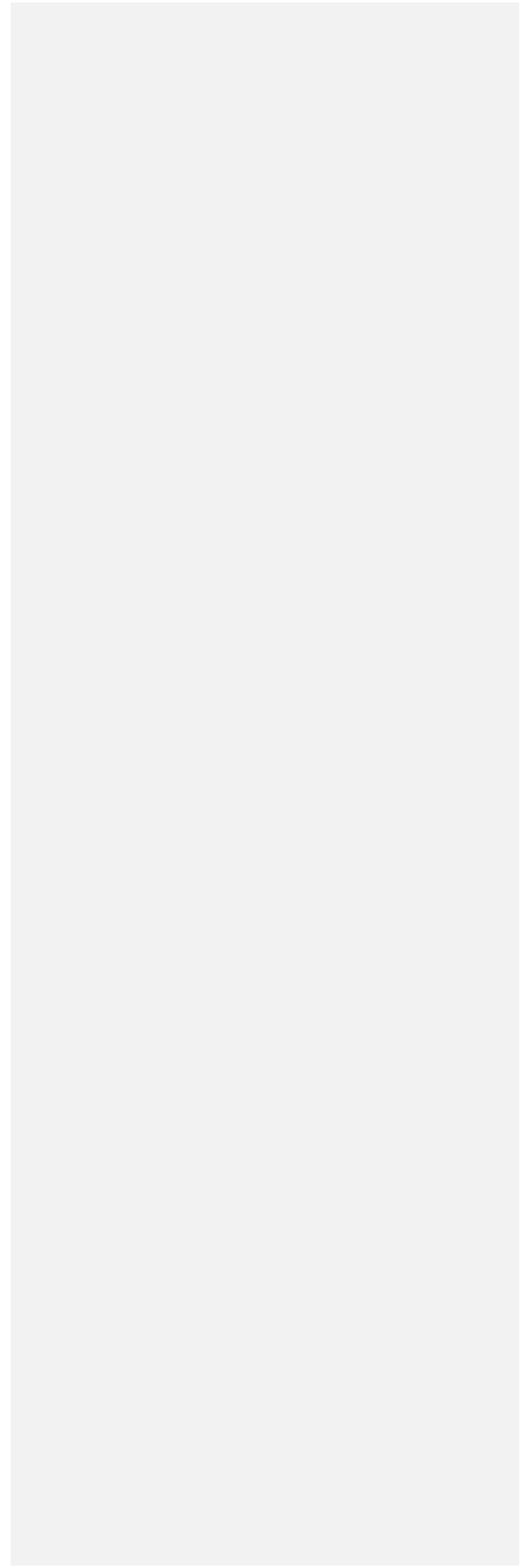
1. May 17, 2021 provide draft document to Oronoco Township Planning Commission
2. May 18, 2021 send draft document to MN DNR for review.
3. July 19, 2021 public hearing at Oronoco Township Planning Commission
4. Approval of draft ordinance from MNDNR.
5. August 2, 2021 (or after approval letter) public hearing at Oronoco Township Board of Supervisors
6. Notice of Decision sent to Nicole Lehman within 10 days of decision.

## Article I General Provisions

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AN ORDINANCE REGULATING THE USE OF LANDS AND/OR STRUCTURES IN THE UNINCORPORATED AREAS OF THE TOWNSHIP OF ORONOCO, COUNTY OF OLMSTED, MINNESOTA, INCLUDING THE REGULATION OF THE LOCATION, SIZE, USE, AND HEIGHT OF STRUCTURES, THE ARRANGEMENT OF STRUCTURES ON LOTS AND THE DENSITY OF POPULATION FOR SAID LANDS, FOR THE PURPOSE OF PROMOTING THE PUBLIC HEALTH, SAFETY, ORDER, CONVENIENCE AND GENERAL WELFARE OF ORONOCO TOWNSHIP.

## **Article I. GENERAL PROVISIONS**

### **Section 1.00 SHORT TITLE**

This ordinance shall be known as the Oronoco Township, Minnesota, Zoning Ordinance and cited as the Zoning Ordinance.

### **Section 1.02 PURPOSE AND INTENT:**

This zoning ordinance is enacted for the following purpose: to implement the Comprehensive Plans and to promote and protect the health, safety, and general welfare throughout Oronoco Township by lessening congestion in the public right-of-ways; securing safety from fire, panic and other dangers; providing adequate light and air; facilitating the adequate provision of water, sewerage and other public facilities; conserving the value of properties and encouraging the most appropriate use of the land; and to protect the environment; pursuant to authority granted in Minnesota Statutes, Chapter 394.33 and 366, as amended, authorizing township planning and zoning activities, establishing a Board of Adjustment and authorizing the enactment of official controls and providing penalties for the violation thereof, in accordance with the authority granted in Minnesota Statutes, Section 103F, adopt regulations designed to minimize flood losses and provide guidance for the wise development of shorelands of public waters. These materials are on file in the office of the Olmsted County Planning Department, GIS Division.

### **Section 1.04 JURISDICTION:**

The jurisdiction of this zoning ordinance shall apply to all the area of Oronoco Township outside the incorporated limits of municipalities.

The shoreland provisions of this ordinance shall apply to the shorelands of the public water bodies as classified in Section 9.10(B) of this ordinance. Pursuant to Minnesota Regulations 6120.2500 and 6120.3900, no lake, pond, or flowage less than 25 acres in unincorporated areas need be regulated by the local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from the shoreland provisions.

**Section 1.06 SCOPE:**

From and after the effective date of this zoning ordinance and subsequent amendments, the use of all land and every building or portion of a building erected, altered in respect to height and area, or portion of a building erected, altered in respect to height and area, added to or relocated, and every use within a building or use accessory thereto in the unincorporated area of Oronoco Township shall be in conformity with the provisions of this zoning ordinance. Any existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as non conforming, but may be continued, extended or changed, subject to the special regulations herein provided with respect to non conforming uses. (See Section 1.28.).

**Section 1.08 INTERPRETATION AND APPLICATION:**

A.a. In their interpretation and application, the provisions of this zoning ordinance shall be held to be the minimum requirements for the promotion of the public health, safety and welfare.

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- B. Where the conditions imposed by any provision of this zoning ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
- C. Except as specifically provided in this zoning ordinance, no structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this ordinance.

**Section 1.10      VALIDITY:**

Should any section or provision of this zoning ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the zoning ordinance as a whole or any part thereof other than the part so declared to be invalid.

**Section 1.12      ZONING DISTRICTS:**

The following zoning districts are provided in order to promote and encourage the efficient economic use of land, buildings, and all usable structures. The unincorporated area of the County of Olmsted, Minnesota, is hereby divided into the districts which shall be known by the following respective symbols and names [listed in Table 1](#):

Table 1

A 1	Agricultural Protection District
A 2	Agricultural Protection District
A 3	Agricultural District
A 4	Agricultural Urban Expansion District
A/RC-AER	Agricultural/Resource Commercial District - Aggregate Extraction and Reuse
A/RC-LILI	Agricultural/Resource Commercial District – Land Intensive Low Impact Uses
ARC	Agricultural Residential Cluster District
RSD	Rural Service Center District
RA	Rural Residential District
R 1	Low Density Residential District
R 2	Mixed Low Density Residential District
RC	Recreational Commercial District
CS	Commercial Service District
HC	Highway Commercial District
I	Industrial District
MI	Medical Institutional District

**Section 1.14      OVERLAY ZONING DISTRICTS:**

The following overlay zoning districts are also made a part of the zoning ordinance. On property where both the zoning districts (Section 1.12) and the overlay districts would apply, the use or development of such a property shall comply with both the zoning

district and the overlay district. The following overlay zoning districts shall be known by the following respective symbols and names as shown in Table 2:

**Table 2**

FW	Floodway District
FFA	Flood Fringe <u>A</u> District
FFB	Flood Fringe <u>B</u> District
FP	Flood Prone District
<u>SL</u>	Shoreland District
<u>DE</u>	Decorah Edge
	SPECIAL DISTRICTS
HF - SD	High Forest Special District
RD - SD	Rock Dell Special District
NH - SD	New Haven Special District
HA - SD	Haverhill Special District (A-2 District)
HAV-SD	Haverhill Special District
ROC – SD	Rochester Township Special District
ELM – SD	Elmira Special District
KAL – SD	Kalmar Special District
ORI – SD	Orion Township Special District
SAL – SD	Salem Township Special District
PG-SD	Pleasant Grove Township Special District
Oron – SD	Oronoco Township Special Zoning District

**Section 1.16 OFFICIAL ZONING MAP:**

The map or maps, which are a part of this zoning ordinance, delineate the boundaries of the zoning districts and represent the approximate boundaries of the overlay zoning districts.

**Section 1.18 DISTRICT BOUNDARIES:**

The boundaries of the zoning district, unless otherwise identified, shall be construed as following property lines, water sources, right-of-way lines, corporate limits of cities, or the centerline of roads.

**Section 1.20 BOUNDARY INTERPRETATION:**

Questions concerning district boundary lines as shown on the official zoning map shall be interpreted by the Zoning Administrator; such interpretation may be appealed in accordance to Section 4.06.

**Section 1.22 FLOOD PLAIN DISTRICTS BOUNDARY INTERPRETATION:**

The Floodway, Flood Fringe A (FFA), Flood Fringe B (FFB), and Flood Prone (FP) Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this ordinance. In case of conflict, the more restrictive standards will apply.

The boundaries of the four flood plain districts, FW, FFA, FFB, and FP shall be determined by the zoning administrator through interpretation of their locations by scaling or overlaying the maps found on the best available Flood Insurance Study - Flood Insurance Rate Map and for the FP District, the boundaries of the applicable soil types found on the soils maps contained in the Soil Survey of Olmsted County, Minnesota, dated March, 1980. Where the accuracy of the location of the FFA or FFB flood fringe district on the ground can be improved, the zoning administrator will use the applicable elevations of the flood fringe district (the regional flood elevation), as found in the Flood Insurance Study (FIS), to determine the appropriate location of the boundary. Public produced topographic maps or elevation data or verified privately provided site elevation data may be used to determine a flood fringe district boundary.~~The boundaries of the four flood plain districts, FW, FFA, FFB, and FP, shall be determined by elevation and by scaling distances on the Flood Insurance Rate Map, and, where appropriate, on the soils maps contained in the Soil Survey of Olmsted County, Minnesota, dated March, 1980. The Floodway, Flood Fringe A and Flood Fringe B, and Flood Prone Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this ordinance. In case of conflict, the more restrictive standards will apply.~~

- A. Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.
- B. Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Olmsted County Board of Adjustment and to submit technical evidence.
- C. Where the Flood Prone (FP) District overlaps another flood plain district boundary that is based on the Flood Insurance Rate Map, the Flood Insurance Rate Map will be applied. ~~Flood Prone District designation where there is no Flood Insurance Rate Map panel or designation, and where there is a Flood~~

~~Insurance Rate Map designation the Flood-Prone District shall be applied to the tributaries.~~

**Section 1.24      WARNING AND DISCLAIMER OF LIABILITY:**

The degree of flood protection intended to be provided by the zoning ordinance is considered reasonable for regulatory purposes and is based on engineering and specific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. The zoning ordinance does not imply that areas outside of designated flood plain districts or land uses permitted within such districts will always be totally free from flooding or flood damages, nor shall the zoning ordinance create a liability on the part of, or be a cause of action against, Olmsted County its' officers, or an employee thereof for any flooding or flood damages that may result from reliance on the zoning ordinance.

**Section 1.26      BUILDABLE LOTS:**

A lot that meets the Board of Health regulations and fulfills the criteria specified in one of the following subsections (A) or (B) is considered to be a buildable lot. All other lots, including illegally created lots, shall not be considered buildable lots and no building shall be constructed or placed upon such lots.

- A. Buildable Lots for Uses Other than Dwellings: (These other uses would include agricultural uses such as barns and other agricultural buildings, but would not include a dwelling.)
  - 1. Lots of record or newly created lots that meet the lot area, lot width and access requirements of this ordinance. Any newly created lot which does not meet the standards for non farm dwellings in the zoning district where such lot is located, or the standards for farmstead dwellings, shall be designated as an (N.B.) Non Buildable Lot for Dwelling Purposes on the Official Zoning Map.
  - 2. Non conforming lots of record, providing that such lot has recorded access to a public road and the proposed building complies with the regulations in Section 1.28 (B).
- B. Buildable Lots for a Dwelling Are:
- C. A lot that qualifies as a farm.

1. Lots created after the effective date of this ordinance which meet the lot area, lot width, access requirements and either the standards for non farm lots or dwellings in the zoning district where such lot is located or the standards for farmstead lots or dwellings.
2. Lots of record, providing that such a lot has recorded access to a public road and the proposed building complies with the regulation of Section 1.28 (B).
3. If in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the zoning district lot area, width, or access standards of the zoning district where located, the lots must not be considered as separate parcel of land for purposes of development. The lots must be combined with one or more contiguous lots so they equal one or more parcels of land, each meeting the lot area, width, or access standards to the extent possible.
4. A lot must comply with all standards of the floodplain provisions of the zoning and subdivision ordinances.

D. Non-farm Lots in Agricultural Districts:

1. This section of the ordinance applies only to the A-1, A-2, A-3, and A-4 districts of the zoning ordinance.
2. A lot, as defined in the ordinance, recorded on a single deed is deemed to be a single lot for zoning purposes. If a lot on a single deed is divided by a public right-of-way, thereby creating one or more non-farm sized tracts of land, the property owner must submit an application for a Metes and Bounds subdivision to create a buildable lot for a dwelling.
3. The metes and bounds subdivision must be approved using the provisions:
  - a. Standards for a Non-farm Dwelling under the applicable zoning district,
  - b. The requirements of Section 1.26 B, and
  - c. The applicable zoning district General Regulations.

**Section 1.28 NON-CONFORMING USES:**

The lawful use of land or structures existing at the time of the adoption of this zoning ordinance may be continued although such use does not conform with the district provisions herein, subject to the following provisions.

- A. Land: The non conforming use of land shall not in any way be expanded or extended either on the same or adjoining property.
- B. Lot of Record: A non-conforming lot of record may be used for any principal use permitted in the zoning district in which the lot is located, provided that for any use which is to be served by an individual well and/or septic system, the non-conforming lot shall be of a size and design to meet the minimum requirements of the Board of Health regulations for such wells and septic systems.
- C. Structure, Enlargement or Alterations: No non conforming structure may be enlarged or altered in any way which increases its non conformity.
- D. Structure, Damage or Destruction: If a non conforming structure is destroyed by any means to an extent of more than fifty (50%) percent of its current market value, as determined by the Olmsted County Assessor's records at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the zoning code. If destroyed to less than fifty (50%) percent of its market value, said restoration shall begin within twelve (12) months or the structure shall be made conforming.
- E. Structure, Relocation: If a non conforming structure is moved any distance, for any reason whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- F. Use, Change: Whenever a non conforming use has been changed to a conforming use or to a use permitted in a district of greater restrictions, it shall not thereafter be changed back to a non conforming use.
- G. Use, Discontinuance: In the event that a non conforming use of any structure or structure and land is discontinued for a period of one (1) year, the use of the same shall conform thereafter to the uses permitted in the district in which it is located.
- H. Use, Zone Change: The foregoing provisions relative to non conforming uses shall apply to buildings, land and uses which hereafter become non conforming due to classification or reclassification of districts under this ordinance.

~~D.I.~~ Use, Change in: Any nonconforming use of land or structure may be changed to another nonconforming use of the same nature or less intensive

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nature if no structural alterations are involved and if it is found that the relation of the structure and proposed use to surrounding property is such that adverse effects on the occupants and neighboring property will not be greater than if the original nonconforming use continued. Approval for such a change shall be through the approval of a Conditional Use permit that has considered the following factors.

1. The character and history of the use and of development in the surrounding area.
2. The comparable degree of noise, vibration, dust, odor, fumes, glare, or emissions detectable at the property line.
3. The comparative numbers and kinds of vehicular trips to the site.
4. The comparative amount and nature of outside storage, loading, and parking.
5. The comparative visual appearance
6. The comparative hours of operation.
7. The comparative effect on existing vegetation.
8. The comparative effect on water drainage.
9. The comparative effect on the environment.
10. Other factors which tend to reduce conflicts of incompatibility with the character or need of the area.

E.J. Use, Expansion of Nonconforming: Nonconforming commercial, industrial, or institutional uses in any nonresidential district and any residential uses in any residential district may be modified or expanded in certain situations subject to approval as a Conditional Use. In acting on an application for modifying or expanding a nonconforming use, the Commission shall use the Section 1.28 I criteria to determine the impact of modifying or expanding the nonconforming use. A proposal where the Commission finds significant injurious impact should be denied or approved with conditions which will mitigate the impact of the modification or expansion.

1. Potential modifications or expansions which the Commission may consider shall include:

- a. Rebuilding of a structure devoted to a nonconforming use if destroyed to an extent greater than 50% of the replacement value of the structure.
- b. Expanding a nonconforming use of a structure to a portion of the structure not manifestly arranged or designed for such use at the time the use became nonconforming.
- c. The addition of new principal buildings or accessory structures on the same parcel of land occupied or under the same ownership on the effective date that the use became nonconforming. The new structures added must be for such purpose that if not associated with the nonconforming use, they would be permitted by the zoning district on the property. The applicant must show that the intensity of the use will not substantially increase over the current level of activity with the addition of the new structures.

**Section 1.29      NONCONFORMITIES WITHIN SHORELAND AREAS AND RIVER CORRIDORS**

A. Construction on Nonconforming Lots of Record

2. All legally established nonconformities as of the date of this ordinance may continue, but will be managed according to [Minnesota Statutes, Section 394.36 Subd. 5 and Section 1.28 of this ordinance for alterations and additions; repair after damage; discontinuance of use and intensification of use.](#)
- ~~3. Lots of record in the office of the County Recorder on the date of enactment of local shoreland controls that do not meet the minimum lot area and width standards of the underlying zoning district may be allowed as buildable lots, provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements are met.~~
- ~~4. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Board of Adjustment shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.~~
- ~~5. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the underlying zoning district lot area and width standards the lot must not be considered as a separate parcel of~~

~~land for sale or purposes of development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the lot area and width standards to the extent possible.~~

#### B. Additions/Expansions to Nonconforming Structures

1. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback and height requirements of this ordinance. ~~Any deviation from these requirements must be authorized by a variance pursuant to Section 4.08.~~
2. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high-water level if all of the following criteria and standards are met:
  - a. The structure existed on the date the structure setbacks were established;
  - b. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
  - c. The deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
  - d. The deck is constructed primarily of wood, and is not roofed or screened.

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#### C. Nonconforming Sewage Treatment Systems

1. An existing individual sewage treatment system which is nonconforming according to Minnesota Rules, Chapter 7080 (and amendments thereto), shall be upgraded to meet the requirements of Olmsted County Public Health Regulation # 41, and amendments thereto. Upgrading shall occur, at a minimum, 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 high-water level.
2. Olmsted County will implement a notification or education program that is oriented toward convincing substantial numbers of property owners to

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evaluate their sewage treatment systems and voluntarily upgrade the sewage treatment system, if nonconforming.

### **Section 1.30 NONCONFORMITIES WITHIN FLOOD PLAIN DISTRICTS**

A use, structure, or occupancy of land which was lawful before the passage or amendment of this ordinance, but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions. Historic structures, ~~as defined in Section 2.02 of this ordinance~~ as defined in 44 Code of Federal Regulations, Part 59.1, are subject to the provisions of Sections A -D of this section.

- A. A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its nonconformity. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited. No addition or modification to a use within a flood fringe or floodway district shall increase the flood damage potential of the structure or increase the degree of obstruction to flood flow.
- ~~B.A.~~ Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP-1 thru FP-4 floodproofing classifications) allowable in the State Building Code, except as further restricted in C and F below.
- ~~C.B.~~ The cost of all structural alterations or additions to any nonconforming structure over the life of the structure may not exceed 50 percent of the market value of the structure as determined by the Olmsted County Assessor's records unless the entire structure is made conforming. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.
- ~~D.C.~~ If any nonconformity is substantially damaged which is defined as: damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred, as defined in Section 2.02 of this ordinance, it may not be reconstructed except in conformity with the provisions of this ordinance. The applicable provisions for establishing new uses or new structures in Sections 9.02, 9.04, 9.06 or 9.08 will apply depending upon whether the use or structure is in the Floodway or Flood Fringe districts, respectively.
- ~~E.D.~~ If any nonconforming use or structure experiences a repetitive loss, which is defined as -flood related damages sustained by a structure on two separate

occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred, as defined in Section 2.02 of this ordinance, it must not be reconstructed except in conformity with the provisions of this ordinance.

F.E. Any substantial improvement, as defined in Section 2.02 of this ordinance which is defined as within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed with the exemptions found in Article 2.02 substantial improvement definition, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Section 9.02, 9.04, 9.06 or 9.08 of this ordinance for new structures, depending upon which floodplain district the structure is located in. This provision does not apply to historic structures, as defined in Section 2.02 of this ordinance 44 Code of Federal Regulations, Part 59.1.

G.F. If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this ordinance.

**Section 1.31 OTHER ZONING ORDINANCES:**

Within Olmsted County there exist other zoning ordinances that may apply to certain lands within the county; those zoning ordinances include but may not be limited to the Rochester Municipal Airport Zoning Ordinance and the Farmington Township Zoning Ordinance.

**Section 1.32 FEES:**

There shall be fees established for items of this ordinance as established from time to time by resolution of the County Board of Olmsted County or the Oronoco Township Board of Supervisors. See Appendix A-Fee Schedule.

**ARTICLE II**  
**RULES AND DEFINITIONS**

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## Article II.

## RULES AND DEFINITIONS

### Section 2.00 RULES, WORD USAGE:

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows:

**Board:** The word "Board" includes the Township Supervisors, the Board of Supervisors or any other word or words meaning the Oronoco Township Board of Supervisors.

**Board of Adjustment:** The "Board of Adjustment" shall mean the Olmsted County Board of Adjustment.

**Board of Health:** The "Board of Health" shall mean the Olmsted County Board of Health.

**Commission:** The "Commission" shall mean the Oronoco Township Planning Advisory Commission (OT-PAC).

**Comprehensive Plan:** The "Comprehensive Plan" shall mean the General Land Use Plan for the Olmsted County Area, or the General Land Use Plan for Oronoco Township, or the Land Use Plan for the Rochester Urban Service Area, or the Currently Held Valid Thoroughfare Plan, or the Housing Plan for the Rochester and Olmsted County Area, or other interrelated policies and plans for private and public land and water use, transportation and community facilities adopted by the Olmsted County Board of Commissioners.

**Fractions of Measurement:** All stated and measured distances shall be taken to the nearest integral foot. If a fraction is one half (1/2) or less, the integral foot next below shall be taken.

**Lot:** The word "lot" shall include the word piece, parcel, and plot.

**Masculine and Feminine Gender:** The masculine gender includes the feminine and neuter genders.

**Person:** The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

**Shall and May:** The word "shall" is mandatory and not discretionary; the word "may" is permissive.

**Singular and Plural:** Words used in the singular shall include the plural, and the plural the singular.

**Tenses:** Words used in the present tense shall include the future.

**Used For:** The word "used for" shall include the phrases arranged for, designed for, intended for, maintained for and occupied for.

## **Section 2.02 DEFINITIONS:**

**Accessory Building:** A building detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use.

**Accessory Structure:** A structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal structure or use.

**Accessory Use:** A use customarily incidental and subordinate to the principal use located on the same lot as the principal use. Solar collection systems that serve the principal use and that generate power primarily for the principal use shall be considered accessory uses. Excess power may be sold to a power company.

**Adult:** A person who is 18 years old or older. For the purposes of residential and nonresidential facilities an adult may have a mental illness, developmental disability, physical disability, functional impairment, or chemical dependency.

**Adult Body Painting Studio:** An establishment or business which provides the service of applying paint or other substance whether transparent or non transparent to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas."

**Adult Bookstore:** A business engaging in the barter, rental, or sale of products consisting of printed matter, pictures, slides, records, audiotapes, novelties, cd roms or other electronic media, videotapes or motion picture film, if such business is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such products are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified

anatomical areas". The phrase "substantial or significant portion of such products", as used in the definition of an adult bookstore means with respect to any building or buildings upon one Lot:

- A. Twenty-five (25) percent of the inventory, stock and trade, or publicly displayed products, or the lesser of
- B. 1000 square feet or twenty-five (25) percent of the floor area of the business (not including storerooms, stock areas, bathrooms, basement, or any portion of the business not open to customers or clients), devoted to the products described above.
- C. In no event shall more than a total of 1000 square feet of floor area in any building or buildings upon a Lot be devoted to the public display of the products described above.

**Adult Cabaret:** An establishment which provides dancing or other live entertainment, if such establishment excludes minors by virtue of age, or such dancing or other live entertainment is distinguished or characterized by an emphasis on the performance, depiction or description of "specified sexual activities" or "specified anatomical areas."

**Adult Companionship Establishment:** A companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

**Adult Establishment:** A business engaged in any of the following activities or which utilizes any of the following business procedures or practices; either:

- A. Any business which is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage there at either by law or by the operators of such business,
- B. Any other business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing, or relating to specified sexual activities or specified anatomical areas. Specifically included in the term, but without limitation, are adult bookstores, adult motion picture theaters, adult mini motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.

**Adult Hotel or Motel:** Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".

**Adult Massage Parlor, Health Club:** A massage parlor as required to be licensed or a health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

**Adult Mini Motion Picture Theater:** A business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

**Adult Modeling Studio:** An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

**Adult Motion Picture Arcade:** Any place to which the public is permitted or invited wherein coin or slug operated or electronically or mechanically controlled still or motor picture machines, projectors or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas".

**Adult Motion Picture Theaters:** A business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

**Adult Novelty Business:** A business which has as a principal activity the sale of devices which simulate human genitals or devices which are designed for sexual stimulation.

**Adult Sauna:** A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

**Aggregate Extraction:** Mining of aggregate material as defined by [Minnesota Statute 298.75](#) involving the use of heavy vehicles.

**Alterations:** See Structure Alteration.

**Animal Feedlot:** Land and/or buildings used for, or a building that has in the past five (5) years been used for the confined feeding, breeding, raising or holding of poultry or animals exceeding thirty (30) animal units and where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Pastures are not considered animal feedlots.

**Animal Feedlot, New:** An animal feedlot constructed and operated at site where no animal feedlot existed previously or where a pre-existing animal feedlot has been abandoned or unused for period of five (5) years or more.

**Animal Unit:** A unit of measure used to compare difference in the production of animal manure that employs as a standard the amount of manure produced on a regular basis by different types of animals. For the purpose of this zoning ordinance, the animal unit or animal unit calculation measure shall be the same unit of measure used in the current Minnesota Pollution Control Agency, Minnesota Rules Chapter 7020, relating to animal feedlots and storage, transportation and utilization of animal manure.

**Animal Unit Calculations:** Use [Table 2.02-2](#) to calculate animal units for your facility.

For each animal type checked, list the maximum number of animals that you intend to have (standing herd size) at the facility at any given time. Put that number in the # of Animals column (column 3). Multiply the Animal Unit Factor (column 2) by the # of Animals (column 3) to get the Animal Units for each animal type (column 4). Then add up your animal unit numbers in column 4 for a total.

Example: If you have 245 heifers, you will check the heifer checkbox, write 245 in column 3 for heifers and multiply 245 x 0.7 (animal unit factor) for a total of 171.5. You will write 171.5 in column 4 for heifers. [See Table 2.02-1 for example.](#)

Table 2.02-1

1. Example	2. Animal Unit Factor	3. # of Animals	4. Animal Units
<b>Heifer</b>	<b>0.7</b>	<b>245</b>	<b>171.5</b>

Table 2.02-2

1. Animal Type	2. Animal Unit Factor	3. # of Animals	4. Animal Units
<b>A. Dairy Cattle</b>			
<b>Mature cow (whether milked or dry) over 1,000 pounds</b>	<b>1.4</b>		
<b>Mature cow (whether milked or dry) under 1,000 pounds</b>	<b>1.0</b>		
<b>Heifer</b>	<b>0.7</b>		
<b>Calf</b>	<b>0.2</b>		
<b>B. Beef Cattle</b>			
<b>Slaughter steer or stock cow</b>	<b>1.0</b>		
<b>Feeder cattle (stocker or backgrounding) or heifer</b>	<b>0.7</b>		
<b>Cow and calf pair</b>	<b>1.2</b>		
<b>Calf</b>	<b>0.2</b>		
<b>C. Swine</b>			

1. Animal Type	2. Animal Unit Factor	3. # of Animals	4. Animal Units
<b>Over 300 pounds</b>	<b>0.4</b>		
<b>Between 55 and 300 pounds</b>	<b>0.3</b>		
<b>Under 55 pounds (<i>and separate from sow</i>)</b>	<b>0.05</b>		
<b>D. Horses</b>			
<b>Horse</b>	<b>1.0</b>		
<b>E. Sheep</b>			
<b>Sheep or lamb</b>	<b>0.1</b>		
<b>F. Chickens</b>			
<b>Laying hen or broiler, if the facility has liquid manure system</b>	<b>0.033</b>		
<b>Chicken over 5 pounds, if using dry manure system</b>	<b>0.005</b>		
<b>Chicken under 5 pounds, if using a dry manure system</b>	<b>0.003</b>		
<b>G. Turkeys</b>			
<b>Over five pounds</b>	<b>0.018</b>		
<b>Under five pounds</b>	<b>0.005</b>		
<b>H. Ducks</b>			
<b>Duck</b>	<b>0.01</b>		
<b>I. Animals not listed in Item A to H</b>			
<b>Animals not listed in Item A to H</b> <b>Type 1:</b> _____	<b>Average weight of the animal in pounds</b>	<b>1: _____</b> <b>2: _____</b>	<b>1: _____</b> <b>2: _____</b>

1. Animal Type	2. Animal Unit Factor	3. # of Animals	4. Animal Units
<b>Type 2:</b> _____	<b>divided by 1,000 pounds</b>		

<b>TOTAL ANIMAL UNITS</b> <b>(Add up all numbers in column 4)</b>				
--	--	--	--	--

**Antenna:** Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to, directional antennas such as panels, microwave dishes, and satellite dishes, and omnidirectional antennas, such as whip antennas.

**Area:** See Buildable Area, Floor Area or Lot Area.

**Asphalt Concrete Plant:** Any facility used to manufacture asphalt concrete by heating and drying aggregate and mixing with asphalt cements; including dryers; systems for screening, handling, storing, and weighing hot aggregate; systems for loading, transferring, and storing mineral filler; systems for mixing asphalt concrete; and the loading, transfer, and storage system associated with emission control system.

**Base Flood:** the flood having a one percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation:** The elevation of the "regional flood." The term "base flood elevation" is used in the flood insurance study.

**Basement:** Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

**Berm:** A mound of earth, or the act of pushing earth into a mound.

**Bluff:** A topographic feature such as a hill, cliff, or embankment having the following characteristics. See figure 2.02-1 and 2.02-2.:

- 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 or 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 except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff; and
- D. The slope must drain toward the waterbody.

Figure 2.02-1

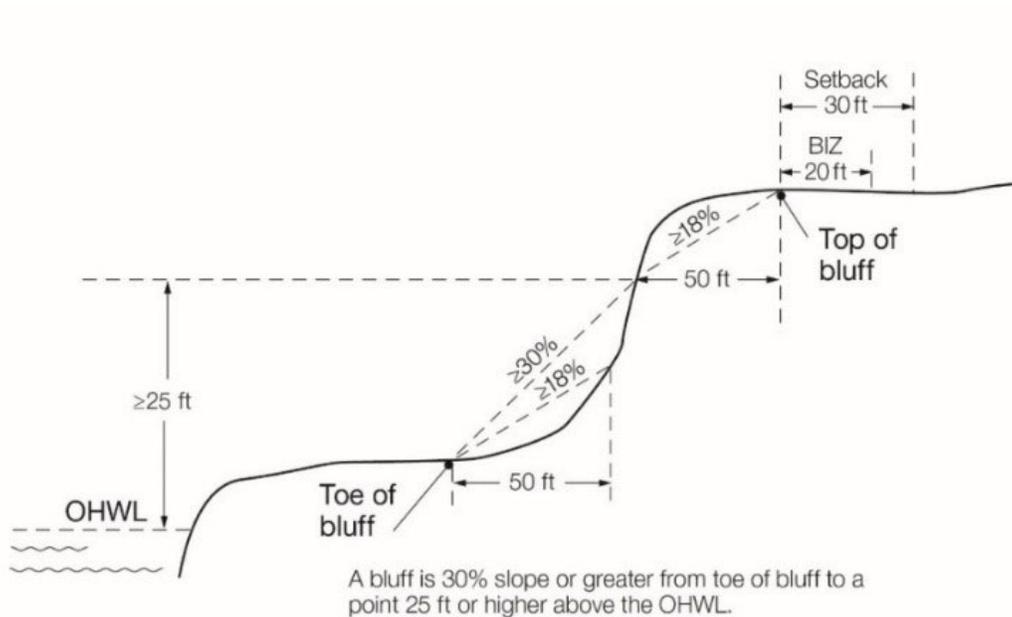
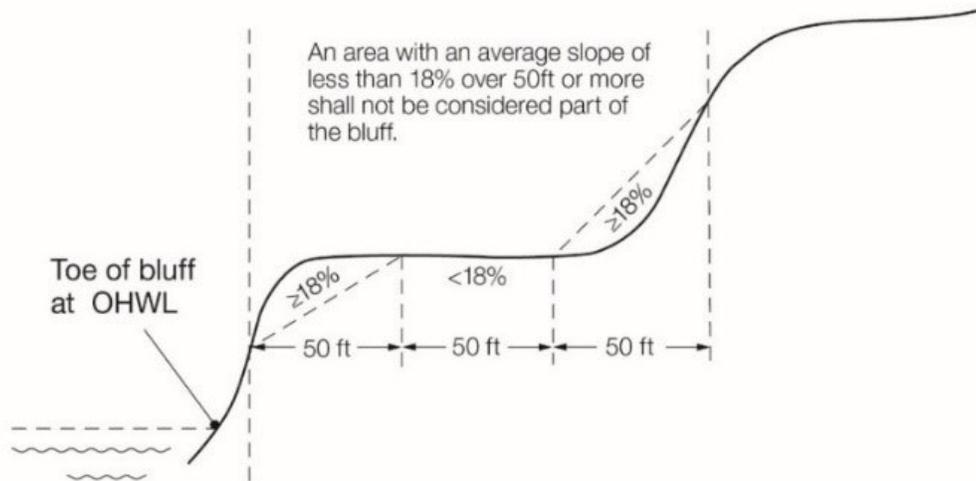


Figure 2.02-2



**Bluff Impact Zone:** A bluff and land located within 20 feet from the top of a bluff.

**Bluff, Toe of:** The lower point of a 50-foot segment with an average slope exceeding 18 percent or the ordinary high water level, whichever is higher.

**Bluff, Top of:** For the purposes of measuring setbacks, the higher point of a 50-foot segment with an average slope exceeding 18 percent.

**Boathouse:** A facility as defined by [Minnesota Statutes Section 103G.245](#)

**Buffer:** A vegetative feature as defined by [Minnesota Statutes Section 103F.48](#).

**Buildable Area:** The area of a lot remaining after the minimum yard requirements of this ordinance have been met.

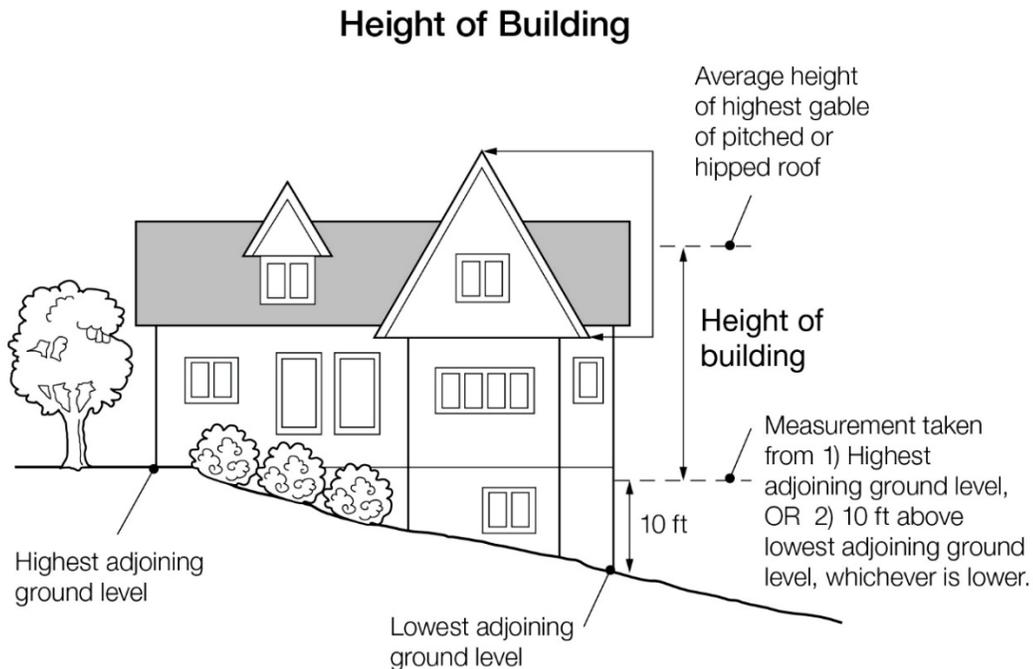
**Building:** Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or material of any kind.

**Building, Accessory:** See Accessory Building.

**Building Height:** The vertical distance measured from the average ground elevation adjoining the front wall of the building to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, or to the average height between the eaves and ridge of a gable, hip or gambrel roof.

**Building Height, Shoreland:** The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof see Figure 2.02-2.

Figure 2.02-2.02-3



**Building Line:** A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

**Building, Principal:** See Principal Building or structure.

**Building, Temporary:** See Temporary Building or structure.

**Campground:** A plot of ground upon which two or more camp sites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes.

**Cemetery:** Property used for the interment of the dead.

**Child:** A person who has not reached the age of 18.

**Church:** A building where persons regularly assemble for religious service and which is maintained and controlled by an organized group for public worship.

**Commercial Wireless Telecommunication Services:** Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

**Commercial Use:** The principal use of land or buildings for the sale, lease, rental or trade of products, goods, and services.

**Commercial Planned Unit Development:** See Shoreland Planned Unit Development, Commercial

**Commissioner:** The Commissioner of the Department of Natural Resources.

**Concentrating solar power device (CSP):** A device designed to receive solar radiation and convert it to thermal energy, with some systems converting the thermal energy into electrical energy. Normally, a solar thermal collector includes a frame, glazing, and an absorber, together with appropriate insulation. The heat collected by the solar collector may be used immediately or stored for later use. Solar collectors are generally used for space heating; domestic hot water heating; and heating swimming pools, hot tubs, or spas. This definition also includes systems of mirrors that including tracking and focus sunlight onto receivers located at a focal point. The receivers may be thermal or photovoltaic.

**Conditional Use:** A use or development as defined by this ordinance that would not be appropriate generally but may be allowed with appropriate restrictions upon finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community and the use is compatible with the existing neighborhood.

**Contractor:** An individual or company which supplies materials and equipment and/or performs services in construction activities such as the erection, maintenance or repair of structures, the development of improvements such as

sewer, water and streets, or specialized activities such as landscaping, painting, plumbing and the like.

**Contractor's Equipment:** Materials, machinery, supplies and vehicles used by a contractor in conjunction with construction related activity.

**Contractor's Yard:** An area on a lot, either open or enclosed, where contractor's equipment is left on a regular basis when not stored on a job site. This definition is not meant to apply to a vehicle, which does not have a commercial (Y type) license and is rated less than 12,000 pounds gross vehicle weight, parked overnight on a driveway area, when it is neither loaded nor unloaded at that location and when it is used primarily for transportation to and from the job site.

**Controlled access lot:** A lot used to access public waters or as a recreation area for owners of nonriparian lots within the same subdivision containing the controlled access lot.

**Corner Lot:** A lot abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

**Coverage:** See Lot Coverage.

**Critical Facilities:** Facilities necessary to a community's public health and safety, those that store or produce highly volatile, toxic or water-reactive materials, and those that house occupants that may be insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correctional facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage facilities.

**Crop Equivalent Rating:** A soils rating system developed by the Soils Conservation Service based on the net value (gross value of crops minus production costs) of their productivity for commonly grown crops of the area. Commonly grown crops are corn, soybeans, small grains, hay and permanent pasture.

**Deck:** 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.

**Depth:** See Lot Depth.

**Development:** Any man made change to improved or unimproved real estate, including a change in use or the creation of a subdivision.

**Development Site:** For single family attached dwellings involving three or more buildings and for multiple family dwellings, those lot areas, along with any associated common open space identified in the open space plan required by Section 10.38, that are to be used to justify the density limitation established for the zoning district where the projects are to be located.

**Developmentally Disabled:** A person as defined by M.S. 252A.02. Subd 2.

**District, Zoning:** See Zoning District.

**Dwelling:** Any building or portion thereof which contains one or more dwelling units not including buildings containing rooms for transient guests such as a hotel or motel, or a temporary or transient structure such as a tent, trailer or travel trailer.

**Dwelling, Duplex, Triplex, or Quad in Shoreland:** A dwelling structure on a single lot, having two, three, or four dwelling units, respectively, attached by common walls.

**Dwelling, Farm:** See Farm Dwelling.

**Dwelling, Mobile Home:** See Mobile Home.

**Dwelling, Multiple Family:** A building containing three or more dwelling units.

**Dwelling, Non-Farm:** See Non-Farm Dwelling.

**Dwelling, Single Family:** A building containing only one dwelling unit.

**Dwelling, Single Family Attached:** A building containing a single-family dwelling, attached at the side or sides in a series of two or more principal buildings, each containing not more than a one family dwelling.

**Dwelling, Single family Detached:** A single family dwelling surrounded by open space or yards, which is not attached to any other building, which is permanently attached to and supported by a permanent frost depth foundation system, and has a minimum dimension of not less than twenty two (22) feet at the first floor level of the dwelling. In addition, the requirements of Section 10.01 must be complied with. Under the provisions of Minnesota Statutes,

Chapter 394.25, nothing herein shall prevent a manufactured home that meets the above-mentioned criteria from being considered a single family detached dwelling.

**Dwelling Site:** A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

**Dwelling, Two Family:** A building on a single lot containing two single family dwellings which are totally separated from each other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

**Dwelling Unit:** A room or rooms, connected together, constituting a separate, independent housekeeping establishment for a family (for owner occupancy or rental, lease, or other occupancy on weekly or longer terms), physically separated from any other rooms or dwelling units that may be in the same structure, and containing its own independent kitchen and sleeping facilities, but not including temporary housing, such as recreational vehicles, etc.

**Easement:** A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation, or another person or entity.

**Equal Degree of Encroachment:** A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of the flood flows.

**Essential Services:** The erection, construction, alteration, or maintenance of underground, surface or overhead electrical, gas, steam, water and sewerage transmission and collection systems, and the equipment and appurtenances necessary for such systems to furnish an adequate level of public service, but not to include any buildings.

**Extractive use:** The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes Section 93.4 to 93.51.

**Extraction, Aggregate:** See Aggregate Extraction.

**Family:** One or more persons related by blood, marriage or adoption, including foster children, or a group of not more than five persons (excluding servants),

some or all of whom are not related by blood, marriage or adoption, living together and maintaining a common household.

**Farm:** A lot used for agricultural or horticultural uses and comprised of either at least eighty (80) acres or two (2) contiguous and undivided quarter quarter sections in the A 1 Agricultural Zoning District, or being at least thirty five (35) acres in size in the other Zoning Districts. For the purposes of determining a farm, a quarter quarter section separated by only a public right of way shall be considered as an undivided quarter quarter section.

**Farm Dwelling:** One single family detached dwelling or mobile home located on a farm.

**Farmstead:** A rectangular area surrounded by a farmstead boundary which contains a farm dwelling and may contain other buildings which are or have been used for farming uses. In some instances minor amounts of tilled acreage or pasture land would be contained within the boundary to enable a rectangular boundary to be established.

**Farmstead Boundary:** An imaginary line separating a farmstead from tilled land and pasture land. For the purposes of this ordinance said tilled and nontilled acreage or a reasonable area encompassing existing farm buildings to ensure compliance with the yard requirements of this ordinance.

**Farmstead Dwelling:** A dwelling which on April 16, 1983, was located upon a farm, as defined by this ordinance, but subsequently subdivided from that farm onto a non farm lot which does not conform to the standards for non farm dwellings within the district where located.

**Feedlot:** See Animal Feedlot.

**Fill:** Sand, gravel, earth or other material of any composition whatsoever placed or deposited by humans.

**Flood Fringe:** That portion of the flood plain outside the floodway.

**Flood Insurance Rate Map:** An official map on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

**Flood Plain:** The land adjacent to a body of water which has need or may be hereafter covered by flood water, including that land covered by the Regional Flood.

**Flood Proofing:** Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate, water and sanitary facilities, structures and their contents.

**Flood Protection Elevation:** A level one (1) foot above the Regional Flood plus any increase in flood level that would be caused by the future flood plain development outside the floodway.

**FP1, FP2, FP3, FP4, FP5:** Different classifications of flood proofing measures as defined by the State Building Code.

**Flood, Regional:** See Regional Flood.

**Floodway:** The minimum channel of a watercourse and those portions of the flood plain adjoining the channel that are required to discharge the Regional Flood.

**Floor Area:** The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor to ceiling height is less than six (6) feet.

**Floor, Lowest:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 Code of Federal Regulations, Part 60.3.

**Forest Land Conversion:** The clear cutting of forested lands to prepare for a new land use other than re-establishment of a subsequent forest stand.

**Front Lot Line:** See Lot Line, Front.

**Front Yard:** See Yard, Front.

**Garage:** A building or part thereof used for storage of vehicles.

**Glare:** The sensation produced within the visual field by luminance that is sufficiently greater than the luminance to which the eyes are adapted, causing annoyance, discomfort, or loss in visual performance and visibility. For the purposes of this ordinance glare is reflected sunlight. Glare is an effect that causes a loss of or reduced contrast that results in vision being obscured.

**Guest cottage.** A structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

**Haul Route:** The set of public roads used for transporting materials in heavy vehicles, extending from the access onto the first abutting public road of the property from which the heavy vehicle traffic originates, to the final destination, or to a state highway constructed to a ten-ton standard that leads to the final destination.

**Heavy Vehicle:** A vehicle with a gross vehicle weight rating of 26,000 pounds or higher.

**Height:** See Building Height.

**Highway:** See Road.

**Historic Structure:** For this ordinance "historic structure" is as defined in [44 Code of Federal Regulations Part 59.1](#).

**Home Business:** An occupation with all of the following characteristics:

- A. Conducted as an independent business or franchise,
- B. Conducted on a property whose principal use includes a residence, whether in a residential or agricultural zoning district,
- C. Conducted principally by the occupants of the dwelling, and
- D. In which the home business is clearly incidental and secondary to the principal agricultural or residential use of the property.
- E. The term does not apply to work conducted within a dwelling by an employee of an off-site enterprise customarily referred to as telecommuting.

**Hotel:** See Motel.

**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; decks; sidewalks; patios; swimming pools; parking lots; concrete, asphalt or gravel driveways; and other similar surfaces.

**Industrial Use:** The use of land or buildings for the production, manufacture, warehousing, storage, or transfer of goods, products, commodities, or other wholesale items.

**Intensive Vegetation Clearing:** The complete removal of trees or shrubs in a contiguous patch, strip, row or block.

**Interior:** See Lot, Interior.

**Interior Side Lot Line:** See Lot Line, Interior Side.

**Interior Side Yard:** See Yard, Interior Side.

**Junk Yard:** See Salvage or Junk Yard.

**Kenel:** Any lot or building on which five (5) or more dogs, cats, or other common household pets, that are six months of age or older, are kept permanently or temporarily boarded.

**Land-spreading:** The placement of sewage sludge on or incorporated into the soil surface.

**Land-spreading Facility:** Any land that is used for sewage sludge land-spreading and is owned, leased, or rented by the political subdivision generating the sewage sludge.

**Land-spreading Site:** Any land used for sewage sludge land-spreading that is not owned, leased, or rented by the political subdivision generating the sewage sludge.

**Licensed Shooting Preserve:** Permitted shooting reserve as licensed by Minnesota Department of Natural Resources.

**Lot:** A designated parcel, tract or area of land established by plat, subdivision, metes and bounds, registered land survey, auditors plot or as otherwise permitted by law and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

**Lot Area:** The area of a horizontal plane bounded by the front, side or rear lot lines, but not including any area occupied by the waters of lakes or rivers or by public right of ways, unless otherwise provided.

**Lot, Corner:** See Corner Lot.

**Lot Coverage:** That part or percentage of a lot occupied by structures, including accessory structures.

**Lot Depth:** The mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot lines.

**Lot, Interior:** A lot other than a corner lot.

**Lot Line:** A line of record bounding a lot which divides one lot from another lot or from a right of way or any other public space.

**Lot Line, Front:** The lot line separating the lot from the road right of way.

**Lot Line, Interior Side:** Any lot line, other than a front or rear lot line, which separates a lot from another lot.

**Lot Line, Rear:** The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

**Lot Line, Side Street:** Any lot line, other than a front, rear or interior side lot line, which separates the lot from a road or street.

**Lot, Non-Farm:** See Non-Farm Lot.

**Lot, Through:** See Through Lot.

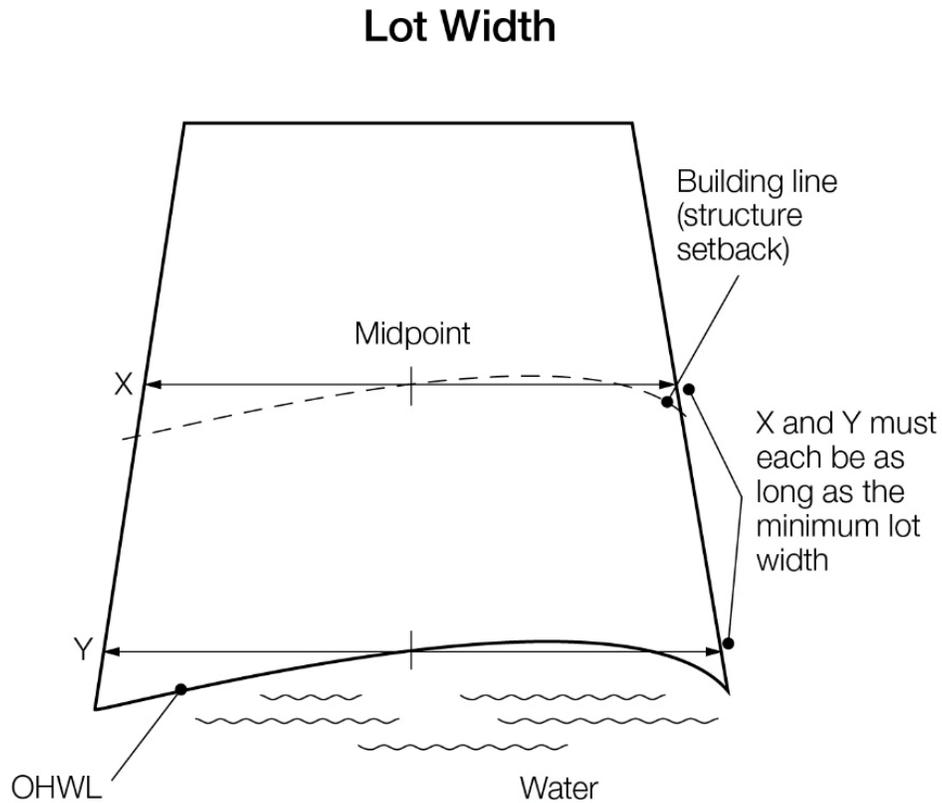
**Lot of Record:** Any legally recorded lot that, at the time it was recorded, fully complied with all applicable laws and ordinances.

**Lot of Record, Non-Conforming:** See Non-Conforming Lot of Record.

**Lot Width:** See figure 2.02-4. The minimum distance between:

- A. Side lot lines measured at the midpoint of the building line; and
- B. Side lot lines at the ordinary high water level, if applicable.

Figure 2.02-4



**Lowest Floor:** See Floor, Lowest

**Manure Storage Facility:** A manufactured manure storage structure, detention pond, sedimentation terrace, or manure catchment basin.

**Manufactured Building:** Has the following features or characteristics; it is:

- A. Mass Produced in a factory;
- B. Designed and constructed for transportation to a site for installation and use when connected to required utilities;
- C. Either an independent, individual building or a module for combination with other elements to form a building on the site.

**Manufactured Home:** A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and

which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under this chapter.

**Manufactured Housing:** A manufactured building or portion of a building designed for long term residential use.

**Marina:** a shoreside facility that provides accommodation and service for boating and may include, but is not limited to, docks; boat slips; inside or outside storage of boats, boat trailers, storage cradles and other related marina items; where ancillary facilities may be provided for some or all of such services as fueling, sewage pumpout, boat launching, minor boat repair, and accessory retail use.

**Metallic Minerals and Peat:** As defined in [Minnesota State Statutes, Section 93.44 to 93.51](#)

**Mobile Home:** Manufactured housing built on a chassis.

**Mobile Home Community:** A mobile home park or a mobile home subdivision.

**Mobile Home Park:** A parcel of land under single ownership which has been planned and improved for the placement of mobile homes for non transient use.

**Mobile Home Subdivision:** A subdivision designed to accommodate mobile homes on individual lots.

**Motel or Hotel:** A business comprising a series of attached or detached rental units, with or without eating facilities, used primarily as temporary residences for motorists, tourists or travelers.

**Multiple Family Dwellings:** See Dwelling, Multiple Family.

**New Construction:** Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this ordinance.

**Non-Buildable Lot:** A lot which is not permitted to have a dwelling of any kind erected or placed upon said lot.

**Non-Conforming Lot of Record:** Any legal lot of record that at the time it was recorded fully complied with all applicable laws and ordinances but which does not fully comply with the lot requirements of this zoning ordinance concerning minimum area or minimum lot width.

**Non-Conforming Structure:** A structure the size, dimensions or location of which was lawful prior to the adoption of this zoning ordinance, but which fails by reason of such adoption, or subsequent revision or amendment, to conform to the present requirements of the zoning district.

**Non-Conforming Use:** A use or activity which was lawful prior to the adoption of this zoning ordinance but which fails, by reason of such adoption, or subsequent revisions or amendment, to conform to the present requirements of the zoning district.

**Non-Farm Dwelling:** A single family detached dwelling or mobile home located on a lot which does not qualify as a farm.

**Non-Farm Lot:** A lot which does not qualify as a farm.

**Non-Residential Facility:** For the purposes of the zoning ordinance a non-residential facility includes licensed adult day care, family adult day care services, drop in child care, school age child care program, and family day care.

**Obstruction:** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill structure or matter in, along, across, or projection into any channel, water course or regulatory flood plain which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

**Offender Transitional Housing:** A dwelling unit or one or more habitable units in a rooming house or hotel designed, intended, or used principally to provide short-term housing to offenders on supervised release or conditional release who are receiving housing assistance from the Minnesota Department of Corrections or Olmsted County Community Corrections and/or who are required to live in the housing as a condition of their release. "Offender transitional housing" does not include housing declared by state law to be a permitted single-family residential use. The term "short-term" shall mean a period of time not exceeding one year. A dwelling or lodging facility owned by the offender or a member of the offender's immediate family shall not be considered offender transitional housing.

**Official Zoning Map:** The map or maps which are a part of this ordinance and delineate the boundaries of the zoning districts.

**Ordinary High Water Level:** The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which 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. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

**Parcel:** A lot, as defined (see "Lot").

**Pastures:** Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

**Paved Surface:** A hard, smooth surface which is made from concrete, asphalt, paving bricks, or similar durable permanent material. Paved surfaces may be pervious or impervious.

**Permitted Use:** A use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

**Person:** A child or adult as defined in the ordinance.

**Photovoltaic Device:** An electronic device consisting of layers of semiconductor materials fabricated to form a junction (adjacent layers of materials with different electronic characteristics) and electrical contacts and capable of converting incident light directly into electricity (direct current).

**Practical Difficulties:** As used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by an official control; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality.

**Prime Crop Land:** Land which has been determined by the Agricultural Stabilization and Conservation Committee to be cropland, having a crop equivalency rating of 60 or greater.

**Principal Building or Structure:** The primary or predominant building or structure on any lot.

**Principal Use:** The primary or predominant use of any lot.

**Public Sewer and Water System:** A system, other than an individual septic tank, tile field, or individual well, that is operated by a municipality, governmental agency, or a public utility for the collection, treatment and disposal of wastes and the furnishing of potable water.

**Public Utility:** A closely regulated private enterprise with an exclusive franchise for providing a public service.

**Public Utility Facilities:** Telephone, electric and cable television lines, poles, equipment and structures; water or gas pipes, mains, valves or structures; sewer pipes, valves or structures; pumping stations; telephone exchanges and repeater stations; and all other facilities, equipment and structures necessary for conducting a service by a government or a public utility. For the purposes of this ordinance, commercial wireless telecommunication service facilities shall not be considered public utility uses, and are defined separately.

**Public Waters:** Any waters as defined in [Minnesota Statutes, Section 103G.005, Subd 15, and 15a.](#)

**Quarter and Quarter-Quarter Section:** A division of a section of land according to the rules of the original United States Government Public Land Surveyor.

**Reach:** A hydraulic engineering term to describe a longitudinal section of a stream or river influenced by a natural or man-made obstruction.

**Rear Lot Line:** See Lot Line, Rear.

**Rear Yard:** See Yard, Rear.

**Recreational Vehicle:** A temporary structure, less than forty (40) feet in length, which can be towed, hauled or driven and is primarily designed as temporary housing accommodations for recreational, camping or travel use, including but not limited to travel trailers, truck campers, camping trailers, and self-propelled motor homes.

**Regional Flood:** A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be

expected to occur with an average frequency in the magnitude of a one hundred (100) year recurrence interval.

**Regulatory Flood Protection Elevation:** A level no lower than one (1) foot above the Regional Flood elevation plus any increase in flood level that would be caused by future flood plain development outside the floodway.

**Repetitive Loss:** Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds 25% of the market value of the structure before the damage occurred.

**Residential Facility:** For the purposes of the zoning ordinance a residential facility includes licensed residential programs and housing with services establishment registered under M.S. chapter 1440. Offender transitional housing is not considered a residential facility for the purposes of this ordinance.

**Residential Planned Unit Development:** See Shoreland Planned Unit Development, Residential.

**Resort:** A facility for transient guests where the primary attraction is generally recreational features or activities.

**Right Of Way:** A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, and other similar uses.

**Right Of Way Lines:** The lines that form the boundaries of a right of way.

**River Corridor:** Land located within 1,000 feet from the ordinary high water level or the landward extent of a flood plain designated by ordinance whichever is greater, for the following bodies of water:

- A. South Fork of the Zumbro River
- B. Middle Fork of the Zumbro River
- C. Lake Zumbro

**Road:** A public right of way, or a private right of way or easement serving two or more buildable non farm lots, affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway,

thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or otherwise.

**Road Use Agreement:** An agreement between a developer or property owner and a road authority identifying the road improvements, road impacts, and impact mitigation and remediation measures necessary to preserve the condition of road infrastructure and to make such improvements as may be necessary to handle the volume, weight, size, turning radius, and other attributes of the vehicle traffic generated by a land use. The Agreement may address, but is not limited to, any of the following road infrastructure matters:

- A. Responsibility for upgrading
  - 1. Pavement sections, bridges, and culverts structural condition
  - 2. Geometric design, including entrances, intersections, railroad and pedestrian/bicycle facility crossings, geometric design of bridges and culverts, and typical road cross-sections;
- B. Responsibility for exceptional maintenance attributable to the use, estimated based on Minnesota Local Road Research Board (LRRB) Pavement Impacts of Large Traffic Generators methodology;
- C. Responsibility for clean-up of spillage and public road dust control along haul routes;
- D. Establishment of financial accounts to address costs associated with upgrading and exceptional maintenance costs;
- E. Delineation of haul routes;
- F. Schedules of operation and hauling, including construction operations;
- G. Methods to verify and report type, number, and weight of heavy vehicle loads;
- H. Emergency conditions creating a need for immediate road repairs or road closing;
- I. Required insurance; and
- J. Remedies and enforcement measures.

**Salvage or Junk Yard:** An area where used, waste, discarded or salvaged materials are brought, sold, exchanged, stored, baled, cleaned, packed, disassembled or handled; including but not limited to scrap iron and other

metals, paper, rags, rubber products, bottles and lumber. Storage of such materials in conjunction with a permitted manufacturing process when within an enclosed area or building shall not be included.

**School:** A public school as defined in Minnesota Statutes, Section 120.05 or a nonpublic school as defined in Minnesota Statutes, Section 123.932.

**Semipublic Use:** The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

**Sensitive Resource Management:** The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

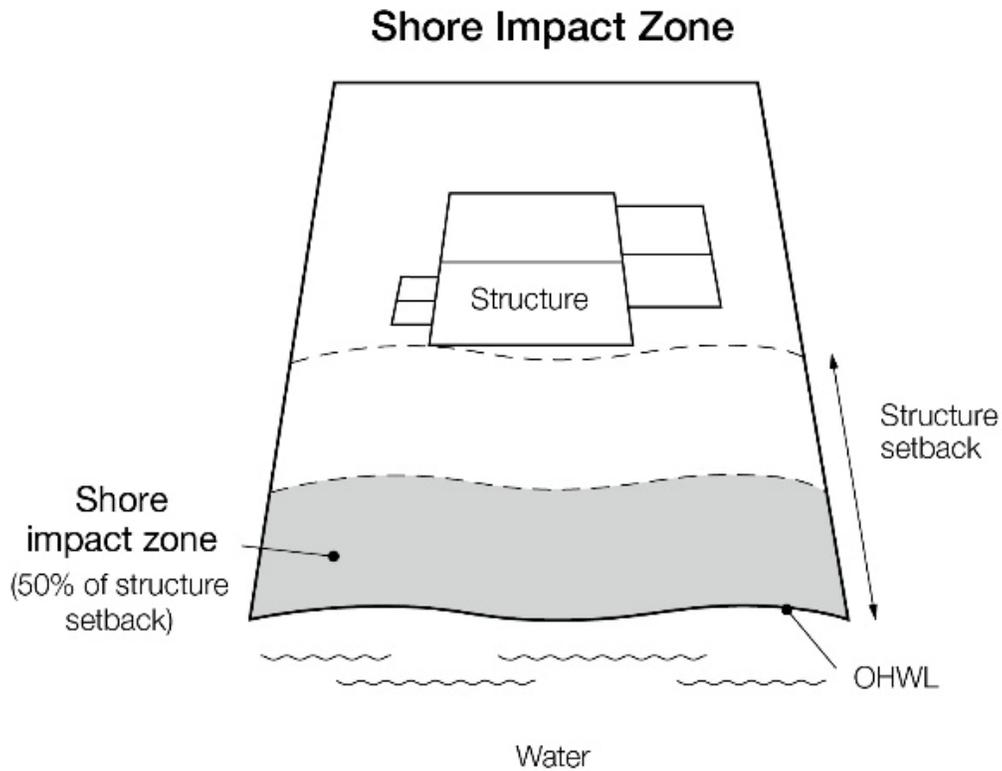
**Setback:** The minimum horizontal distance between a structure and the nearest property line, road, or highway easement line. Within shoreland districts it shall also mean the minimum horizontal distance between a structure, sewage treatment system or other facility and the ordinary high-water mark, sewage treatment system, top of bluff, road highway, property line or other facility.

**Setback Line:** That line that is the required minimum distance from the street right of way line or any other lot line, or shoreland building line that establishes the area within which the principal structure must be erected or placed.

**Sewage Sludge:** As defined in Minnesota Statutes, section 115A.03, subdivision 29, means the solids and associated liquids in municipal wastewater which are encountered and concentrated by a municipal wastewater treatment plant. Sewage sludge does not include incinerator residues and grit, scum, or screenings removed from other solids during treatment.

**Shore Impact Zone:** 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. See figure 2.02-5.

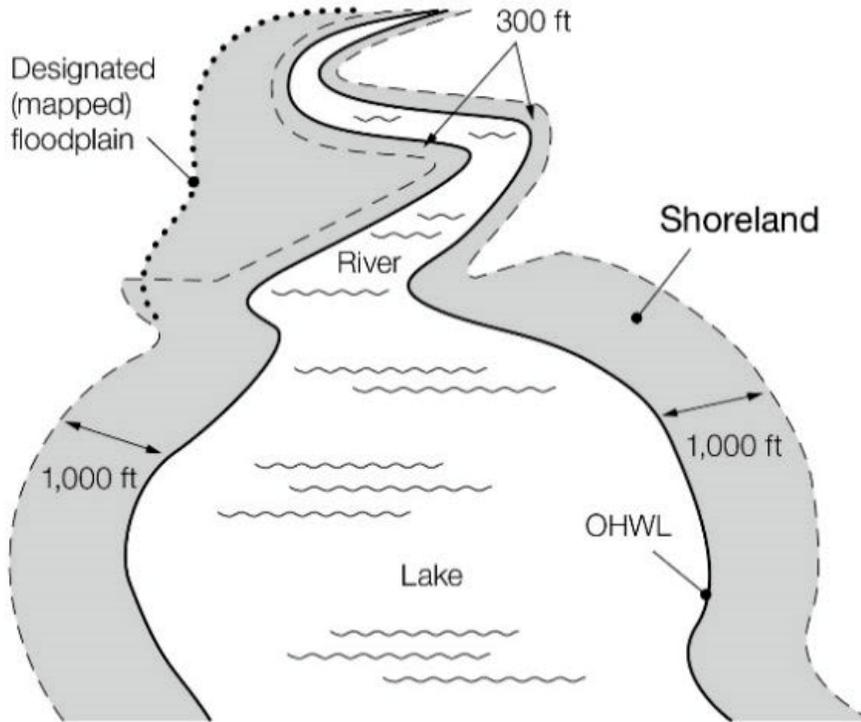
Figure 2.02-2.02-5



**Shoreland:** Land located within the following distances from public waters: 1,000 feet from the normal high water mark of a lake, pond or flowage; and 300 feet from a river or stream or the landward extent of a flood plain designated by ordinance on such a river or stream, whichever is greater. See figure 2.02-6.

Figure 2.02-2.02-6

## Definition of Shoreland



**Shoreland Planned unit development.** A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, dwelling grounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

**Shoreland Planned Unit Developments, Commercial.** Developments that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel

accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

**Shoreland Planned Unit Development, Residential.** A use where the nature of residency is non-transient, and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

**Side Street Yard:** See Yard, Side Street.

**Side Yard:** See Yard, Side.

**Sign:** Any object, device, display, structure or part thereof, situated outdoors or indoors, which is displayed to attract the attention of the public while on public streets, highways or walkways to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected image. Signs do not include flags of any nation, state, city, religion, fraternal or civic organizations, merchandise and pictures or models of products or services incorporated in a window display, works of art which in no way identify a product, scoreboards on athletic fields, sound trucks or other moving advertising media while operated on a public right-of-way, official traffic signs or symbols, banners announcing civic celebrations or events of special interest, mounted house numbers under 12 inches in height, mounted name plates or building address numbers under six square feet in area identifying the occupants or address of a building, or address or public information signs displayed for the convenience of the traveling public, when established by a public pattern which by themselves would not convey a message about a business or product without other sign elements present.

**Sign, General Advertising:** A sign that directs attention to a business, service, event, product, or location not related to or on the premises where the sign is located.

**Sign, Directional Advertising:** A sign that directs attention to a business, service, or location not related to or on the premises where the sign is located.

**Sign, Business:** A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered, on the premises where the sign is located.

**Significant Historic Site:** Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

**Single Family Attached Dwelling:** See Dwelling, Single Family Attached.

**Single Family Detached Dwelling:** See Dwelling, Single Family Detached.

**Single Family Dwelling:** See Dwelling, Single Family.

**Solar Collection System:** A panel, array of panels or other solar energy device, the primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling or water heating. These systems can include photovoltaic devices, concentrating solar power devices and other systems for the collection of solar energy. Such systems may provide power primarily to the principal use on a property and considered accessory to the principal use, or the facility may be the principal use of a property.

**Solar energy farm:** A group of interconnected solar collection systems connected to a public or private utility system through a system of transformers, distribution lines, which may include a substation. Operation, control, and maintenance functions are often centralized through a network of computerized monitoring systems, supplemented by visual inspection. This definition does not apply to solar collection systems that are constructed to serve an individual residential, commercial or industrial property not involved with electric power production. Offices, maintenance facilities, and equipment storage are not considered part of a solar energy farm.

**Special Flood Hazard Area:** A term used for flood insurance purposes synonymous with "One Hundred Year Floodplain."

**Specified Anatomical Areas:** Anatomical areas consisting of:

- A. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

**Specified Sexual Activities:** Activities consisting of the following:

- A. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphis, zooerasty; or
- B. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
- C. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- D. Fondling or touching of nude human genitals, pubic region, buttocks, or female breasts; or
- E. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or
- F. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or
- G. Human excretion, urination, menstruation, vaginal or anal irrigation.

**Start of Construction:** Includes **substantial improvement**, and means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement that occurred before the permit's expiration date. The actual start is either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent

construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**State Building Code:** The Minnesota State Building Code, setting forth standards for the construction, addition, modification, and repair of buildings and other structures for the purpose of protecting the health, safety and general welfare of the public.

**Steep Slope:** **Lands** having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, which are not bluffs.

**Street:** See Road.

**Structure:** Anything constructed or erected on the ground or attached to the ground or on site utilities, including, but not limited to, decks, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Section 9.04 (A,3) of this ordinance and similar items.

**Structure, Accessory:** See Accessory Structure.

**Structure Alteration:** Any changes in the supporting members of any building, such as bearing walls, columns, beams or girders, or any substantial change in the roof and exterior walls.

**Structure, Historic:** See Historic Structure

**Structure, Non-Conforming:** See Non-Conforming Structure.

**Structure, Principal:** See Principal Structure.

**Structure, Temporary:** See Temporary Structure.

**Sub Standard Shoreland Use:** Any use in the shoreland district existing prior to the date of enactment of this zoning ordinance which was permitted but does

not meet the minimum lot area and length of water frontage, structure setbacks, or other dimensional standards of the shoreland district.

**Substantial Damage:** Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**Substantial Improvement:** Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- B. Any alteration of a "historic structure," if the alteration will not preclude the structure's continued designation as a "historic structure." For this ordinance, "historic structure" is as defined in 44 Code of Federal Regulations, Part 59.1.

**Supervised Living Facility:** A facility providing lodging plus supervision, counseling, or rehabilitative services to five or more persons and licensed as such under the Minnesota State Health Code.

**Surface Water Oriented Commercial Use:** The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conduct of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

**Swimming Pool, Private:** A structure, not located within a completely enclosed building, for swimming or bathing purposes, which is capable of containing water at a depth of one and one half (1 1/2) feet or greater.

**Swimming Pool, Above Grade:** A swimming pool whose exposed sides have a height of four (4) feet or greater above the natural ground located adjacent to said swimming pool.

**Swimming Pool, Below Grade:** A swimming pool whose exposed sides have a height of less than four (4) feet above the natural ground located adjacent to said swimming pool.

**Temporary Building or Structure:** A building or structure without any foundation or footings and which shall be removed when the designated time, activity or use for which the temporary building or structure was erected has ceased.

**Temporary Use:** A use established for a fixed period with the intent to discontinue such use upon the expiration of the time.

**Through Lot:** A lot having frontage on two (2) parallel roads or which fronts upon two streets which do not intersect at the boundaries of the lot.

**Toe of the Bluff:** See Bluff, Toe of.

**Top of the Bluff:** See Bluff, Top of.

**Tower:** Any ground or roof mounted pole, spire, structure, or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masts, intended primarily for mounting an antenna, meteorological device, or similar apparatus above grade.

**Two-Family Dwelling:** See Dwelling, Two Family.

**Unit:** See either Animal Unit or Dwelling Unit.

**Use:** The purpose or activity for which land or buildings are designed, arranged or intended, or for which land or buildings are occupied or maintained.

**Use, Accessory:** See Accessory Use.

**Use, Conditional:** See Conditional Use.

**Use, Commercial:** See Commercial Use

**Use, Industrial:** See Industrial Use

**Use, Non Conforming:** See Non Conforming Use.

**Use, Permitted:** See Permitted Use.

**Use, Principal:** See Principal Use.

**Use, Temporary:** See Temporary Use.

**Variance:** Variance” means the same as that defined in [Minnesota Statutes, Section 394.27 Subdivision 7](#).

**Water Oriented Accessory Structure or Facility:** 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. Boathouses and boat storage structures given the meaning under [Minnesota Statutes, Section 103G.245](#) are not a water-oriented accessory structures

**WECS, large (LWECS):** A large wind energy conversion system (LWECS) as defined in Minnesota Statute 216C, as amended (“... any combination of WECS with a combined nameplate capacity of 5,000 kilowatts or more”).

**WECS Meteorological Tower:** A tower which is erected primarily to measure wind speed, density, and direction along with other data relevant to siting WECS.

**WECS, small (SWECS):** A small wind energy conversion system (SWECS) as defined in Minnesota Statute 216C (“... any combination of WECS with a combined nameplate capacity of less than 5,000 kilowatts”).

**WECS, Small non-utility:** A facility consisting of a single WECS which is incidental and subordinate to a permitted use on the same parcel and that has a rated generating capacity of 100 kW or less which supplies electrical power for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, generated electrical power may be transferred to the utility company.

**WECS, Small utility:** A SWECS with more than one WECS; or any SWECS which is intended to produce electricity primarily for sale to a rate-regulated or non-regulated utility, or primarily for use off site; or any SWECS that has a combined generating capacity of more than 100 kW and less than an LWECS. The SWECS is considered a primary use of the site.

**Wetland:** “Wetland” has the meaning given under [Minnesota Rule, part 8420.0111](#).

**Width:** See Lot Width.

**Wind energy conversion system (WECS):** A wind energy conversion system as defined in Minnesota Statute 216C, as amended (“... any device such as a wind charger, windmill, or wind turbine and associated facilities that converts wind energy to electrical energy”).

**Wind turbine:** A machine used to produce electricity by converting the kinetic energy of wind to electrical energy. A turbine consists of a rotor, nacelle, and tower.

**Wooded or Woodland:** An area with a stand of trees that has a canopy cover, as shown on the most recent aerial photographs, of at least fifty (50%) percent, being at least one (1) acre in size and having a minimum width of at least one hundred (100) feet.

**Yard:** A required open space on a lot which is unoccupied and unobstructed by a building from its lowest ground level to the sky except as expressly permitted in this ordinance. A yard shall extend along a lot line and at right angles to such a lot line to a depth or width specified in the yard regulations for the district in which such lot is located.

**Yard, Front:** A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

**Yard, Interior Side:** The side yard abutting another lot.

**Yard, Rear:** A yard extending across the full width of the lot between the rear line and the nearest line of the principal building.

**Yard, Side:** A yard extending from the front yard to the rear yard, the width of which is the minimum horizontal distance between the side lot line and a line parallel thereto on the lot.

**Yard, Side Street:** A side yard abutting a road or street right of way.

**Youth Facility:** A public playground, public swimming pool, public library, or licensed day care facility.

**Zoning Administrator:** The Planning Director of the Rochester-Olmsted Planning Department or his authorized representative.

**Zoning Certificate:** A document signed by the Zoning Administrator required in the zoning ordinance as a condition precedent to the commencement of a use

or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, which acknowledges that such use, structure or building complies with the provisions of this zoning ordinance or authorized variance there from.

**Zoning District:** A specifically delineated area in the county within which regulations and requirements uniformly govern the use, placement, spacing and size of land and structure.

**Zoning Map:** See Official Zoning Map.

**ARTICLE IV  
ZONING PROCEDURES**

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## **ARTICLE IV ZONING PROCEDURES**

### **Section 4.00 AMENDMENTS:**

The County Board may adopt, by a majority vote of all members of the Board, amendments to the zoning ordinance and to the official zoning map, which reflect the goals and policies of the County as reflected in the Comprehensive Plan or changes in conditions in the County.

#### A. Types of Amendments:

1. A change in district boundaries (rezoning);
2. A change in district regulations;
3. A change in any other provision of this ordinance.

#### B. Initiation of Proceedings: The procedure for amending the zoning ordinance shall be initiated by at least one of the following three methods:

1. By petition of an owner or owners of property which is proposed to be rezoned or for which district regulations changes are proposed;
2. By recommendation of the Planning Advisory Commission;
3. By action of the Board.

#### C. Amendment Procedures-Property Owners: The procedures for a property owner to initiate an amendment to the ordinance are as follows.

1. The applicant shall obtain the application and necessary forms from the Olmsted County Planning Department.
2. The Zoning Administrator shall set a date for the public hearing at the next Planning Advisory Commission meeting that would allow adequate time to publish the legal notices and the mailing of such notices to surrounding property owners as specified in Minnesota Statutes, Section 395.26. Failure of any property owner or occupant to receive such notice shall not invalidate

the proceedings, provided a bona fide attempt to give such notice has been made. All amendments to this ordinance pertaining to the Floodway, Flood Fringe (FFA and FFB) and the Flood Plain Districts shall be submitted to and approved by the Commissioner of Natural Resources and the Federal Insurance Administration prior to their adoption. (notification does not apply to the Flood Prone District).

3. The Commission shall hold the public hearing, adopt findings based upon the evidence established during the hearing and provide a recommendation to the board within ninety (35) days of the Commission's scheduled public hearing date.
  4. Following the Commission hearing, the Board shall conduct a public hearing in accordance with Minnesota statutes, Section 394.26. The Board shall adopt findings and shall act upon the application within sixty (60) days of the Board's scheduled public hearing date.
  5. No application of a property owner for an amendment to the text of this zoning ordinance or the Official Zoning Map shall be reconsidered by the Planning Advisory Commission within the one (1) year period following a denial by the County Board of such request, except the Commission may permit a new application if in the opinion of the Commission new evidence or a change of circumstances warrant it.
- D. Amendment Procedures-Planning Advisory Commission: The procedures for the Planning Advisory Commission to initiate a rezoning or an amendment to this ordinance are as follows.
1. The Planning Advisory Commission shall pass a motion recommending an amendment to this ordinance.
  2. The Zoning Administrator shall set a date for the public hearing before the Planning Advisory Commission in accordance with the public hearing requirements, Section 394.26 of the Minnesota Statutes. Failure of any property owner or occupant to receive such notice shall not invalidate the proceeding, provided a bona fide attempt to give such notice has been made. County wide amendments to this zoning ordinance need not be mailed to property owners or surrounding property owners affected by such an amendment.
  3. All amendments to this zoning ordinance pertaining to the Floodway, Flood Fringe (FFA and FFB) and the Flood Plain Districts shall be submitted to and approved by the commissioner of Natural Resources prior to their adoption. Changes to the Official Zoning Map pertaining to the Floodway, Flood Fringe (FFA and FFB) and the Flood Plain Districts also require prior approval by the Federal Insurance Administration.
  4. The Commission shall hold the public hearing, adopt findings based upon the evidence established during the hearing and provide a recommendation to

the Board within ninety (90) days of the Commission's scheduled public hearing date.

5. The Board shall conduct a public hearing in accordance with Minnesota Statutes, Sections 394.26 and 375.51. The Board shall adopt findings and act upon the application within sixty (60) days of the Board's scheduled public hearing date.
- E. Amendment Procedures-County Board of Commissioners: The procedures for the County Board of Commissioners to initiate a rezoning or an amendment to this ordinance are as follows:
1. The Board shall pass a motion indicating their intent to amend this ordinance.
  2. The Board shall submit the proposed amendment to the Planning Advisory Commission for review and comment.
  3. The remainder of the procedures are the same as those specified in Section 4.00 (D) (2 4).
- F. Amendment Procedures: Sections 10.20 and 10.21: In addition to the procedures outlined above, any proposed amendment to the text addressing Sections 10.20 and 10.21 shall be referred to the Olmsted County Soil and Water Conservation District Board for comment prior to action by the Planning Advisory Commission or the County Board initiating the amendment.
- G. General Development Plan:
1. **Purpose:** Olmsted County considers vital the orderly, integrated, compatible development of the limited land area within the county. The Olmsted County General Land Use Plan establishes general land use policy. The zoning ordinance establishes detailed policies, regulations, and standards for specific areas of the county. General development plans are necessary to:
    - a. Insure that the landowner and developer investigates the broad effects development of property will have on the site and also on adjacent properties and the public infrastructure;
    - b. Guide the future growth and development of those portions of the county identified for development in accordance with the land use plan.
    - c. Protect the natural, social and economic character of the county by encouraging orderly development that assures appropriate timing and sequencing.
    - d. Ensure that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed development(s).

- e. Prevent the pollution of water bodies and groundwater; assure the adequacy of drainage; and establish protection for and wise management of natural resources in the county.
- f. Provide for open spaces through the efficient design and layout of the land.
- g. Avoid and remedy the problems associated with improperly subdivided lands, including premature subdivision and scattered subdivision. When a General Development Plan is required:
  - 2. A general development plan is required for any land use plan amendment, zone change, or subdivision of land requiring platting on land located within an Urban Service Area as identified in the Olmsted County Land Use Plan.
    - a. A general development plan shall not be required for any portion of an area for which a general development plan has previously been approved by the Board.
      - i. A general development plan may be waived by the Board based on the factors of subsection 2 (b) (1-6).
      - ii. In the review and approval of a proposed zoning district amendment in the Suburban Development Area, the Planning Advisory Commission and the Board shall first determine whether a general land use plan shall be required, based on the following factors.
    - b. Consistency with the land use plan policies;
    - c. The size of the subject property and parcels adjacent thereto;
      - i. The potential for street, surface water runoff and drainage system, and open space connections from the subject property to adjacent property, developed or undeveloped;
      - ii. The amount of undeveloped land in the vicinity and amount that borders the subject property; whether proposed development is infill development;
      - iii. Onsite and adjacent property site characteristics including floodplain, shorelands, public waters, bluffland, sand, public streets and street pattern;
    - iv. Adjacency to the rochester urban service area;
    - v. Sufficiency of public facilities and services serving the proposed development area, and appropriate timing of and location of development.

- vi. The County Board of Commissioners shall have the authority to initiate a general development plan for a parcel or area located within the Rochester Urban Service Area or the Suburban Development Area as designated on the Olmsted County General Land Use Plan.
3. A General Development Plan shall be acted on separately by the Olmsted County Planning Advisory Commission and County Board of Commissioners in accordance with the procedures of Section 4.00 Amendments. A General Development Plan and zoning map amendment may be reviewed at the same time in the hearing process. The action taken must be by separate motion of the Planning Advisory Commission or County Board of Commissioners.
  4. A General Development Plan should include:
    - a. All current parcels proposed for subdivision and development under the rezoning;
    - b. All other parcels abutting the property proposed for rezoning or within one half mile of the boundaries of the property proposed for rezoning located within the urban service area, urban reserve area, or the suburban development area as delineated on the land use plan;
    - c. All adjacent lands under the same ownership as the owner or applicant proposing the rezoning; and
    - d. All parcels needed to provide access to public roads.
  5. The following physical and planning factors should be addressed in a General Development Plan.
    - a. Existing and proposed land uses, densities, and general lot sizes and location;
    - b. Transportation and other infrastructure systems internal to the planning area, including the street pattern and connections to the external street network and shared water supply and sewage treatment systems;
    - c. The surface water drainage system;
    - d. The open space system that may include natural resource lands (unique habitat, sensitive lands (shorelands, wetlands, floodplain, steep slopes, sinkhole concentrations and other features dependent on the site); and
    - e. The schedule for development of infrastructure.
  6. In the review of a General Development Plan, the Planning Advisory Commission and the Board of Commissioners shall make findings indicating that:

- a. Proposed land uses are in accordance with the Olmsted County General Land Use Plan and zoning map;
- b. The street pattern is appropriate to serve properties under consideration;
- c. The proposal makes provision for planned capital improvements and streets based on the county capital improvement plan and Thoroughfare Plan;
- d. The proposal makes adequate provision for surface water drainage, soil erosion control, water supply, and sewage treatment, consistent with State law and rule and County or Township ordinance;
- e. The lot, block and street layout is consistent with the General Land Use Plan use, development, and resource management policy, and subdivision design principles;
- f. Unique natural resource features and sensitive areas are protected through the open space provisions and appropriate lot layout;
- g. Development will occur in an orderly fashion; and
- h. Connecting roads are adequate to handle projected traffic, or provision has been made to correct deficiencies.
- i. The development layout is consistent with all provisions of the floodplain regulations within the zoning and subdivision ordinances.

H. Amendment Findings:

- 1. The proposal is consistent with the policies of the Oronoco Township General Land Use Plan.
- 2. The amendment is in the public interest.
- 3. The proposed development is timely based on surrounding land uses, proximity to development, and the availability and adequacy of infrastructure.
- 4. The proposal permits land uses within the proposed district that are appropriate on the property and compatible with adjacent uses and the neighborhood.
- 5. The proposal does not result in a spot zoning.
- 6. The proposal is consistent with a General Development Plan for the area, if one exists.

**Section 4.02    CONDITIONAL USE:**

The purpose of a conditional use is to permit a use that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that 1) certain conditions as detailed in the zoning ordinance exist, and 2) the use or development conforms to the Comprehensive Plan, and 3) is compatible with the existing area.

A conditional use is allowed only after a petition for a permit has been approved by the Planning Advisory Commission, except when there is an appeal to the Commission decision; then, only after the approval of the County Board of Commissioners.

- A. **Criteria for Granting Conditional Uses:** In granting a conditional use, the Planning Advisory Commission shall consider the effect of the proposed use on the Comprehensive Plan and upon the health, safety and general welfare of occupants of surrounding lands. Among other things, the Commission shall consider the following:
1. The proposed use will not be injurious to the use and enjoyment of other property in the neighborhood and will not significantly diminish or impair the values of such property;
  2. The proposed use will not impede the normal and orderly development and improvements of the surrounding property;
  3. Adequate utilities, parking, drainage and other necessary facilities will be provided;
  4. Adequate ingress and egress will be provided to minimize traffic congestion in the public streets;
  5. Based on a transportation impact analysis, if required under Section 10.48 of this Ordinance, or (if the requirement for a transportation impact analysis has been waived) considering the recommendation of the responsible road authority engineer as defined in that Section, either
    - a. The traffic generated by the proposed use can be safely accommodated on existing or planned street systems and the existing public roads providing access to the site will not need to be upgraded or improved by the Township or County or other affected jurisdictions in order to handle the additional traffic generated by the use; or
    - b. A road use agreement has been entered into specifying responsibility for improving and maintaining the roads of affected jurisdictions including remediation of damaged roads and specification of designated haul routes to limit heavy vehicle traffic to structurally adequate corridors;
  6. Adequate measures have been taken or proposed to prevent or control offensive odor, fumes, dust, noise, vibration, or lighting which would otherwise disturb the use of neighboring property;

7. The special criteria or requirements indicated in Article X, General Regulations, are complied with;
8. The water and sanitary systems are or would be adequate to prevent disease, contamination and unsanitary conditions.

9. When deciding on a conditional use to the A 1, A 2, A 3, and A 4 Agricultural Districts, the following additional factors shall be considered.

- a. The amount of prime agricultural land with a crop equivalent rating of 60 or above that would be taken out of production as a result of the use.
- b. The need for new public roads or the need for improvement to existing public roads is minimal.

9-10. When deciding on conditional uses to the Floodway, Flood Fringe (FFA and FFB) and the Flood Plain Districts, the following additional factors shall also be considered:

- a. The danger to life and property due to increased flood heights or velocities caused by encroachments.
- b. The danger that materials may be swept onto other lands or downstream to the injury of others.
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- d. The relationship of the proposed use to the flood plain management program for the area.
- e. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- f. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
- g. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
- h. The importance of the services provided by the proposed facility to the community.
- i. The requirements of the facility for a waterfront location.
- j. The availability of alternative locations not subject to flooding for the proposed use.
- k. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

I. Based upon technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

~~10-11.~~ When deciding on a conditional use ~~to the A-1, A-2, A-3, and A-4 Agricultural Districts in the shoreland area,~~ the following additional factors shall be considered.

~~21. The amount of prime agricultural land with a crop equivalent rating of 60 or above that would be taken out of production as a result of the use.~~

~~22. The need for new public roads or the need for improvement to existing public roads is minimal.~~

a. A thorough evaluation of the waterbody and topographic, vegetation, and soils conditions on the site must be made to ensure:

~~a.i.~~ The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

~~b.ii.~~ The visibility of structures and other facilities as viewed from public waters is limited;

~~c.iii.~~ The site is adequate for water supply and on-site sewage treatment; and

~~iv.~~ The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

~~d.b.~~ Compliance with Section 9.10 of this ordinance.

B. **Additional Conditions:** In permitting a new conditional use or the alteration of an existing conditional use, the Planning Advisory Commission may impose, in addition to those standards and requirements expressly specified by this ordinance, additional conditions which the Planning Advisory Commission considers necessary to protect the best interest of the surrounding area or the County as a whole. These conditions may include, but are not limited to the following:

1. Increasing the required lot size or yard dimension.
2. Limiting the height, size or location of buildings.
3. Controlling the location and number of vehicle access points.
4. Increasing the street width.
5. Increasing the number of required off street parking spaces.

**Commented [MB1]:** This section needs a tie in to your new mitigation section in 9.10(D), which is consistent with Minn. Stat. 394.357, Subd. 5(f) and 6120.3900, Subp.3A(b). Reference Section 9.10 here.

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6. Limiting the number, size, location or lighting of signs.
  7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
  8. Designating sites for open space.
  9. Limiting the hours of operation.
  10. Limiting the length of time for which the conditional use may exist.
  11. Increased setbacks from the ordinary high water level.
  12. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
  13. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
- C. **Required Exhibits:** The following exhibits shall be required unless waived by the Zoning Administrator:
1. A completed application form.
  2. An accurate boundary description of the property.
  3. A development plan of the property showing the existing or proposed buildings, streets, access roads, driveways, parking spaces and signs.
  4. Landscaping and screening plans.
  5. Drainage Plan.
  6. Conditional uses pertaining to the Floodway, Flood Fringe (FFA and FFB) and Flood Plain Districts, Sections 9.02, 9.04, 9.06, and 9.08, shall, in addition to the previous exhibits, require the following:
    - a. Plans in triplicate drawn to scale showing the nature, location, dimensions and elevations of the lots, existing or proposed, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel.
    - b. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
    - c. Any additional information deemed necessary by the Planning Advisory Commission to determine the suitability of the particular site for the proposed use.

d. State and Federal Permits. Prior to granting a permit or processing an application for a Conditional Use Permit the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

D. **Conditional Use Procedures:** The procedures for a property owner to obtain a conditional use are as follows:

1. The applicant shall obtain the application and necessary forms from the Olmsted County Planning Department.
2. The applicant shall return the application to the Olmsted County Planning Department along with the required exhibits and pay the fee established by the Board for processing the conditional use procedures (See Appendix A).
3. Prior to the processing of the application for a conditional use pertaining to the Floodway, Flood Fringe (FFA and FFB) and Flood Plain Districts, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits pertaining to flood proofing and flood protection measures.
4. If the conditional use is with respect to either the Floodway, Flood Fringe (FFA and FFB) or the Flood Plain Districts, the Zoning Administrator shall transmit one (1) set of plans to a designated engineer or other expert person or agency acceptable to the county for technical assistance in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protections, and other matters.
5. In addition, the Zoning Administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.
6. Upon receipt of an application for a Conditional Use Permit for a use within A Zones without a Floodway designation the Zoning Administrator must use the floodway delineation procedure outlined in Section 9.01 in order to determine which requirements shall apply. If the site is determined to be floodway, the requirements of Sections 9.02, 9.04 or 9.06 shall apply.
  - a. Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District.
    - i. A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross

sectional areas to be occupied by the proposed development, and high water information.

- ii. 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 upstream and downstream; and soil type.
  - iii. Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
- b. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:
- i. Estimate the peak discharge of the regional flood.
  - ii. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
  - iii. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- c. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Planning Advisory Commission. The Commission must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District Boundary or deny the permit application. The Planning Commission, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency and the Department of Natural Resources for review and comment. Once the Floodway and Flood Fringe Boundaries have been determined, the permit application may be processed.
7. The Zoning Administrator shall set a date for the public hearing before the Planning Advisory Commission in accordance with the public hearing

requirements in Minnesota Statutes, Section 394.26. Failure of any property owner or occupant to receive such notice shall not invalidate the proceeding, provided a bona fide attempt to give such notice has been made.

8. The Commission shall hold the public hearing and adopt findings based upon the evidence established during the hearing and shall act upon the application within thirty five (35) days from the date of the public hearing. Appeals from the decision of the Planning Advisory Commission can be made to the Township Board of Supervisors..
9. The Planning Advisory Commission's decision granting the conditional use with respect to the Floodway, Flood Fringe (FFA and FFB) and the Flood Plain districts shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
10. The Zoning Administrator shall transmit a certified copy of an approved conditional use, along with the legal description of the property, to the County Recorder for recording except when the Commission's decision is being appealed.
11. A conditional use permit shall remain in effect for so long as the conditions of the permit are observed or complied with.
12. No application for conditional use shall be reconsidered by the Planning Advisory Commission within the one (1) year period following a denial of such request, except the Commission may permit a new application if, in the opinion of the Commission, new evidence or a change of circumstances warrant it.
13. Should no construction or use begin within one year from the date of approval, or should the approved conditional use be discontinued for a period of one year, the conditional use shall be void.

**Section 4.04 APPEAL OF A PLANNING ADVISORY COMMISSION DECISION:**

A decision of the Planning Advisory Commission may be appealed to the County Board of Commissioners. Such appeal may be taken by a person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state. Should a zoning certificate or building permit have been issued as a result of the Commission's decision, such permit shall be suspended until the County Board has rendered a decision on the appeal.

A. Appeal Procedures:

1. The appeal application shall be submitted to the Olmsted County Planning Department within ten (10) days of the Commission's decision and the appellant shall pay the fee for the appeal as established by the County Board of Commissioners (See Appendix A).

2. Within sixty (35) days after receipt of the appeal application, the Board shall hold a public hearing in accordance with Minnesota Statutes, Section 394.26. The Board shall adopt findings and shall act upon the appeal within sixty (35) days of the Board's scheduled public hearing date.
3. A decision of the Board granting the conditional use pertaining to the Floodway, Flood Fringe (FFA and FFB) and the Flood Plain Districts shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
4. A certified copy of an approved conditional use, along with the legal description of the property, shall be transmitted to the County Recorder for recording.

**Section 4.06 APPEAL OF THE ZONING ADMINISTRATOR'S DECISION:**

A decision of the Zoning Administrator or any administrative official charged with enforcing this zoning ordinance may be appealed to the Board of Adjustment. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state. An appeal stays all proceeding of action in accordance with Minnesota Statutes Section 394.27.

A. Appeal Procedures:

1. The appeal application shall be submitted to the Olmsted County Planning Department within ten (10) days of the Zoning Administrator or administrative official's decision. The appellant shall pay the fee for processing the appeal as established by the County Board of Commissioners (See Appendix A).
2. Within sixty (60) days after receipt of the appeal, the Board of Adjustment shall hold a public hearing and notify the appellant, the official from whom the appeal is taken, and the public in accordance with Minnesota Statutes Section 394.27. The Board of Adjustment shall adopt findings and shall act upon the appeal within sixty (60) days of the Board's scheduled public hearing date.

**Section 4.08 VARIANCES:**

The Board of Adjustment shall have the exclusive power to order the issuance of variances from the requirements of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control and when the variances are consistent with the comprehensive plan. The Board of Adjustment may not permit as a variance any use that is not permitted for the property in the district where the affected person's land is located. The Board of Adjustment may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

A. **Criteria for Granting a Variance:** A variance may be granted only when the applicant for the variance establishes that there are practical difficulties in complying with the official control. Economic considerations do not constitute practical difficulties. The Board of Adjustment must find evidence that all of the following facts and conditions exist:

1. There are extraordinary conditions or circumstances, such as irregularity, narrowness, or shallowness of the lot or exceptional topographical or physical conditions which are peculiar to the property and do not apply to other lands within the neighborhood or the same class of zoning district;
2. The extraordinary conditions or circumstances are due to circumstances unique to the property not created by the landowner;
3. The variance is necessary to overcome practical difficulties in complying with the zoning ordinance so that the property can be used in a reasonable manner not permitted by the ordinance;
4. The variance will not be materially detrimental to the public welfare or materially injurious to other property in the area, and will not alter the essential character of the locality;
5. The variance is in harmony with the general purpose and intent of this ordinance; and
6. The terms of the variance are consistent with the Comprehensive Plan.

~~A. **Variations in a Floodway:** When deciding a variance pertaining to Sections 9.02, 9.04, 9.06, and 9.08 Floodway, Flood Fringe (FFA and FFB) and the Flood Plain Districts, the following additional factors shall be considered:~~

- ~~7. That the granting of such variance will not increase flood heights, create additional threats to public safety, necessitate extraordinary public expense, create nuisances, or increase the threat of damage to property or the environment from the volume or velocity of runoff.~~

B. **Variations in Shoreland District:** When deciding a variance to the Shoreland District regulations, the following additional factors shall be considered:

1. No variance to the standards of the shoreland district or river corridor district shall have the effect of allowing in any district uses prohibited in that district.
2. No variance in the shoreland district shall permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area.
3. No variance in the shoreland district shall permit standards lower than those required by State law.

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**Commented [GK7R6]:** Will reference in Section 9.10

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4. In areas where development exists on both sides of a proposed building site, water and road setbacks may be varied to conform to the existing established setbacks.
5. In areas of unusual topography or substantial elevation above the lake level, the water setback may be varied to allow a riparian owner reasonable use and enjoyment of his property.

~~6. Where homes incorporate a method of sewage disposal other than soil absorption, water setbacks may be reduced by one third (1/3).~~

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6. For existing developments, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

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7. Shall incorporate mitigation considerations per Section 9.10 Subdivision D of this Ordinance.

~~8. No variance in the shoreland district shall permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area.~~

C. **Variances in Flood Plain Districts:** When deciding a variance pertaining to Sections 9.02, 9.04, 9.06, and 9.08 Floodway, Flood Fringe (FFA and FFB) and the Flood Prone Districts, once the appropriate use/area variance criteria set forth above have been considered, the following additional factors shall be considered:

- ~~1.~~ 1. Adherence to State Floodplain Management Standards. A variance must not permit a use that is not allowed in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law.
- ~~2.~~ 2. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:
  - a. Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
  - b. Variances may only be issued by a community upon:
    - ~~i.~~ i. Showing of good and sufficient cause,
    - ~~ii.~~ ii. aA determination that failure to grant the variance would result in exceptional hardship to the applicant, and
    - ~~iii.~~ iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety,

extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

~~b.c.~~ ~~(e)~~ Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

~~Variances in a Floodway: When deciding a variance pertaining to Sections 9.02, 9.04, 9.06, and 9.08 Floodway, Flood Fringe (FFA and FFB) and the Flood Plain Districts, the following additional factors shall be considered:~~

~~d. That the granting of such variance will not increase flood heights, create additional threats to public safety, necessitate extraordinary public expense, create nuisances, or increase the threat of damage to property or the environment from the volume or velocity of runoff.~~

~~5.3.~~ **Record-Keeping.** The Zoning Administrator must maintain a record of all variance actions, including justification for their issuance, and must report such variances in an annual or biennial report to the Administrator of the National Flood Insurance Program, when requested by the Federal Emergency Management Agency.

D. **Variance Procedures:** The procedures for a property owner to obtain a variance are as follows:

1. The applicant shall obtain the application and necessary forms from the Olmsted County Planning Department.
2. The applicant shall return the application and necessary forms to the Olmsted County Planning Department along with the required exhibits and pay the fee established by the Board. (See Appendix A).
3. Whenever the variance is related to provisions of the Floodway, Flood Fringe (FFA and FFB) and the Flood Plain Districts, the Zoning Administrator shall submit to the Commissioner of Natural Resources a copy of all applications for variances so that the Commissioner receives at least ten (10) days notice of the hearing.
4. The Zoning Administrator shall notify the applicant in writing that:
  - a. The issuance of a variance to construct a structure below the base of flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage, and
  - b. Such construction below the flood protection elevation increases risks to life and property. Such notification must be maintained with a record of all variance actions.

**Commented [LN(9):** Insert this language here as Section 408, C.3, per phone discussion with Kristi 3/15

That the granting of such variance will not increase flood heights, create additional threats to public safety, necessitate extraordinary public expense, create nuisances, or increase the threat of damage to property or the environment from the volume or velocity of runoff

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5. The Zoning Administrator shall set a date for the public hearing before the Board of Adjustment in accordance with the public hearing requirements, Minnesota Statutes Section 394.26. Failure of any property owner or occupant to receive such notice shall not invalidate the proceeding, provided a bona fide attempt to give such notice has been made.
6. The Board of Adjustment shall hold the public hearing. The Board of Adjustment shall table further action on any application which is not accompanied by a recommendation of the township. The tabling shall be until such time as a recommendation is received, but not to exceed thirty five (35) days. Failure of the township to act upon the application within thirty-five (35) days of the Board's action tabling the request shall cause the township to forfeit its opportunity to comment on said application. The Board of Adjustment shall adopt findings based upon the evidence established during the hearing and shall act upon the variance within sixty (60) days from the date of the public hearing.
7. A certified copy of the approved variance shall be mailed to the petitioner.
8. A certified copy of an approved variance, along with the legal description of the property, shall be transmitted to the County Recorder for recording.
9. The Board of Adjustment's decision granting the variance to the Floodway, Flood Fringe (FFA and FFB), Flood Plain District and Shoreland District must be sent to the Commissioner or the Commissioner's designated representative and postmarked within at least ten (10) days of the public hearing.
10. The Zoning Administrator shall submit a copy of the decisions and summary of the public record/testimony and the findings of fact and conclusions for the Board of Adjustment's decision postmarked within ten (10) days of the decision.

E. **Required Exhibits:** The following exhibits shall be required unless waived by the Zoning Administrator:

1. A completed application form.
2. An accurate boundary survey and site plan.

**Section 4.10 TEMPORARY CONSTRUCTION PERMITS:**

- A. The temporary use of property, in any district, for a use customarily incidental to the construction of roads, buildings, utilities, or public projects may be allowed upon approval of a zoning certificate in the form of a temporary and revocable permit for not more than a 90 day period by the Zoning Administrator. The Zoning Administrator shall attach those conditions which will safeguard the public health, safety and general welfare. The renewal of said permit or request for a

permit exceeding 90 days shall require the approval of a conditional use permit by the Planning Advisory Commission. The Commission shall determine the duration of the permit, not to exceed 12 months, and shall attach those conditions which will safeguard the public health, safety and general welfare. Issuance of a permit shall be subject to, but not limited to, the following conditions:

1. Reclamation of property to an acceptable condition.
2. Reclamation of property prior to expiration date of permit.
3. Performance bond posted with County Public Works Department.
4. Show evidence of valid state and federal permits as required.
5. Provide traffic safety devices in proximity of operation.
6. Approval of the Olmsted County Health Department.

**Section 4.12 EYOTA TOWNSHIP NEIGHBORHOOD INFORMATIONAL MEETINGS:**

- A. Applicants shall request Olmsted County to provide notice as stated below of a neighborhood informational meeting before the Town Planning Commission, prior to submitting an application for zoning amendment, conditional use permit, variance or prior to the construction or expansion of a feedlot or manure storage area, capable of holding 500 or more animal units. Olmsted County will notify the Town Planning Commission of the request, and shall set the time, date, and purpose of the meeting for the next regularly scheduled meeting of the Town Planning Commission (unless requested to change this date by the Town Planning Commission). Notice of the time, date and purpose of the meeting shall also be sent by Olmsted County to all property owners of record within one mile of any portion of the subject property by first class mail or delivered in person at least ten (10) calendar days prior to the meeting.
- B. The purpose of a neighborhood informational meeting is for applicants to provide these property owners with information about the pending application. The Town Planning Commission may request additional information from the applicants and may forward a recommendation concerning approval of the application to the Town Board, and/or to the Olmsted County Planning Advisory Commission.

## **FLOOD PLAIN AND SHORELAND DISTRICTS**

### **Section 9.00 FLOOD PLAIN DISTRICT DESIGNATION:**

Pertaining to all Flood Plain Districts including the Floodway (FW) District, FFA Flood Fringe District, FFB Flood Fringe District and the Flood Prone (FP) Districts are a set of regulations superimposed upon the other zoning districts, superseding existing underlying regulations only to the extent expressed in the flood plain provisions and having in effect, in all other respects, the regulations applicable to the underlying use district in which the land is situated.

These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

National Flood Insurance Program Compliance. This ordinance is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.

This Ordinance is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

The flood plain districts are identified upon the zoning map, which is hereby adopted by reference and declared to be part of this zoning ordinance. The Flood Insurance Study for Olmsted County, Minnesota, and Incorporated Areas, and the Flood Insurance Rate Map Index for Olmsted County and Incorporated Areas and associated panels, all prepared by the Federal Emergency Management Agency, dated April 19, 2017; the Soil Survey of Olmsted County, Minnesota, prepared by the United States Department of Agriculture, Soil Conservation Service, dated 1980, and any amendment thereto, are adopted by reference and declared to be part of this ordinance. The designation of the Floodway (FW), FFA Flood Fringe, and FFB Flood Fringe Districts is based on engineering and hydraulic studies consistent with flood plain management standards in Minnesota Rules 6120, and upon existing developed areas within the County's flood plain.

- A. The Floodway District includes those areas within Zone AE that are designated as floodway on the Flood Insurance Rate Maps adopted in this section.
1. For lakes, wetlands, and other basins, the Floodway District includes those areas designated as Zone A or AE on the Flood Insurance Study that are at or below the ordinary high-water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
- B. FFA and FFB Flood Fringe Districts include those areas within Zone AE on the Flood Insurance Rate Map adopted in this section but are located outside of the floodway. The boundaries of FFA Flood Fringe District and FFB Flood Fringe District can be identified on the Olmsted County zoning map adopted in this section. For lakes, wetlands and other basins (that do not have a floodway designated), the FFB Flood Fringe District includes those areas designated as Zone A or AE on the Flood Insurance Rate Map panels adopted in this section that are below the 1% annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14. A Zones shall be designated as a FFB Flood Fringe District on the zoning map. FFB Flood Fringe District standards shall apply to lakes, wetlands, and other basins except developed parcels adjacent to Lake Zumbro where the FFA Flood Fringe District standards shall be applied.
- C. The designation of the Flood Prone District (FP) is based on alluvial soils which are water deposited soils representing the area's most often inundated by flood waters. Any land not located in the Floodway (FW), FFA Flood Fringe, or FFB Flood Fringe districts, but contain the following soils which are subject to flooding shall be deemed to be within the Flood Prone District. Table 1 shown below are the soil symbol and names corresponding with the FP.

Table C-1

Symbol	Name		Symbol	Name
16	Arenzville		465	Kalmarville
19	Chaseburg		467	Sawmill
25	Becker		468	Otter
252	Marshan		471	Root
289	Radford		477A	Littleton
298	Richwood		486	Marchan
313	Spillville		495	Zumbro
463	Minneiska		1846	Kato

## **9.01 GENERAL FLOOD PLAIN REGULATIONS**

- A. Building Sites. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) must be:
1. Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  2. Constructed with materials and utility equipment resistant to flood damage;
  3. Constructed by methods and practices that minimize flood damage; and
  4. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to
  5. prevent water from entering or accumulating within the components during conditions of flooding.
- B. Flood Capacity. In no cases shall floodplain development adversely affect the efficiency or unduly restrict the capacity of the channels or floodways of any tributaries to the mainstream, drainage ditches, or any other drainage facilities or systems.
- C. The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
- D. Critical Facilities, as defined in Section 2.02, are prohibited in all floodplain districts.
- E. Delineation of Floodway in A Zones: In A zones without a floodway, the floodway may be delineated using the following procedures. Areas identified through these procedures as flood fringe may then be reclassified as Flood Fringe A or B, using the process specified in Section 9.00 C, and will then be subject to the requirements of Sections 9.04 or 9.06, respectively.
1. Upon receipt of an application for a permit or other approval, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.
  2. If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the

regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in Subpart 3 below.

3. The determination of floodway and flood fringe must include the following components, as applicable:
    - a. Estimate the peak discharge of the regional (1% chance) flood.
    - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
    - c. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.
  4. The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.
- F. General Considerations. The community may consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:
1. The potential danger to life and property due to increased flood heights or velocities caused by encroachments.
  2. The danger that materials may be swept onto other lands or downstream to the injury of others.
  3. The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions.
  4. The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner.

5. The importance of the services to be provided by the proposed use to the community.
6. The requirements of the facility for a waterfront location.
7. The availability of viable alternative locations for the proposed use that are not subject to flooding.
8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
9. The relationship of the proposed use to the Comprehensive Land Use Plan and flood plain management program for the area.
10. The safety of access to the property in times of flood for ordinary and emergency vehicles.
11. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

G. Notifications for Watercourse Alterations: Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).

H. Manufactured Homes and Recreational Vehicles: New manufactured home parks and expansion to existing manufactured home parks are prohibited in any floodplain district. New recreational vehicle parks or campgrounds and expansions of existing campgrounds are prohibited in any floodplain district.

## **Section 9.02 FLOODWAY DISTRICT (FW):**

The purpose of the Floodway district is to assure retention of adequate space within the channel and adjoining flood plain to carry and discharge the regional flood and to restrict or prohibit uses which are dangerous to health or safety or result in economic loss in times of flood.

A. Permitted Uses: The following uses, which have a low flood damage potential and which do not obstruct flood flows, are permitted within the floodway district to the extent that they are not prohibited by the underlying zoning district or any other ordinance and provided they do not require structures, fill or storage of materials or equipment. In addition, no use shall adversely affect the capacity of the channel or floodways of any tributary to the main stream, drainage ditch or any other drainage facility.

1. Agricultural uses such as: general farming, pasture, grazing, outdoor growing of nursery stock, horticulture, truck farming, forestry, sod farming, and wild crop harvesting, provided that such uses shall not include an animal feedlot.
2. Industrial-commercial uses such as: loading areas, parking area, and airport landing strips.
3. Private and public recreational uses such as: golf courses, driving ranges, picnic grounds, boat launching ramps, swimming area, parks wildlife and nature preserves, fishing areas, and recreational trails.
4. Residential uses such as: lawns, gardens, parking areas, and play areas.
5. Railroads, streets, bridges, utility transmission structures, pipelines, marinas, docks and water control structures required to obtain Department of Natural Resources permit.
6. Channel modifications requiring a DNR permit where there is no change in the flood profile.

B. Conditional Uses: The following uses which involve structures (temporary or permanent), fill or storage of materials or equipment. These uses may be permitted in the floodway district only after the issuance of a conditional use permit as provided in Section 4.02.

1. Structures accessory to open space or conditional uses, in accordance with Section 9.02(C, 2).
2. Placement of fill.
3. Extraction of sand, gravel and other minerals.
4. Other railroads, streets, bridges, utility transmission lines and pipelines, not included as a permitted use in the previous section 9.02 (C,3).
5. Storage yards for equipment, machinery or materials, in accordance with Section 9.02 (C, 4).
6. Levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

C. General Floodway Regulations: No structures (temporary or permanent); fill, including fill for roads and levees; deposit, obstruction, storage of materials or

equipment; or other uses shall be allowed as a conditional use which, acting alone or in combination with existing or future uses, affects the capability of the floodway or increases flood heights. Consideration of the effects of a proposed use shall be an equal degree of encroachment extending for a significant reach on both sides of the stream. In addition, all floodway conditional uses shall be subject to the following regulations.

1. Fill

- a. Any fill deposited in the floodway shall be no more than the minimum amount necessary to conduct the conditional use listed in Section 9.02 (B). Generally, fill shall be limited to that needed to grade or landscape for that use and shall not in any way obstruct the flow of flood waters.
- b. Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover or bulk heading.
- c. Spoil from dredging or sand and gravel operations shall not be deposited in the floodway unless it can be done in accordance with Section 9.02 (C, 1, a).

2. Accessory Structures: Accessory structures (temporary or permanent) permitted as conditional uses may be allowed provided that such structures are:

- a. Not designed for human habitation;
- b. Designed to have low flood damage potential;
- c. Constructed and placed on the building site so as to offer the minimum resistance to the flood or floodwaters;
  - i. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
  - ii. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
- d. Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;
- e. Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing

classifications in the State Building Code. All floodproofed accessory structures must meet the following additional standards:

- i. The structure must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls; and
  - ii. Any mechanical and utility equipment in the structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed.
- f. As an alternative, an accessory structure may be internally/wet floodproofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and for a detached garage, must be used solely for parking of vehicles and limited storage. All such structures must meet the following standards:
- i. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
  - ii. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for

### 3. Utilities, Railroad Tracks, Streets, and Bridges:

- a. **Public Utilities:** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.
- b. **Public Transportation Facilities:** Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 9.01 and all provisions of 9.02 of this ordinances. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption

of transportation services would not endanger the public health or safety.

- c. On-site Water Supply and Sewage Treatment Systems: Where public utilities are not provided:
  - i. On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and
  - ii. New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.

4. Storage of Material and Equipment:

- a. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, toxic or could be injurious to human, animal, or plant life is prohibited.
- b. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent floatation. Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.

5. Garbage and Solid Waste Disposal: No conditional use permits for garbage and waste disposal sites shall be issued for floodway areas; provided further, there shall be no further encroachment upon the floodway at existing sites.

6. Structural Works for Flood Control: Structural works for flood control such as levees, dikes, flood walls, and reservoirs shall be allowed only upon issuance of a conditional use permit and the following standards:

- a. Any proposed structural work in the beds of public waters as defined in Minnesota Statutes, Chapter 105, which will change the course, current, or cross-section of the waters shall be subject to the provisions of Minnesota Statutes, Chapter 105, and other applicable statutes.

- b. Obtain from the Army Corps of Engineers, when applicable, a permit under the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act) and any other necessary permits.
- c. A levee, dike, or floodwall constructed in the floodway shall not cause an increase to the 100 year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.
- d. Where the flooding potential is to be reduced as the result of a flood control project, the Federal Emergency Management Agency shall be notified and data required for a map revisions shall be submitted thereto.

**Section 9.04      FFA FLOOD FRINGE DISTRICT:**

The purpose of the flood fringe district is to guide development in currently developed areas in the flood fringe, consistent with the flood threat, in order to minimize loss of life and property, disruption of commerce and governmental services, extraordinary public expenditure for public protection and relief, and interruption of public transportation and communications, all of which adversely affect the public health, safety and general welfare; and to assure that the County's lands are put to their most appropriate use.

- A. Permitted Uses: The following shall be permitted uses within the FFA flood fringe district to the extent that they are not prohibited by any other portion of the zoning ordinance or by any other ordinance, and that such uses will not adversely affect the capacity of the channels of any tributary to the main stream, or any other drainage facility or system.
  - 1. Residential Uses: New dwellings and additions shall be constructed on fill so that the lowest floor (including basement) is at or above the flood protection elevation. The finished fill elevation shall be no lower than one (1) foot below the flood protection elevation and shall extend at least fifteen (15) feet beyond the limits of any structure or building thereon. No dwelling shall be permitted that does not have vehicular access and parking areas at or above an elevation two (2) feet below the flood protection elevation.
  - 2. Non-Residential Uses: New structures and additions shall be elevated so that their first floor (including basement) is at or above the flood protection elevation. The finished fill elevation shall be no lower than one (1) foot below the flood protection elevation.

3. **Manufactured Homes and Manufactured Home Parks:** The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in the FFA district will be treated as new structures and may be placed only if elevated in compliance with Section 9.04 of this Ordinance. If vehicular road access for preexisting manufactured home parks is not provided in accordance with Section 9.04, then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the County Board. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.
  - a. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to the anchoring requirements of Section 10.44 of this ordinance. This is in addition to applicable state or local requirements for resisting wind forces.
  
4. **Recreational Vehicles:** New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in floodplain districts. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the FFA district must meet the exemption criteria below or be treated as new structures meeting the requirements of this ordinance.
  - a. **Area Exempted For Placement of Travel/Recreational Vehicles:**
    - i. Existing commercial recreational vehicle parks or campgrounds.
    - ii. Existing condominium type associations.
  
  - b. **Criteria for Exempt Recreational Vehicles:**
    - i. The vehicle must have a current license required for highway use.
    - ii. The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.
    - iii. No permanent structural additions may be attached to the vehicle.

- iv. Any accessory structure must be constructed of flood-resistant materials and be securely anchored, meeting the requirements for manufactured homes in section 3.
    - v. An accessory structure must constitute a minimal investment.
  - c. Recreational vehicles exempted in Section 9.04 (b) lose this exemption when development occurs on the parcel exceeding 500 dollars for a structural addition to the vehicle or an accessory structure such as a garage or a storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Section 9.04 of this ordinance.
- 5. Accessory Structures: Such structures shall be constructed on fill so that the lowest floor is at or above the flood protection elevation. As an alternative to the fill requirements of this section structures accessory to the permitted or conditionally permitted uses may be permitted to be internally wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code provided that:
  - a. The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.
  - b. All portions of floodproofed accessory structures below the Regulatory Flood Protection Elevation must be: (i) adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls, (ii) be constructed with materials resistant to flood damage, and (iii) must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation
  - c. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:
    - i. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
    - ii. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one

foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

6. Accessory Land Uses: The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.

B. Conditional Uses: Other uses are permitted only upon application to the Zoning Administrator and the issuance of a conditional use permit as provided in Section 4.02 and subject to the following provisions:

1. Residential Uses: Where existing streets, utilities, or small lot sizes preclude the use of fill, other methods of elevating the first floor (including basement) above the flood protection elevation may be authorized, provided that the dwelling is floodproofed to the FP-1 classification in accordance with the State Building Code.
2. Non-Residential Uses: Structures that are not elevated at or above the flood protection elevation as referenced by Section 9.04 (A), Permitted Uses, shall achieve structurally dry floodproofing, without the utilization of dams, dikes, or levees, to the FP-1 or FP-2 classification as defined by the State Building Code.
3. Storage of any material or equipment below the regulatory flood protection elevation.
4. The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with 9.04A of this ordinance.

C. General Flood Fringe Regulations: All uses within this district are subject to the following regulations:

1. Basements, as defined by Section 2.02 of this ordinance, shall be subject to the following:
  - a. Residential basement construction is not allowed below the regulatory flood protection elevation.
  - b. Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with Section B.3 of this ordinance.
2. Manufacturing and Industrial Uses: Manufacturing and industrial buildings, structures and appurtenant works shall be protected to the flood protection elevation. Measures shall be taken to minimize interference with normal

plant operations, especially for streams having prolonged flood durations. Certain accessory land uses, such as yards and parking lots, may be at lower elevations.

3. **Storage of Materials:** Materials that in time of flooding are buoyant, flammable, explosive, toxic, or materials that have significant flood damage potential, or could be injurious to human, animal, or plant life shall be stored at or above the flood protection level, floodproofed, or protected by structural measures consistent with the standards set forth herein. Furthermore, storage of materials which are likely to cause pollution of waters are defined in Minnesota Statutes, Section 115.01, if subject to flooding, are prohibited unless adequate safeguards approved by the Minnesota Pollution Control Agency are provided.
4. **Accessory Land Uses:** Accessory land uses for non-residential uses, such as storage yards and parking lots that are at elevations below the flood protection elevation and are subject to flood velocities greater than four (4) feet per second or would be inundated to a depth greater than two (2) feet, shall not be permitted without a flood warning system that provides adequate time for evacuation of the area.
5. **Utilities, Railroad Tracks, Streets, and Bridges:**
  - a. **Public Utilities:** All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.
  - b. **Public Transportation Facilities:** Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 4.0 and 5.0 of this ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
  - c. **On-site Water Supply and Sewage Treatment Systems:** Where public utilities are not provided:
    - i. On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are

subject to the provisions in Minnesota Rules Chapter 4725.4350, as amended; and

- ii. New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.
6. Design and Certification: The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code, and, specifically, that all electrical, heating, ventilation, plumbing, and air conditioning facilities must be at or above the Regulatory Flood Protection Elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding. In addition, a registered land surveyor must certify the lowest floor elevation of the structure.
  7. Fill: Any fill shall be compacted, and the slopes shall be protected by rip-rap or vegetative covering.
  8. Waste Treatment and Waste Disposal:
    - a. No new construction, addition or modification to existing waste treatment facilities shall be permitted within the flood fringe unless emergency plans and procedures for action to be taken in the event of flooding are prepared, filed with, and approved by the Minnesota Pollution Control Agency. The emergency plans and procedures must provide for measures to prevent introduction of any pollutant or toxic material into the flood waters.
    - b. There shall be no disposal of garbage or solid waste materials within flood fringe areas except upon issuance of a permit approved by the Minnesota Pollution Control Agency and subject to the requirements of Section 9.02 (C, 5).
  9. Flood Control Works: Flood control works shall be subject to the provisions of Section 9.02 (C, 6) and the following provisions:
    - a. The minimum height and design of any dikes, levees, floodwalls, or similar structural works shall be based upon the flood profile of the regional flood confined between the structures. The minimum height and design of structural works shall be at least three (3) feet above

the elevation of the regional flood as confined by structures, or at the elevation of the standard project flood, whichever is greater.

- b. Modifications and additions to existing structural works shall assure that the work will provide a means of decreasing the flood damage potential in the area.
- c. Detailed plans shall be submitted to the zoning administrator for any new developments placed on the flood plain landward from dikes and levees. The plans must provide for ponding areas or other measures to protect against flooding from internal drainage.

Where the flooding potential is to be reduced as the result of a flood control project, the Federal Emergency Management Agency shall be notified and data required for a map revision shall be submitted thereto.

#### **Section 9.06      FFB FLOOD FRINGE DISTRICT:**

The FFB Flood Fringe District is established to guide development in generally undeveloped areas in the flood plain in such a manner as to reduce the loss of flood storage volume in the flood plain, in order to avoid increases in downstream flood levels and velocities; to minimize loss of life and property, disruption of commerce and governmental services, extraordinary public expenditures for public protection and communications, all of which adversely affect the public health, safety and general welfare; and to assure that the County's lands are put to their most appropriate use.

- A. Permitted Uses: The following uses have a low flood damage potential and do not obstruct flood flows. These uses are permitted in the flood fringe district to the extent that they are not prohibited by the underlying zoning district or any other ordinance and provided they do not require structures, fill or storage of materials or equipment. In addition, no use shall adversely affect the capacity of the channel or floodways of any tributary to the main stream, drainage ditch or any other drainage facility. The following uses are permitted in this district and also subject to Section 9.04 (C) and 9.06 (C), General Regulations:
  - 1. Agricultural Uses: Agricultural uses such as general farming, pasture, grazing, outdoor growing of nursery stock, horticulture, truck farming, forestry, sod farming, and wild crop harvesting, but not including a feedlot of thirty (30) animal units or more.
  - 2. Industrial-Commercial Uses: Industrial-Commercial uses such as loading areas, parking areas and airport landing strips.
  - 3. Private and Public Recreational Uses: Private and public recreational uses such as golf courses, driving ranges, picnic grounds, boat launching ramps,

swimming areas, parks, wildlife and nature preserves, fishing areas, and recreational trails.

4. Residential Uses: Residential uses such as lawns, gardens, parking areas, and play areas.
- B. Conditional Uses: Other uses are permitted only upon application to the Zoning Administrator and the issuance of a conditional use permit as provided in Section 4.02 and subject to the following provisions:
1. Uses permitted in Section 9.04 (A) Permitted Uses, and in Section 9.04 (B) Conditional Uses, (both included in the FFA Flood Fringe District) subject to provisions set fourth in Section 9.04 (C) except where superseded by the provisions set forth in Section 9.06 (C).
- C. General Flood Fringe Regulations: The deposition of any fill or spoil from dredging or sand and gravel operations, the construction of any structure, or the grading or paving of any areas shall require certification by a registered professional engineer or hydrologist that the following conditions have been met:
1. Fill deposited in the flood fringe area shall be no more than the minimum amount necessary to conduct the use.
  2. Minimal loss of capacity for surface storage of flood waters shall result from the activity, not to exceed loss of one (1%) percent per lot.
  3. The effect of such activities in the FFB flood fringe district shall not result in an increase in erosion potential on the site after such activities are completed.

### **Section 9.08 FLOOD PRONE DISTRICT (FP):**

The purpose of the Flood Prone District is to guide development in the flood plain, consistent with the flood threat, in order to minimize loss of life and property, disruption of commerce and governmental services, extraordinary public expenditure for public protection and relief, and interruption of transportation and communications, all of which adversely affect the public health, safety and general welfare; and to assure that the County's lands are put to their most appropriate use. Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.

- A. Permitted Uses: The following uses, having a low flood damage potential and which do not obstruct flood flows, are permitted within the flood plain district to the extent that they are not prohibited by the underlying zoning district or any

other ordinance and provided they do not require structures, fill, or storage of materials or equipment. In addition, no use shall adversely affect the capacity of the channel or floodways of any tributary to the main stream, drainage ditch or any other drainage facility.

1. Agricultural Uses: Agricultural uses such as general farming, pasture, grazing, outdoor growing of nursery stock, horticulture, truck farming, forestry, sod farming, and wild crop harvesting, but not including a feedlot of thirty (30) animal units or more.
  2. Industrial-Commercial Uses: Industrial-Commercial uses such as loading areas, parking areas and airport landing strips.
  3. Private and Public Recreational Uses: Private and public recreational uses such as golf courses, driving ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, fishing areas, and recreational trails.
  4. Residential Uses: Residential uses such as lawns, gardens, parking areas, and play areas.
  5. Wildlife sanctuary, woodland preserve and arboretum.
  6. Railroads, streets, bridges, utility transmission structures, pipeline, marinas, docks and water control structures required to obtain Department of Natural Resources permit.
- B. Conditional Uses: The following uses, which involve fill or storage of materials or equipment, may be permitted in the flood plain district only after the issuance of a conditional use permit as provided in Section 4.02 of this zoning ordinance, which applies to all flood plain conditional uses.
1. Placement of fill, except when fill is used as part of an approved soil conservation service drainage control structure.
  2. Extraction of sand, gravel and other minerals.
  3. Other railroads, streets, bridges, utility transmission lines and pipelines not included as a permitted use in the previous Section 9.08 (A, 6).
  4. Storage yards for equipment, machinery or materials.
  5. Other uses similar in nature to uses described in Section 9.08 (A), Permitted Uses, or 9.08 (B), Conditional Uses.

C. General Flood Plain Regulations: No structures (temporary or permanent); fill, including fill for roads and levees; deposit, obstruction, storage of materials or equipment; or other uses shall be allowed as conditional uses which, acting alone or in combination with existing or future uses, unduly affects the capacity of the floodway or unduly increases flood heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. In addition, all flood plains conditional uses shall be subject to the following regulations:

1. Fill:

- a. Any fill deposited in the flood plain shall be no more than the minimum amount necessary to conduct a conditional use and shall not in any way obstruct the flow of flood waters.
- b. Such fill or other materials shall be protected against erosion by rip-rap, vegetative cover or bulk heading.
- c. Spoil from dredging or sand and gravel operations shall not be deposited in the flood plain unless it can be done in accordance with Section 9.08 (C, 1, a).

2. Utilities, Railroad Tracks, Streets, and Bridges

- a. Public Utilities: All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.
- b. Public Transportation Facilities: Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 4.0 and 5.0 of this ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

3. On-site Water Supply and Sewage Treatment Systems: Where public utilities are not provided:

- a. On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject

to the provisions in Minnesota Rules Chapter 4725.4350, as amended;  
and

- b. New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as amended.

4. Storage of Material and Equipment:

- a. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, toxic, or could be injurious to human, animal, or plant life is prohibited.
- b. Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation.

5. Garbage and Solid Waste Disposal: No conditional use permits for garbage and waste disposal sites shall be issued for floodway areas; provided further, there shall be no further encroachment upon the floodway at existing sites.

6. Structural Works for Flood Control: Structural works for flood control such as levees, dikes, floodwalls, and reservoirs shall be allowed only upon issuance of a conditional use permit and the following standards:

- a. Any proposed structural work in the beds of public waters as defined in Minnesota Statutes Chapter 105 which will change the course, current, or cross-section of the waters shall be subject to the provisions of Minnesota Statutes Chapter 105 and other applicable statutes.
- b. Obtain from the Army Corps of Engineers, when applicable, a permit for under the Federal Water Pollution Control Act (commonly referred to as the Clean Water Act), and any other necessary permits.
- c. Where the flooding potential is to be reduced as the result of a flood control project, the Federal Emergency Management Agency shall be notified and data required for a map revision shall be submitted thereto.

## Section 9.10 SHORELAND DISTRICT

A. STATUTORY AUTHORIZATION: This shoreland ordinance is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500-6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 394.

D.B. POLICY: The uncontrolled use of shorelands of Olmsted County, Minnesota, affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of 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 ~~Olmsted County~~ Oronoco Township.

### C. ADMINISTRATION

#### 1. Permits.

a. A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by Section 9.15 Subdivision B (9.15,B) of this ordinance.

b. A certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp 3 is required whenever a permit or variance of any type is required for any improvement on or use of the property. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high-water level.

2. Certificate of Zoning Compliance. The zoning administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 9.10 Subdivision C Subsection 1 (9.10,C,1) of this ordinance. This certificate will specify that the use of land conforms to the requirements of the ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this ordinance and shall be punishable as provided in Section 3.08 of this ordinance.

### D. MITIGATION

1. In evaluating all variances, conditional uses, zoning and building permit applications in the shoreland district , the zoning authority shall require the property owner to address the following conditions, when related to and proportional to the impact, to meet the purpose of this ordinance, to protect adjacent properties, and the public interest:
  - a. Advanced storm water runoff management treatment;
  - b. Reducing impervious surfaces;
  - c. Increasing setbacks from the ordinary high-water level;
  - d. Restoration of wetlands;
  - e. Limiting vegetation removal and/or riparian vegetation restoration;
  - f. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and
  - g. Other conditions the zoning authority deems necessary.
2. In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.

**SECTION 9.11 SHORELAND CLASSIFICATION SYSTEM:**

- ~~1~~.A. The public waters of Olmsted County have been classified below, consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Olmsted County, Minnesota.
- ~~2~~.B. The shoreland area for the waterbodies listed below shall be as defined in Section 2.02 and as shown on the Official Zoning Map.
- ~~3~~.C. Table 9.11 EC-1 below classifies Lakes as follows:

Table 9.11 C-1

<b>Lake Classification; DNR Public Waters ID #</b>
Recreational Development; Lake Zumbro 55-4
General Development and Natural Environment – none

1. Table 9.11 CE-2 classifies Rivers and Streams as follows:

Table 9.11 C-2

River and Stream Classification	Legal Description					
	From			To		
	Section	Township	Range	Section	Township	Range
<b>Agricultural</b>						
<del>So. Branch Middle Fork Zumbro River</del>	<del>8</del>	<del>107</del>	<del>15</del>	<del>18</del>	<del>108</del>	<del>14</del>
<b>Transition</b>						
Middle Fork Zumbro River	17	108	14	<del>15</del> 14	108	14
South Fork Zumbro River	<del>13</del> 6	<del>107</del> 108	14	23	108	14

\* No Agricultural, Forested, Remote Rivers or Urban Rivers within Oronoco Township

2. **Tributary Streams:** All protected watercourses in Olmsted County shown on the Protected Waters Inventory Map for Olmsted County, a copy of which is hereby adopted by reference, not given a classification in ~~Table 2~~ Table 9.11 C-2 above shall be classified as Tributary Streams.
3. Lands lying within the shoreland area of Lake Zumbro, Middle Fork Zumbro River, ~~South Branch Middle Fork Zumbro River~~, and the South Fork Zumbro River are within the River Corridor District.

#### D. LAND USES

1. Purpose. To identify land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality.
2. All uses must also conform with the underlying zoning district with **the more restrictive standard applying.**
3. Shoreland district land uses listed in Section 9.11 Subdivision D (Table 9.11 D-1) and Section 9.11 Subdivision D (Table 9.11 D-2) are regulated as:
  - a. Permitted uses (P). These uses are allowed, provided all standards in this ordinance are followed;
  - b. Conditional uses (C). These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in Section 4.02 of this ordinance and any additional conditions listed in this ordinance; and

c. Not permitted uses (N). These uses are prohibited.

3.4. Table 9.11 D-1 identifies land uses for lake classifications found in Table 9.11 D-1:

Table 9.11 D-1

<b>Land Uses if allowed by underlying zoning</b>	<b>Recreational Development</b>
Single residential	P
Duplex, triplex, quad residential	P
Residential PUD	C
Water-dependent commercial - As accessory to a residential planned unit development	C
Commercial	P
Commercial PUD - Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of <del>Section Subdivision R10.0</del> of this ordinance are satisfied.	C
<u>Guest Cottages</u>	<u>N</u>
Parks & historic sites	C
Public, semipublic	P
Industrial	C
Agricultural: cropland and pasture	P
Agricultural feedlots - New	N
Agricultural feedlots - Expansion or resumption of existing	C
Forest management	P
Forest land conversion	C
Extractive use	<u>EN</u>
Mining of metallic minerals and peat	<u>NP</u>

4.5. Table 9.11 D-2 identifies land uses for river and stream classifications as found in Table 9.11 C-2:

Table 9.11 D-2

<b>Land Uses if allowed by underlying zoning district</b>	<b>Transition</b>	<b>Tributary</b>	<b>River Corridor</b>
Single residential	P	P	<u>P</u>
Duplex, triplex, quad residential	P	P	<u>P</u>
Residential PUD	C	C	<u>C</u>

<b>Land Uses <u>if allowed by underlying zoning district</u></b>	<b>Transition</b>	<b>Tributary</b>	<b><u>River Corridor</u></b>
Water-dependent commercial - As accessory to a residential planned unit development	C	C	<u>C</u>
Commercial	C	P	<u>C</u>
Commercial PUD - Limited expansion of a commercial PUDs involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of <u>Section 9.14</u> of this ordinance are satisfied.	C	C	<u>C</u>
<u>Guest Cottages</u>	<u>N</u>	<u>N</u>	<u>N</u>
Parks & historic sites	C	C	<u>C</u>
Public, semipublic	C	P	<u>C</u>
Industrial	N	C	<u>N</u>
Agricultural: cropland and pasture	P	P	<u>P</u>
Agricultural feedlots - New	N	N	<u>N</u>
Agricultural feedlots - Expansion or resumption of existing	C	C	<u>C</u>
Forest management	P	P	<u>P</u>
Forest land conversion	C	C	<u>C</u>
Extractive use	<u>EN</u>	<u>EC</u>	<u>N</u>
Mining of metallic minerals and peat	<u>PN</u>	<u>PP</u>	<u>N</u>

## SECTION 9.12 SPECIAL LAND USE PROVISIONS

A. Prohibited uses in the River Corridor District. The following land uses are prohibited within the River Corridor District.

1. Commercial gravel pits, rock quarries, and mines.
2. New animal feedlots.
3. Landfills.
4. Racetracks.
5. New manure storage areas.
6. Junkyards and salvage yards containing more than six unlicensed motor vehicles.

7. Industrial facilities for storage of hazardous waste or demolition of waste.
8. Commercial or industrial tire recycling facilities.
9. Applying manure within the River Corridor must be consistent with the State requirements of the MPCA (Minnesota Pollution Control Agency) which identifies approved practices to protect water quality. The area from 300 to 1,000 feet within the designated River Corridor must comply with the 25-300 feet buffer as identified by the MPCA State requirements mentioned above.

B. Commercial, Industrial, Public, and Semipublic Use Standards.

1. Water-dependent uses may be located on parcels or lots with frontage on public waters provided that all of the following provisions apply:
  - a. The use complies with provisions of Section 9.15 Subdivision C (9.15.C).
  - b. The use is designed to incorporate topographic and vegetative screening of parking areas and structures.
  - c. 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.
  - d. Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:
    - i. Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff.
    - ii. Signs placed within the shore impact zone are:
      - a. No higher than ten feet above the ground, and no greater than 32 square feet in size.
      - b. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters.
    - iii. Other lighting may be located within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct

illumination across public waters. This does not preclude use of navigational lights.

2. Commercial, industrial, public, and semi-public uses that are not water-dependent must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

### C. Agriculture Use Standards.

#### 1. Buffers.

- a. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high-water level.
  - b. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in perennial vegetation or operated under an approved conservation plan that includes alternative riparian water quality practices consistent with the field office technical guides of the local soil and water conservation district or the Natural Resource Conservation Service, and as approved by the local soil and water conservation district.
2. New animal feedlots are not allowed in shoreland. Modifications or expansions to existing feedlots or resumption of old feedlots are conditional uses and must meet the following standards:
    - a. Feedlots must be designed consistent with Minnesota Rules, Chapter 7020.
    - b. Feedlots must not further encroach into the existing ordinary high-water level setback or the bluff impact zone and must not expand to a capacity of 1,000 animal units or more.
    - c. Old feedlots not currently in operation may resume operation consistent with Minnesota Statutes, Section 116.0711.

### D. Forest Management Standards.

1. The harvesting of timber and associated reforestation must be conducted consistent with the applicable provisions of the Sustaining Minnesota Forest

Resources: Voluntary Site-Level Forest Management Guidelines for Landowners, Loggers and Resource Managers.

2. Intensive vegetation clearing for forest land conversion to another use is a conditional use subject to an erosion control and sedimentation plan developed and approved by the soil and water conservation district.

E. Extractive Use Standards. Extractive uses are conditional uses and must meet the following standards:

1. Site Development and Restoration Plan. A site development and restoration plan must be developed, approved, and followed over the course of operation. The plan must:
  - a. Address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations.
  - b. Identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion.
  - c. Clearly explain how the site will be rehabilitated after extractive activities end.
  - d. Setbacks for Processing Machinery. Processing machinery must meet structure setback standards from ordinary high-water levels and from bluffs.
2. Metallic Mining Standards. Mining of metallic minerals and peat is a permitted use provided the provisions of Minnesota Statutes, Sections 93.44 to 93.51, are satisfied.

## **SECTION 9.13 DIMENSIONAL AND GENERAL PERFORMANCE STANDARDS**

1.A. Lot Area and Width Regulations After the effective date of this ordinance, all new lots must meet the minimum lot area and lot width requirements in Table 9.13 A-1 and Table 9.13 A-2, subject to the following standards:

1. Only lands above the ordinary high-water level can be used to meet lot area and width standards.
2. Lot width standards must be met at both the ordinary high-water level and at the building line.
3. The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property;

4. Residential subdivisions with dwelling unit densities exceeding those in Table 9.13 A-1 and Table 9.13 A-2 are allowed only if designed and approved as residential PUDs under Subdivision 9.17 of this ordinance; and

d.5. Lake Minimum Lot Area and Width Standards: Tables 9.13 A-1 identifies the minimum lot area and width standards. Each unsewered lot shall have a lot area of not less than two (2) acres, except when additional lot area is required by the Olmsted County Planning Department to meet the well and septic requirements. In addition, the following lot width requirements must be met:

Table 9.13 A-1

<b>Recreational Development – No Sewer</b>				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	87,120	150	87,120	150
Duplex	87,120	225	87,120	265
Triplex	120,000	300	120,000	375
Quad	160,000	375	160,000	490
<b>Recreational Development – Sewer</b>				
	Riparian		Nonriparian	
	Lot Area (sf)	Lot Width (ft)	Lot Area (sf)	Lot Width (ft)
Single	20,000	75	15,000	75
Duplex	35,000	135	26,000	135
Triplex	50,000	195	38,000	190
Quad	65,000	255	49,000	245

2.6. River/Stream segments must meet the underlying zoning district lot area requirements. In addition, the following lot width standards shown in Table 9.13 A-2 must be met:

Table 9.13 A-2

<b>Dwelling Type</b>	<b>Transition</b>
Single	250'
Duplex	375'
Triplex	500'
Quad	625'

B. Special Residential Lot Provisions

1. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of non riparian lots may be platted as outlots. These lots do not need to meet the applicable lot area requirements; however, they must meet the minimum lot width standards set forth in this

ordinance. Subdivisions of duplexes, triplexes, and quads are conditional uses on Natural Environment Lakes and must also meet the following standards:

- a. Each building must be set back at least 200 feet from the ordinary high- water level;
- b. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
- c. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
- d. No more than 25 percent of a lake’s shoreline can be in duplex, triplex, or quad developments.

2. Controlled access lots are permissible if created as part of a subdivision and in compliance with the following standards:

- a. The lot must meet the area and width requirements for residential lots, and be suitable for the intended uses of controlled access lots as provided in subdivision d below;
- b. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by a percentage of the requirements for riparian residential lots for each watercraft beyond six, consistent with Table 9.13 B-1;

Table 9.13 B-1

<b><u>Controlled Access Lot Frontage Requirements</u></b>	
<b><u>Ratio of lake size to shore length (acres/mile)</u></b>	<b><u>Required percent increase in frontage</u></b>
<u>Less than 100</u>	<u>25%</u>
<u>100 – 200</u>	<u>20%</u>
<u>201 – 300</u>	<u>15%</u>
<u>301 – 400</u>	<u>10%</u>
<u>Greater than 400</u>	<u>5%</u>

- c. The lot must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of non-riparian lots in the subdivision who are provided riparian access rights on the access lot; and

- d. Covenants or other equally effective legal instruments must be developed that:
- i. Specify which lot owners have authority to use the access lot;
  - ii. Identify what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking;
  - iii. Limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water;
  - iv. Require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations; and
  - iii-v. Require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

**SECTION 9.14 PLACEMENT, DESIGN, AND HEIGHT OF STRUCTURES**

A. Placement of Structures and Sewage Treatment Systems on Lots: When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. ~~Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.~~ Structures shall be located as follows shown in Table 9.14 A-1:

**Structure and On-Site Sewage System Setbacks (in feet) from Ordinary High Water Level\*:**

Table 9.14 A-1

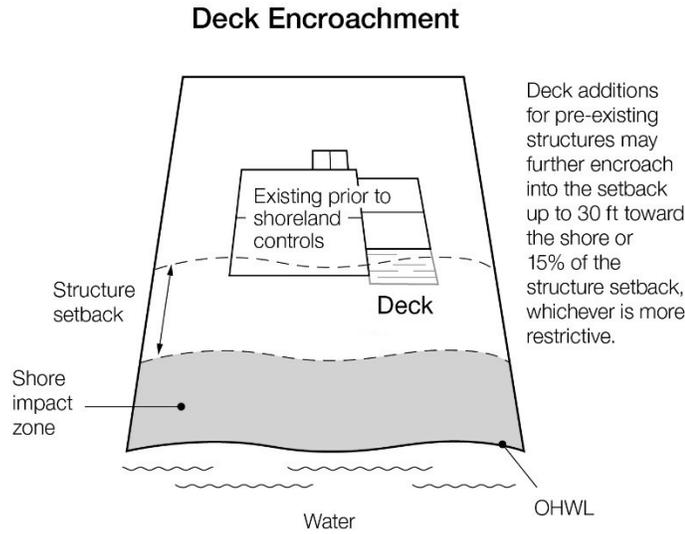
Class of Public Water	Structure <u>Setbacks</u>		Sewage Treatment System <u>Setback</u>
	<del>Unsewered</del> <u>No Sewer</u>	Sewered	
<b>LAKES</b>			
Natural Environment	150'	150'	150'
Recreational Development	100'	75'	75'

General Development	75'	50'	50'
<b>RIVERS</b>			
Agriculture, Urban & Tributary	100'	50'	75'

~~\*One water oriented accessory structure designed in accordance with the provisions of Section 9.10 (D,1,a) of this ordinance may be set back a minimum distance of ten (10) feet from the ordinary high water level.~~

- B. OHWL Setbacks. Structures, impervious surfaces, and sewage treatment systems must meet setbacks from the Ordinary High Water Level (OHWL), except that one water-oriented accessory structure or facility, designed in accordance with Section 9.15 Subdivision C Subdivision 3 (9.15,C,3) of this ordinance may be setback a minimum distance of ten (10) feet from the ordinary high water level.
- C. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setback from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone.
- D. Setbacks of decks. See Figure 9.14 D-1, deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high-water level if all of the following criteria are met:
1. The structure existed on the date the structure setbacks were established;
  2. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high-water level setback of the structure;
  - e.3. The deck encroachment toward the ordinary high-water level does not exceed 15 percent of the existing setback of the structure from the ordinary high-water level or is no closer than 30 feet from the OHWL, whichever is more restrictive; and
  - f.4. The deck is constructed primarily of wood and is not roofed or screened.

Figure 9.14 D-1



**3.E. Additional Structure Setbacks:** Table 9.14 E-1 shows the following the additional structure setbacks that apply, regardless of the classification waterbody class of the waterbody.

Table 9.14 E-1

SETBACK FROM:	SETBACK (IN FEET)
Top of Bluff	30
Unplatted Cemetery	50
<u>Right of Way line of any federal, state, or county highway</u>	<u>50*</u>
<u>Right-of-way line of town road, public street, or other roads not classified</u>	<u>20*</u>

\*Right of way setbacks must conform to underlying zoning district requirements if more restrictive.

1. Bluff Impact Zones: Structures and accessory facilities, impervious surfaces,, except stairways and landings, must not be placed within bluff impact zones.

F. Height of Structures. All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.

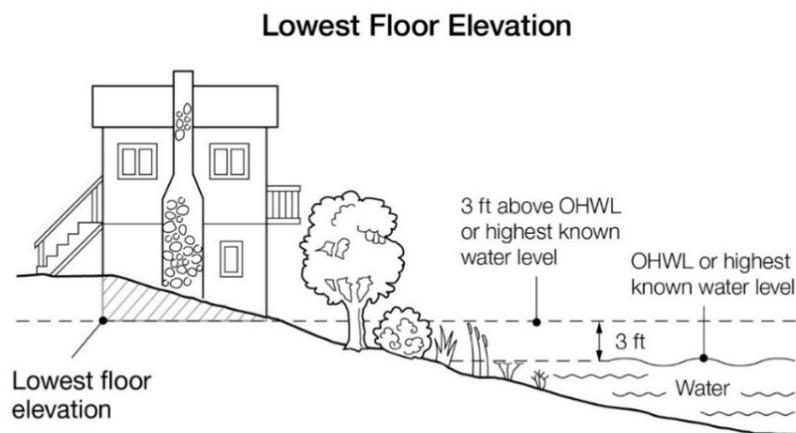
Design Criteria for Structures:

4.G. Lowest Floor Elevation/High Water Elevations: Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these

~~controls do not exist, the elevation to which the lowest floor, including basement, is placed or floodproofed must be determined as follows:~~

1. Determining elevations. Structures must be placed at an elevation consistent with the applicable floodplain regulatory elevations. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:
  - a. For lakes, by 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 level, whichever is higher (see Figure 9.14, G-1).
  - b. For rivers and streams, by placing the lowest floor at least three (3) feet above the ~~flood of record, if data is available~~ highest known flood elevation. If data ~~is are~~ not available, by placing the lowest floor at least three (3) feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; ~~and~~

Figure 9.14 G-1



2. ~~J-2~~Methods for placement.

- a. In addition to the lowest floor, all service utilities must be elevated or water-tight to the elevation determined in part A.
  - b. If elevation methods involving fill would result in filling in the SIZ, then structures must instead be elevated through floodproofing methods in accordance with 6.43(B)(3) below;
  - ~~5.c.~~ If the structure is floodproofed, then it must be built to resist hydrostatic pressure through elevation methods such as blocks, pilings, filled stem walls, elevated concrete pad, internally flooded enclosed areas, or through other accepted engineering practices consistent with FEMA technical bulletins 1, 2 and 3.
3. Significant Historic Sites: No structure may be placed on a significant historic site in a manner that affects the value of the site unless adequate information about the site has been removed and documented in a public repository.

## **SECTION 9.15 SHORELAND ALTERATIONS**

### **1.A. Vegetation Alterations Management**

- ~~3.~~ Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Section (9.10,F) of this ordinance are exempt from the vegetation alteration standards that follow.
1. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Sections (9.10,H) is allowed subject to the following standards: must comply with the provisions of this subsection except for:
2. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities.
3. The construction of public roads and parking areas if consistent with Section 9.15 Subdivision C Subsection 1 (9.15,C,1) of this ordinance.
4. Forest management uses consistent with Section 9.12 Subdivision C (9.12,C)
- ~~5.~~ Agricultural uses consistent with Section 9.12 Subdivision B (9.12,B)
- \*6. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive clearing outside of these areas is allowed if consistent with the forest management standards in Section 9.12

~~Subdivision C (9.12,C) of this ordinance. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.~~

\*7. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water oriented accessory structures or facilities, provided that:

~~i.a.~~ The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer leaf on conditions, is not substantially reduced, and;

~~ii.b.~~ Along rivers, existing shading of water surfaces is preserved, and

~~c.~~ The above provisions are not applicable to the removal of tree limbs, or branches that are dead, diseased, or pose safety hazards.;

~~d.~~ Cutting debris or slash shall be scattered and not mounded on the ground; and

~~e.~~ Perennial ground cover is retained: and

~~f.~~ The above provisions are not applicable to the removal of tree limbs, or branches that are dead, diseased, or pose safety hazards

~~g.~~ Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards is allowed without a permit.

~~iii.h.~~ Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography, or both.

## B. Topographic Alterations / Grading and Filling

1. Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas consistent with Section 9.15 Subdivision C Subsection 1 (9.15,C,1) of this ordinance.

2. Permit Requirements

a. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in this section must be incorporated into the issuance of permits for construction of the above mentioned items.

b. For all other work, including driveways not part of another permit, a grading and filling permits is required for:

i. The movement of more than ten (10) cubic yards of material on steep slopes and shore and bluff impact zones; and

a.ji. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.

~~4. Public roads and parking areas are regulated by Section (9.10,F) of this ordinance.~~

~~5. Notwithstanding items 1 and 2 above, a grading and filling permit will be required for:~~

~~e. The movement of more than ten (10) cubic yards of material on steep slopes and shore and bluff impact zones; and~~

~~f.e. The movement of more than fifty (50) cubic yards of material outside of steep slopes and shore and bluff impact zones.~~

2.3. 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:

a. Grading or filling within any wetland area must meet the applicable requirements of the Minnesota Wetlands Conservation Act~~Minnesota Rules Chapter 8420 and any other permits, reviews, or approvals by other local state, or federal agencies such as watershed districts, the DNR or US Army Corps of Engineers;~~

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

i. Limiting the amount and time of bare ground exposure.~~Alterations must be designed and conducted in a~~

~~manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;~~

~~ii. Using temporary ground covers such as mulches or similar materials;~~

~~iii. Establishing permanent vegetation cover as soon as possible;~~

~~i.iv. Using sediment traps, vegetated buffer strips or other appropriate techniques;~~

~~e. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;~~

~~e. Methods to minimize erosion and to trap sediments before they reach any surface water feature must be used;~~

~~b.c. 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;~~

~~e.d. Altered areas must be stabilized to acceptable erosion control standards consistent with Section 10.20 of the Olmsted County Zoning Ordinance;~~

~~f. Fill or excavated material must not be placed in a manner that creates an unstable slope;~~

~~g. 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;~~

~~d.e. Fill or excavated materials must not be placed in bluff impact zones;~~

~~e.f. Any alterations below the ordinary high water level of public waters must first be authorized by the Commissioner under [Minnesota Statutes, Chapter 103G](#);~~

~~f.g. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and~~

~~g. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished~~

slope does not exceed three (3) feet horizontal to one (1) foot vertical, the landward extent of the riprap is within ten (10) feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three (3) feet.

4. **Connections to Public Waters:** Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by local shoreland controls. Permission for excavations require a public waters permit and must comply with Minnesota Rules, Chapter 6115. ~~may be given only after the Commissioner has approved the proposed connection to public waters.~~

### C. PERFORMANCE STANDARDS FOR PUBLIC AND PRIVATE FACILITIES

#### C.1. PLACEMENT AND DESIGN OF ROAD, DRIVEWAYS, AND PARKING AREAS

- ~~b.a.~~ b.a. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Construction of roads and parking areas must be designed and constructed to minimize and control erosion to public waters consistent with the provisions of Section 10.20 of this ordinance.
- ~~c.b.~~ c.b. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
- c. Public and private watercraft access ramps, approach roads, and access related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this ordinance are met.

3.2. 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 must meet the following design requirements:

- a. Stairways and lifts must not exceed four (4) feet in width on residential lots. Wider stairways may be used for commercial properties or public open space recreational properties;
- b. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used

for commercial properties or public open space recreational properties;

- c. Canopies or roofs are not allowed on stairways, lifts, or landings;
- d. Stairways, lifts, and landings 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. Stairways, lifts, and landings 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 ~~(1) to (5)~~ 9.15 Subdivision C Subdivision 2 subsections a-f are complied with in addition to the requirements of Minnesota Regulations, Chapter 13410.

**3. Water oriented accessory structures or facilities:** Each residential lot may have one water oriented accessory structure or facility if it complies with the following provisions:

- a. The structure or facility must not exceed ten (10) feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. The structure or facility may include detached decks not to exceed eight (8) feet above grade at any point or at-grade patios;
- b. The structure or facility is not in the Bluff Impact Zone;
- c. The setback of the structure or facility from the ordinary high-water level must be at least ten (10) feet;
- d. The structure is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245;
- e. The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf on conditions;
- f. The roof may be used as an open-air deck with safety rails, but must not be enclosed with a roof or used as a storage area;

- g. The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
- h. As an alternative for general development and recreational development waterbodies, water oriented accessory structures used solely for storage of watercraft and boating-related equipment, , may occupy an area up to 400 square feet provided the maximum width of the structure is twenty (20) feet as measured parallel to the shoreline, and;
- d.i. Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 9.14 Subdivision F (9.14, F)if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

## D. STORMWATER MANAGEMENT

### e-1. General Standards

- i.a. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- ii.b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible.
- iii.c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as dikes, diversion, settling basins, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities.

### f-2. Specific Standards

- i.a. Impervious surface coverage of lots must not exceed 25 percent of the lot area.
- ii.b. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they

are designed and installed consistent with the local soil and water conservation district guidelines.

~~f.c.~~ New constructed stormwater outfalls to public waters must ~~provide for filtering or settling of suspended solids and skimming of surface debris before discharge~~ be consistent with Minnesota Rules, part 6115.0231.

## ~~Section 9.16 SPECIAL PROVISIONS FOR COMMERCIAL, INDUSTRIAL, PUBLIC, SEMIPUBLIC, AND AGRICULTURAL USES~~

~~g. Standards for Commercial, Industrial, Public, and Semipublic Uses:~~

~~i. 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 lots or parcels with frontage on public waters. Those uses with water oriented needs must meet the following standards:~~

~~1. In addition to meeting the impervious coverage limits, setbacks, and other zoning district standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;~~

~~iv. 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; and~~

~~1. 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:~~

~~a. No advertising signs or supporting facilities for signs 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;~~

~~b. 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 (10) 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; and~~

- ~~a. 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.~~
  - ~~2. Uses without water oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf on conditions.~~
- ~~b. Agricultural Use Standards~~
  - ~~a. General farming and related activities are permitted if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan from the local soil and water conservation district.~~
  - ~~b. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.~~
- ~~i. Animal feedlots must meet the following standards:~~
  - ~~1. New feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins; and~~
  - ~~2. Modifications or expansions to existing 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.~~

## E. WATER SUPPLY AND SEWAGE TREATMENT

- ~~€.1. **Water Supply:** The water supply shall meet all applicable requirements of the Olmsted County Water Well and Water Supply Ordinance, and amendments thereto.~~
- ~~€.2. **Sewage Treatment:** Any premises used for human occupancy must be provided with an adequate method of treating the sewage which is generated on the premises. Treatment shall be provided as follows:~~

- ~~i.a.~~ Publicly owned sewage treatment systems shall be used where available.
- ~~ii.b.~~ All new individual sewage treatment systems, including repairs or additions to existing systems, shall meet or exceed the requirements of Olmsted County Public Health Regulation # 41, and amendments thereto (sewage and wastewater treatment regulation).
- ~~iii.c.~~ A new individual sewage treatment system, including repairs or additions to existing systems, shall be set back from the ordinary high water level in accordance with the setbacks contained in Section 9.14 Subdivision A (9.14, A) of this ordinance.
- ~~iv.d.~~ Nonconforming individual sewage treatment systems shall be regulated and upgraded in accordance with Section 1.29 Subdivision C (1.29, C) of this ordinance.

#### ~~F. LAND SUITABILITY~~

- ~~e. Each lot created through subdivision must be suitable in its natural state for the proposed use with minimum alteration. Suitability analysis by the local unit of government shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near shore aquatic conditions unsuitable for water based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the subdivision.~~
- ~~f. Subdivisions must conform to all official controls of the community. A subdivision will not be approved where a later variance from one or more standards in the official controls would be needed to use the lots for their intended purpose.~~
- ~~g. Sufficient information must be submitted by the applicant for the local unit of government to make a determination of land suitability. The information should include at a minimum:~~
  - ~~i. The surface water features required in , to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;~~
  - ~~ii. Extent of anticipated vegetation and topographic alterations; near shore aquatic conditions, including depths, types of bottom sediments, and~~

~~aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;~~

~~iii.—Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and~~

~~iv.—A line or contour representing the ordinary high water level, the "toe" and "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.~~

## **SECTION 9.16 SUBDIVISION/PLATTING PROVISIONS**

A. Land suitability. Each lot created through subdivision, including shoreland planned unit developments authorized under Section 9.17 of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

B. Consistency with other controls. Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed later to use the lots for their intended purpose.

C. Water and Sewer Design Standards.

1. A potable water supply and a sewage treatment system consistent with Minnesota Rules, Chapters 7080 – 7081 must be provided for every lot.

2. Each lot must include at least two soil treatment and dispersal areas that support systems described in Minnesota Rules, parts 7080.2200 to 7080.223 or site conditions described in part 7081.0270, subparts 3 to 7, as applicable.

3. Lots that would require use of holding tanks are prohibited.

D. Information requirements.

1. Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;

2. The surface water features required in Minnesota Statutes, section 505.021, Subd. 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources;

3. Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
4. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
5. Location of 100-year flood plain areas and floodway districts from existing adopted maps or data; and
6. A line or contour representing the ordinary high-water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
7. Dedications. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

E. Platting. All subdivisions in shoreland that meet the requirements for platting in the Oronoco Township Subdivision Ordinance shall be processed as a plat in accordance with Minnesota Statutes 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after the adoption of this ordinance unless the lot was previously approved as part of a formal subdivision.

F. Controlled Access Lots. Controlled access lots within a subdivision must meet or exceed the lot size criteria in Section 9.13 Subdivision B Subsection 6 (9.13, B, 6) of this ordinance.

### **SECTION 9.17 SHORELAND PLANNED UNIT DEVELOPMENTS (SHORELAND PUDs)**

A. Purpose. To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.

B. Types of PUDs Permissible. Planned unit developments (SHORELAND PUDs) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of Section 9.14 Subdivision A (9.14, A) of this ordinance is allowed if the standards in this Section are met.

C. Processing of shoreland PUDs. Shoreland planned unit developments must be processed as a conditional use. An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 9.17 Subdivision E (9.17, E). Approval cannot occur until all applicable environmental reviews are complete.

D. Application for a PUD. The applicant for a PUD must submit the following documents prior to final action on the application request:

1. Site plan and/or plat showing:

a. Locations of property boundaries.

b. Surface water features.

c. Existing and proposed structures and other facilities.

d. Land alterations.

e. Sewage treatment and water supply systems (where public systems will not be provided).

f. Topographic contours at ten-foot intervals or less.

g. Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (if project combines commercial and residential elements).

2. A property owners association agreement (for residential PUD's) with mandatory membership, and consistent with Section 9.17 Subdivision E Subsection 5 (9.17, E, 5) of this ordinance.

3. Deed restrictions, covenants, permanent easements or other instruments that:

a. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs.

b. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 9.17 Subdivision E Subsection 5 (9.17, E, 5) of this ordinance.

4. A master plan/site plan describing the project and showing floor plans for all commercial structures.

5. Additional documents necessary to explain how the PUD will be designed and will function.

E. Density Determination. Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.

1. Step 1. Identify Density Analysis Tiers. Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high-water level at the following intervals, proceeding landward as shown in Table 9.17 E-1:

**Table 9.17 E-1**

<b><u>Classification</u></b>	<b><u>Tier Depth</u></b>	
	<b><u>No Sewer (ft)</u></b>	<b><u>Sewer (ft)</u></b>
<u>General Development Lakes – 1st tier</u>	<u>200</u>	<u>200</u>
<u>General Development Lakes – all other tiers</u>	<u>267</u>	<u>200</u>
<u>Recreational Development Lakes</u>	<u>267</u>	<u>267</u>
<u>Natural Environment Lakes</u>	<u>400</u>	<u>320</u>
<u>All Rivers</u>	<u>300</u>	<u>300</u>

2. Step 2. Calculate Suitable Area for Development. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high-water level of public waters.

3. Step 3. Determine Base Density:

a. For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area is not specified, divide the tier width by the minimum single residential lot width.

b. For commercial PUDs:

i. Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.

a. For dwelling units, determine the average inside living floor area of dwelling units in each tier. Do not include decks, patios, garages, or porches and basements, unless they are habitable space.

b. For dwelling sites (campgrounds), determine the area of each dwelling site as follows:

i. For manufactured homes, use the area of the manufactured home, if known, otherwise use 1,000 sf.

ii. For recreational vehicles, campers or tents, use 400 sf.

iii. Select the appropriate floor area/dwelling site area ratio from Table 9.17 E-2 for the floor area or dwelling site area determined in Section 9.17 Subdivision E Subsection 3 Subsection b Subsection i (9.17, E, 3, b, i).

Table 9.17 E-2

<u>Inside Living Floor Area or Dwelling Site Area (sf)</u>	<u>Floor Area/Dwelling Site Area Ratio</u>		
	<u>1st tier Agricultural, Urban and Tributary Rivers</u>	<u>Recreational Development Lakes</u>	<u>Natural Environment Lakes</u>
<u>≤ 200</u>	<u>.040</u>	<u>.020</u>	<u>.010</u>
<u>300</u>	<u>.048</u>	<u>.024</u>	<u>.012</u>
<u>400</u>	<u>.056</u>	<u>.028</u>	<u>.014</u>
<u>500</u>	<u>.065</u>	<u>.032</u>	<u>.016</u>
<u>600</u>	<u>.072</u>	<u>.038</u>	<u>.019</u>
<u>700</u>	<u>.082</u>	<u>.042</u>	<u>.021</u>
<u>800</u>	<u>.091</u>	<u>.046</u>	<u>.023</u>
<u>900</u>	<u>.099</u>	<u>.050</u>	<u>.025</u>
<u>1,000</u>	<u>.108</u>	<u>.054</u>	<u>.027</u>
<u>1,100</u>	<u>.116</u>	<u>.058</u>	<u>.029</u>
<u>1,200</u>	<u>.125</u>	<u>.064</u>	<u>.032</u>
<u>1,300</u>	<u>.133</u>	<u>.068</u>	<u>.034</u>
<u>1,400</u>	<u>.142</u>	<u>.072</u>	<u>.036</u>
<u>≥ 1,500</u>	<u>.150</u>	<u>.075</u>	<u>.038</u>

iii. Multiply the suitable area within each tier determined in Section 9.17 Subdivision E Subsection 2 (9.17, E, 2) by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.

iv. Divide the total floor area or dwelling site area for each tier calculated in Section 9.17 Subdivision E Subsection 3,

subsection b, subsection 3 (9.17, E, b, 3,) by the average inside living floor area for dwelling units or dwelling site area determined in Section 9.17 Subdivision E Subsection 3 Subsection b Subsection 1 (9.17, E, 3, B, 1). This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.

- c. Allowable densities may be transferred from any tier to any other tier further from the waterbody but must not be transferred to any tier closer to the waterbody.
- d. All PUDs with densities at or below the base density must meet the design standards in Section 9.17 Subdivision E Subsection 5 (9.17, E, 5)

4. Step 4. Determine if the Site can Accommodate Increased Density:

- a. The following Table 9.17 E-3 increases to the dwelling unit or dwelling site base densities determined Section 9.17 Subdivision E Subsection 3 (9.17, E, 3) are allowed if the design criteria in Section 9.17, Subdivision E, Subsection 6 (9.17, E, 6) of this ordinance are satisfied as well as the standards in Section 9.17 Subdivision E Subsection 4 Subsection b (9.17, E, 4, b):

Table 9.17 E-3

<u>Shoreland Tier</u>	<u>Maximum density increase within each tier (percent)</u>
<u>1st</u>	<u>50</u>
<u>2nd</u>	<u>100</u>
<u>3rd</u>	<u>200</u>
<u>4th</u>	<u>200</u>
<u>5th</u>	<u>200</u>

- b. Structure setbacks from the ordinary high-water level:
  - i. Are increased to at least 50 percent greater than the minimum setback; or
  - ii. The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least 25 percent greater than the minimum setback.

F. Design Criteria. All PUDs must meet the following design criteria.

## 1. General Design Standards.

- a. All residential planned unit developments must contain at least five dwelling units or sites.
- b. On-site water supply and sewage treatment systems must be centralized and meet the standards in Section 9.14 Subdivision B (9.14, B) of this ordinance. Sewage treatment systems must meet the setback standards of Section 9.13 Subdivision A (9.13, A) of this ordinance.
- c. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.
- d. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Sections 9.12 Subdivision B (9.12, B) and 9.13:

## 2. Shore recreation facilities:

- a. Must be centralized and located in areas suitable for them based on a suitability analysis.
- b. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).
- c. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.
- d. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.
- e. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.
- f. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 9.15

Subdivision C Subdivision 3 (9.15, C, 3) of this ordinance and are centralized.

3. Open Space Requirements.

a. Open space must constitute at least 50 percent of the total project area and must include:

i. Areas with physical characteristics unsuitable for development in their natural state;

ii. Areas containing significant historic sites or unplatted cemeteries;

iii. Portions of the shore impact zone preserved in its natural or existing state as follows:

a. For existing residential PUD's, at least 50 percent of the shore impact zone

b. For new residential PUDs, at least 70 percent of the shore impact zone. For all commercial PUD's, at least 50 percent of the shore impact zone.

iv. Open space may include:

a. Outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public.

b. Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.

c. Non-public water wetlands.

v. Open space shall not include:

a. Dwelling sites or lots, unless owned in common by an owners' association.

b. Dwelling units or structures, except water-oriented accessory structures or facilities.

c. Road rights-of-way or land covered by road surfaces and parking areas.

- d. Land below the OHWL of public waters.
      - e. Commercial facilities or uses.
    - vi. Open Space Maintenance and Administration Requirements.
      - a. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means the instruments must prohibit:
        - i. Commercial uses (for residential PUD's).
        - ii. Vegetation and topographic alterations other than routine maintenance.
        - iii. Construction of additional buildings or storage of vehicles and other materials.
        - iv. Uncontrolled beaching of watercraft.
      - b. Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners-association with the following features:
        - i. Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner.
        - ii. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites.
        - iii. Assessments must be adjustable to accommodate changing conditions.
        - iv. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

#### 4. Erosion Control and Stormwater Management.

- a. Erosion control plans must be developed and must be consistent with the provisions of Section 9.15 Subdivision B (9.15, B) of this ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.
  - b. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff. For commercial PUDs, impervious surfaces within any tier must not exceed 25 percent of the tier area, except that 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 9.15 of this ordinance.
5. Conversions. Local governments may allow existing resorts or other land uses and facilities to be converted to residential PUDs if all of the following standards are met:
- a. Proposed conversions must be evaluated using the same procedures for residential PUDs involving new construction. Inconsistencies between existing features of the development and these standards must be identified;
  - b. Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit;
  - c. Shore and bluff impact zone deficiencies must be evaluated, and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
    - i. Removal of extraneous buildings, docks, or other facilities that no longer need to be located in shore or bluff impact zones;
    - ii. Remedial measures to correct erosion, improve vegetative cover and improve screening of buildings and other facilities as viewed from the water; and
    - iii. Conditions attached to existing dwelling units located in shore or bluff impact zones that preclude exterior expansions in any dimension or substantial alterations. The conditions must also provide for future relocation of dwelling units, where feasible, to other locations, meeting all setback and elevation requirements when they are rebuilt or replaced.

- d. Existing dwelling unit or dwelling site densities that exceed standards in Section 9.17 Subdivision E (9.17, E) of this ordinance may be allowed to continue but must not be allowed to be increased, either at the time of conversion or in the future. Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems, or other means.

## **SECTION 9.18 NOTIFICATIONS TO THE DEPARTMENT OF NATURAL RESOURCES**

- a.A. \_\_\_\_\_ Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- b.B. \_\_\_\_\_ A copy of approved amendments and subdivisions / plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten (10) days of final action.

## **Section 9.20 DECORAH EDGE OVERLAY DISTRICT**

### **Section 9.21 INTENT AND APPLICATION**

**Intent:** The intent of the Decorah Edge Overlay Zone (DEOZ) regulations is to guide development in the vicinity of the Decorah Edge in order to protect discharge, interflow, and infiltration and recharge processes taking place in the vicinity of the Decorah Edge; to protect water quality and quantity recharging the aquifers relied on for potable water supply; to prevent extraordinary public expenditure for remediation of damage to public infrastructure; and to protect the environmental quality of Decorah Edge wetlands and related natural habitats; all of which promote the public health, safety and general welfare.

The regulations of this district are superimposed upon other existing zoning districts, superseding the regulations of those other districts only to the extent that developments must meet the additional standards of this chapter as well as those of the underlying district in order to comply with this ordinance.

**Application:** The Decorah Edge Overlay Zone applies to unplatted lands zoned to accommodate commercial or industrial development or residential development at a density greater than four lots per quarter quarter section within the Decorah Edge as

defined and mapped in accordance with the Olmsted County Wetland Conservation Ordinance. The Decorah Edge Overlay Zone does not apply to the development of residential or agricultural uses on existing lots of record in existence at the time of enactment of these provisions.

## **Section 9.22        DEFINITIONS RELATED TO THIS CHAPTER**

1. **Decorah Edge:** For the purposes of this ordinance the Decorah Edge is the area so identified in the Olmsted County Wetland Conservation Ordinance, as updated.
2. **Edge Support Area:** The term "Edge Support Area" shall include any area so identified in the Olmsted County Wetland Conservation Ordinance.
3. **Hydric Soil:** A hydric soil is a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part (USDA NRCS "Hydric Soils – Introduction," available at <http://soils.usda.gov/use/hydric/intro.html>, accessed September 26, 2005). Hydric soils that occur in areas having hydrophytic vegetation and wetland hydrology are wetland soils.
4. **Wetland:** An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances supports a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.
5. **Groundwater supported slope wetland:** A wetland that is saturated predominantly by ground water, including wetlands in the vicinity of springs or seeps. Such wetlands may be associated with highly organic peat-like soils such as Haverhill (474B) and Palms (528B) soils.
6. **Managed Open Space:** An area identified by easement or other mechanism that guarantees that the area will not be intentionally disturbed and that provides, at a minimum, for access by a public agency or a qualified land trust for purposes of monitoring the condition of and maintaining the site.

## **Section 9.23        DEVELOPMENT STANDARD**

Within the DEOZ, development shall be carried out in such a way as to minimize the loss of wetlands and Edge Support Areas, maintain the potential for attenuation of groundwater pollutants including nitrate, maintain or enhance the quantity and quality of infiltration into the St. Peter, Prairie du Chien and Jordan aquifers, and protect groundwater discharge, interflow, and recharge characteristics.

## **Section 9.24 METES AND BOUNDS SUBDIVISIONS**

Except within the A-1, A-2, and A-3 Districts, creation of a lot by metes and bounds shall require a site plan showing that the buildable area, sewage treatment facilities, and runoff from impervious surfaces will not affect wetlands and Edge Support Areas as defined in the Olmsted County Wetland Conservation Ordinance, unless approved under the Wetland Conservation Ordinance.

## **Section 9.25 GENERAL DEVELOPMENT PLAN**

Except as provided below, all commercial and industrial development and all platted residential development in the DEOZ shall take place in accordance with an approved general development plan meeting the development standard of Section 9.23. The following are exempt from this requirement:

1. Lots included in a plat recorded as of the effective date of this ordinance amendment;
2. Lots included in a preliminary plat approved within two years prior to the effective date of this ordinance; or
3. Lots included in a preliminary plat approved within two years after the effective date of this ordinance that are located in a general development plan that was approved prior to the effective date of this ordinance.
4. If within a general development plan for future platted residential development that was approved prior to the effective date of this ordinance and that does not meet the requirements of this Section, there remains an area that has not received approval of a preliminary plat within two years of the effective date of this ordinance, the general development plan for the remaining area must be revised to meet these requirements prior to or concurrent with consideration of a preliminary plat. Cambridge Hills, Boulder Ridge, Mayo Woodlands, and Hunter Point General Development Plans are exempt from the requirements of Section 9.23.

## **Section 9.26 R-1/DE DEVELOPMENT**

Within the R-1/DE District, a conservation design development which provides for an overall gross density of up to one dwelling per 3.5 acres; a gross density for the area covered by buildable lots, sewage treatment and stormwater runoff control facilities, and roads of up to one lot per 1.5 acres; and a minimum single family home lot size of 30,000 square feet may be accommodated in parcels or combinations of parcels any part of which are located in the DEOZ. Such conservation design development is the preferred style of development for development in the DEOZ. A general development

plan for such development shall meet the following standards in addition to standards applying in the underlying R-1 Zone.

1. Avoidance of the Decorah Edge by roads, drains, pipelines, tiles, the building footprints of structures, other impervious surfaces, and sewage treatment systems to the maximum extent feasible, except where insufficient land area outside the Decorah Edge is included in the general development plan to accommodate the allowed density.
2. Complete avoidance of disturbance to groundwater supported slope wetlands and Edge Support Areas, except where provided for under the exemption and no-loss determination provisions or through the appeal process of the Olmsted County Wetland Conservation Ordinance.
3. Inclusion of wetlands in managed open space, to the maximum extent feasible, but in no case less than 75% of wetland areas. Wetland areas included as managed open space may provide for management through a conservation easement provided to the County prior to platting or through other mechanisms providing a similar level of protection and management oversight.
4. Provision for vegetative management of wetlands and Edge Support Areas, which shall include at a minimum, protection of such areas from disturbance, and which, at the discretion of the platting authority, may provide for posting or fencing of such areas, sustainable timber harvesting, restoration of native plant communities, or other vegetation management activities consistent with minimal disturbance and long term maintenance of natural vegetation. Vegetative management activities shall be documented in a vegetation management plan subject to the approval of the platting authority. The intent of this section is to maintain or augment nutrient uptake by deep-rooted vegetation.
5. Provision for storm water management and discharge/interflow/recharge management plans that provide for protection of offsite properties from damage related to drainage and for maintaining pre-development discharge, interflow, and recharge characteristics.
6. Financial arrangements, deed restrictions, or other arrangements sufficient to provide for installation of sewage pretreatment, management of vegetation, and management and maintenance of multi-party sewage treatment and storm water management facilities in perpetuity.
7. Density Bonus: Density of development up to an overall gross density of one dwelling per 2.5 acres and a minimum single family home lot size of 14,000 square feet may be accommodated provided:

- a. Roads, treatment facilities, drains, pipelines, tiles, the building footprints of structures, and driveways and other impervious surfaces avoid the Decorah Edge area to the maximum extent feasible; and
- b. All wetland areas and Edge Support Areas are maintained in managed open space; and
- c. Other areas of the original site in native vegetation, and other areas of the site on slopes over 18%, are maintained in managed open space to the maximum extent feasible, but in no case less than 50% of such areas; and
- d. Pretreatment or other nitrate reduction sewage treatment systems are installed resulting in a nitrate impact on groundwater equivalent to an overall 3.5-acre density of development.

### **Section 9.27 R-A/DE DEVELOPMENT**

Within the R-A/DE District, a development which provides for a density of up to an overall gross density of one dwelling per five acres; a gross density for the area covered by buildable lots, sewage treatment and stormwater runoff control facilities, and roads of 2.5 acres per lot; and a minimum single family home lot size of 80,000 square feet may be accommodated in parcels any part of which are located in the DEOZ. A general development plan for such development shall meet the following standards in addition to standards applying in the underlying RA District:

1. Avoidance of the Decorah Edge by roads, drains, pipelines, tiles, the building footprints of structures, other impervious surfaces, and sewage treatment systems to the maximum extent feasible, except where insufficient land area outside the Decorah Edge is included in the general development plan to accommodate the allowed density.
2. Complete avoidance of disturbance to wetlands and Edge Support Areas, except where provided for under the exemption and no-loss determination provisions or through the appeal process of the Olmsted County Wetland Conservation Ordinance.
3. Inclusion in managed open space of wetlands, to the maximum extent feasible, but in no case less than 75% of wetland areas. Wetland areas included as managed open space may provide for management through a conservation easement provided to the County prior to platting or through other mechanisms providing a similar level of protection and management oversight.

4. Provision for vegetative management of wetlands and Edge Support Areas, which shall include at a minimum, protection of such areas from disturbance, and which, at the discretion of the platting authority, may provide for posting or fencing of such areas, sustainable timber harvesting, restoration of native plant communities, or other vegetation management activities consistent with minimal disturbance and long term maintenance of natural vegetation. Vegetative management activities shall be documented in a vegetation management plan subject to the approval of the platting authority. The intent of this section is to maintain or augment nutrient uptake by deep-rooted vegetation.
5. Provision for stormwater management and discharge / interflow / recharge management plans that provide for protection of offsite properties from damage related to storm water runoff and that provide for maintaining pre-development discharge, interflow, and recharge characteristics.
6. Financial arrangements, deed restrictions, or other arrangements sufficient to provide for installation of sewage pretreatment, management of vegetation, and management and maintenance of multi-party sewage treatment and storm water management facilities in perpetuity.
7. Pasture management plans that guarantee sustainable pasture management and which protect wetlands and woodlands in the Decorah Edge portions of the site from grazing and from runoff from grazed areas.

## **Section 9.28      CONVENTIONAL DEVELOPMENT**

If it is determined at the time of wetland delineation that portions of the areas mapped as Decorah Edge do not include wetlands or Edge Support Areas, a general development plan may proceed under conventional zoning and subdivision approaches for such portions of parcels. The area of parcels developed conventionally shall not be considered in the density calculations permitted under Sections 9.25 or 9.26 related to the development of other parcels included in the general development plan that contain wetlands or Edge Support Areas. For the purposes of this section, a portion of a parcel may be considered for conventional development when all of the following circumstances are met:

1. A reasonable use remains for any residual portions of the original parcel; and
2. All portions of the original parcel are included in the GDP; and
3. The portion of the parcel to be developed conventionally is contiguous; and

4. The portion of the parcel to be developed conventionally is at least 15 acres in area.

The determination that a reasonable use remains for residual portions of the original parcel shall reflect such attributes of the residual portions as contiguity, compactness, topography, developable area, and natural constraints on development for areas intended for development. Conservation easements or other means of preserving natural resource or open space uses of residual parcels may be considered to provide for reasonable use.